

Forensic Briefs

Ep 37 Terry Kukor - Relevancy Focused Report Writing

Traditional forensic reports often inherit broad clinical templates—long histories, mixed evidence/inference, and piles of irrelevant or sensitive details. Dr. Terry Kukor walks through the relevancy-focused alternative: a findings-based structure centered on the legal questions, the supporting and conflicting data, and transparent reasoning. He ties “relevance” to rules of evidence, adds “necessary” and “required” filters, and shows how critical thinking and explicit rival-hypothesis testing can improve clarity and reduce avoidable courtroom pain.

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Dr. Guyton Hi everyone. Welcome to the Forensic Briefs podcast and we are delighted to have our guest today, Doctor Terry Kukor, who will be talking with us about Relevancy Focused Report riting. Doctor Terry Kukor is board certified in forensic psychology by the American Board of Professional Psychology. He graduated with a bachelor's degree in psychology from Marquette University, and went on to earn a master's degree and doctorate in clinical psychology from Miami University in Ohio.

Dr. Guyton In late 2023, he retired from his salaried position at Netcare Forensic Center in Columbus, Ohio, where over the course of 20 years he has held a variety of roles, including director of forensic services, senior forensic psychologist and training director for the postdoctoral fellowship in forensic psychology. He is now in independent practice. Doctor Kukor has specialized in criminal forensic evaluation for more than 30 years, and has performed or consulted on thousands of criminal forensic psychological evaluations.

Dr. Guyton He currently serves as an associate faculty member in the Department of Psychiatry and Behavioral Health at The Ohio State University. He is a past co-chair for the American Academy of Forensic Psychology Continuing Education workshops, and in 2016, he was presented with the Howard H.

Dr. Guyton Sokolov Forensic Mental Health Leadership Award by the Ohio Department of Mental Health and Addiction Services. In 2019, he was recognized with the Distinguished Contributions to Forensic Psychology Award by AAFP.

Passionate about finding ways to improve forensic practice with critical thinking, Doctor Kukor conducts workshops on relevancy focused report writing, teaching decision making and reasoning in forensic supervision, sanity evaluations, and critical thinking in forensic assessment.

Dr. Guyton So welcome to the podcast, Doctor Kukor.

Dr. Kukor Thank you, Michelle and Alex. Delighted to be here.

Dr. Millkey Delighted to have you.

Dr. Guyton A lot of times when we start with folks, we like to ask them how they got interested in their particular topic. And I know you've been a longtime forensic clinician, and board certified, and training others to do this work. And so I have a sense of maybe some of the things that got you interested in this way, this style of writing.

Dr. Guyton But can you talk to us a little bit about your path? How did you come to this idea about writing reports in a, I don't know if we want to say radically different way, but I think some people would suggest it is, but how did you get into this topic?

Dr. Kukor Well, there's a story there, and the story begins, oh, somewhere around ten years ago, maybe a little bit more now. I was the director of forensic services at the Netcare Forensic Center in Columbus, Ohio, and I was going through a report and sitting next to me looking at the report that we were working on together was and I don't remember if she was a postdoc or a intern in an intern at the time.

Dr. Kukor But Doctor Shannon Porter, who is now the director of forensic services at Netcare, and I asked this innocent sounding rhetorical question, "Gee, I wonder what this report would look like if we took out all the stuff that was irrelevant?" At the time, I didn't even know that there were legal definitions for relevancy. Now I do. And Shannon being Shannon, said, I'll take a shot at that.

Dr. Kukor And she ended up writing a report where, she started by and we did this together. We simply highlighted on the screen all the data that we did not use in formulating our opinions. And the report became at least 40% shorter. I was very excited by this, and I took it to this state Association of Forensic Directors. Couldn't wait to share it with them.

Dr. Kukor And they were they hated it. They were horrified by this thing. And in hindsight ...

Dr. Guyton Why were they so horrified for.

Dr. Kukor A number of reasons. The biggest one being, I think they were correct. Looking back on what I showed them, it was, something in a very immature form. It was a concept that hadn't matured or been fleshed out. Undeterred, I went back and decided to really take to heart a lot of the criticisms that they had of it.

Dr. Kukor And then we got busy on actually developing a model that was going to be based on a number of principles, that was going to be rooted in sources of authority. So it wasn't just Terry Kukor's ideas about what a report, forensic report might look like. It had a much more solid foundation. We then had a number of staff meetings that I would describe as vigorous debates over all the questions that get raised

Dr. Kukor When you're thinking about doing a significant change and what, for many, has become somewhat of a sacred cow, in terms of the outline of a traditional forensic report. And after about close to a year of that, I wrote a letter to every single judge in all our counties that we served. And I said, change is coming. I don't know what it's going to look like yet, but this is what we're trying to accomplish.

Dr. Kukor And then within, I don't know, a couple of months after that, I wrote the very first, full RF [relevancy focused] report that was based on principles and sources of authority. And I haven't gone back since.

Dr. Guyton And so what year was that that you produced the first RF report in its full glory?

Dr. Kukor I want to say 2014. So, we've been at this for, ten years plus.

Dr. Millkey And before we get into this new-fangled way of doing things, Terry, what's the old fangled way of doing it? How were they written now?

Dr. Kukor The old fangled way. Well, the, traditional forensic report is really something that we inherited from clinical models. Clinical psychologists have been writing reports far longer than forensic psychologist. I think most traditional forensic reports, if you match them up with the clinical forebearers would

have a reason for the evaluation, confidentiality limitations, the evaluation procedures, sources of information, a lengthy section on history that would encompass social, educational, occupational, military, medical, mental health, substance abuse, and legal.

Dr. Kukor I hope I caught them all, and then a section for collateral information, mental status. And by the time you got to roughly that would account for maybe 60 to 70% of the report. Only then with the forensic issue, competency or sanity, be addressed in it would and with, what is typically called a formulation statement and an opinion.

Dr. Millkey What's what's wrong with that, Terry?

Dr. Guyton I know I feel like you're talking about one of my reports. Terry.

Dr. Kukor Well, I'm sure your reports are both excellent. I saw lots of problems in the traditional forensic report format. Number one, I think the clinical roots were broad and wide because they had to be. I can remember writing those traditional clinical reports, and you'd have such a wide variety of referral questions that it was really necessary to gather a lot of data, which leads to the first problem. They can be filled with irrelevant data.

Dr. Kukor Because of that, they can take quite a bit longer to write. The irrelevant data, and this was true for me as well, often led to very lengthy reports that could be tedious to read and difficult to digest. Some of that irrelevant data could be of a very sensitive nature to the examinee, and there's actually case law coming out of the state of New York on this issue about a class action lawsuit that was brought based on irrelevant and sensitive data being noted in competency restoration reports, and the two bits that come to mind now, without having it right in front of me, are that the individual's HIV status was noted, and there was a reference

Dr. Kukor in at least one report to the examinee's parents having been promiscuous drug users. Neither one of these things were at all relevant to the question being asked, and the court ruled in favor of the person bringing that class action lawsuit. So, the, the sensitive nature raises, I think, the specter of legal peril. And then there are certainly ethical issues that I'd be happy to discuss further with you that can be raised by including some of those data points.

Dr. Kukor When you've got a very lengthy report it can impose what Daniel Kahneman would refer to as cognitive strain. It's difficult for the reader to hold all the critical data points top of mind, and then follow the narrative thread while they are determining the basis for the key inferences and opinions. Next, traditional reports typically mix evidence and inference despite what our specialty guidelines encourage us to do. They seldom.

Dr. Kukor Well, that may not be a fair word. Many of the traditional reports that I've seen don't differentiate discrepant from confirmatory data. The relevancy report format does. My experience testifying on a traditional report often had an exchange that went something like, "Well, Doctor Kukor on the bottom of page 13, and actually that paragraph goes over to page 14, and then midway through that paragraph, about a third of the way down," you know, I'm lost on the stand.

Dr. Kukor I'm anxious, and now I'm having trouble finding exactly where the person is directing my attention to. But that made it more difficult, particularly if the key data point about which they wanted to ask was embedded in a lengthy narrative. And then lastly, in my experience, things in traditional forensic reports are often added one at a time for a whole variety of reasons.

Dr. Kukor It might be that's how I was trained. Maybe it was a favorite supervisor or that said, "Always do this, Michelle, in a report." It might reflect, based on an N of one when I testified and really had a hard time with something. Now that's in all my reports. It might even be related to something that people have heard in workshops.

Dr. Kukor And believe it or not, I've had people say, "Hey, I took a workshop from you and you said, X, Y, and Z." And my response as well. I said X, but I never said Y and Z. So there's, there's, there's that whole element as well. And I think what we end up with when you add all that up as is quite a mess in terms of structure and content.

Dr. Guyton I guess it makes sense at some level because we are mostly trained initially as clinical psychologists, or in related disciplines, to do clinical assessments. And so those reports seem like clinical assessments that are then adapted to the forensic question, which are, as you know, typically tacked on at the end. And I also just want to notice for myself that I, I feel that sometimes by the time I get to the forensic piece, I've kind of exhausted myself on some of the earlier pieces, just getting the history down and getting the records reviewed and organizing my thoughts and everything, and that, you know, I talk to my trainees sometimes about making sure you have

Dr. Guyton enough energy and time before your deadline to focus on the forensic issue, which is really what the court cares about.

Dr. Kukor That is exactly how I see it. Michelle.

Dr. Millkey Let me offer a gentle and respectful counterpoint, which may be the revealed knowledge that has been handed down to me that I've just sort of accepted uncritically. Or not. I guess I was told by a supervisor that regardless of the referral question that's being asked, sort of the unspoken, the unasked question that is still something the court is concerned about is that the purpose of the report is not just to answer a question of criminal responsibility or fitness, but to help the court understand the person in full.

Dr. Millkey What are your thoughts about that, Terry?

Dr. Kukor I was doing a workshop on this very topic, and there was a rather well known forensic psychiatrist in the audience that said something similar, Alex. He said, "I see my job as that of an artist that's painting a picture that is meant to capture the totality of the person." And I said in response, I used to think the same thing.

Dr. Kukor I no longer believe that. Now. I believe my job is to be more like a scientist that is carefully weighing data on both sides of an issue and offering an answer to the legal questions based on those data. That's very different than trying to paint a picture. Maybe there's a place for the genius artists, in this world, to paint pictures and create symphonies and such.

Dr. Kukor However you want to extend the analogy, I'm not an artist, and I'm not so sure that that's really what the courts want, need, or expect. I think when they send us a referral on criminal responsibility, there are very specific questions that are being posed, and they want us to answer those questions.

Dr. Guyton So can I ask you then, because I'm thinking about the artist among us, and I'm wondering if certain types of referral questions may be more aligned with that, such as a mitigation evaluation where there is, a need to see a lot of things about a person rather than answering a specific question. But it also makes me think more broadly about things beyond the criminal realm, such as civil evaluations, custody evaluations, and other family law matters.

Dr. Guyton Do you think that this relevancy focused way of doing things applies equally as well across all of these different forensic questions?

Dr. Kukor No, I don't think it does. And I think, my work is primarily in criminal forensic evaluation. And that means competencies for kids and adults and sanity or criminal responsibility for adults. Those have very specific statutory questions. And this type of report format I think works great for those. I also believe that there are certain types of evaluations, and mitigation is an excellent example, where you're really looking under every rock and you really are trying to convey a sense of the person in the evaluation, that this type of report would not be a good answer to.

Dr. Kukor So, I think the very first thing that that should be asked is, am I able to identify specific questions that I need to address in my report? And if the answer to that question is yes, then I think this can be a very useful way to do so.

Dr. Guyton That's really helpful. Thank you.

Dr. Millkey We're talking a lot about talking a lot around a relevancy focus reports. Can we like drill right down into it. What is a relevancy focused report. What are the nuts and bolts of this?

Dr. Kukor Sure. The nuts and bolts are as follows. Number one, this is, a traditional forensic report is a, procedure based report. In other words, data tend to get organized by the procedure used to capture it. That's why you'll have separate sections for mental status, for self-reported history, for collateral information, for psychological testing or forensic assessment instruments.

Dr. Kukor The kind of report that is a relevancy focused report is a different model altogether. It's a findings based report. So rather than structure it as I just described, the, the findings based report is structured on what are the questions that I was asked, what are my answers to those questions? What data points that I use to answer those questions?

Dr. Kukor What are the, were there any data points that were not consistent with my opinion? How do I explain why those data points were not consistent? And then I offer the opinion. So that would be, I think, a pretty archetypal type structure for a relevancy-focused report that, again, is going to look very different than a traditional multi-paragraph, multi-page report that often reports a lot of data that the examiner simply did not use, and arriving at their opinions, inferences, and conclusions.

Dr. Millkey So it's a, so it is a findings-based rather than a procedure-focused report.

Dr. Kukor I think we have to credit Mark Cunningham for that distinction. That's who I learned this idea from, about the difference. Reid Meloy was another person that, he called it something different. He called that, I believe a schematic forensic report where he was also trying to move in the same direction. And he had kind of a core metaphor. He said, trying to specific forensic questions and answer them with the traditional clinical styled report is a little bit like trying to put a square peg in a round hole.

Dr. Kukor So, my model, and the model that we developed here in Columbus, is the square hole.

Dr. Millkey That's a funny way of putting it, but I get what you're saying.

Dr. Guyton So, can I ask a question that I have pondered sometimes? Often when I am writing a report: how do you determine relevancy?

Dr. Kukor Well, as I mentioned, when I first had this idea, I would not know how to answer that question. I didn't know early in my career that there were things like, the Federal Rules of Evidence, that there were state rules of evidence. That was all brand new to me. Relevancy is defined in those two key sources. At the federal level, it's in federal rule 401 and 402. At the state level,

Dr. Kukor and not all states have formal rules of evidence. I was quite surprised to find this out. I believe Missouri, for example, is a state that does not have a separate evidence code. But in those states, that do they typically follow the federal rules of evidence very closely. So if you look at the Federal Rule of Evidence 401, it says the following: That evidence is relevant

Dr. Kukor if it's got any tendency to make a fact more or less probable than it would be without that evidence, *and* that fact is of consequence in the action being considered by the court. Practically speaking, what that means is this: does any one bit of data move me closer to, or farther away, no matter how small the step from an inference, conclusion, or opinion?

Dr. Kukor If it does, if it imparts that motion, if it influences you one way or the other, it's relevant. If it does not, it is irrelevant and interesting. Interestingly, but the Federal Rules of Evidence indicate that irrelevant evidence is inadmissible.

- Dr. Millkey** That's really fascinating. And a very well-supported, that's a very thoughtful definition, Terry.
- Dr. Guyton** Well, and can I just say like I agree, it's a thoughtful definition. It's pulling from the legal piece of, you know, defining sort of admissibility and relevance. And I think Oregon follows that same, where Alex and I practice, follows that similar federal guidance. But it strikes me also as a binary that something is relevant or irrelevant. But I have to wonder, is there not also, you know, some sort of normal distribution or, you know, like rather than a bimodal or is there, you know, how do we determine relevancy and is there a reliability determining relevancy of data that would be in a report?
- Dr. Kukor** Oh, I love that question on I want to think some more about it. Off the top of my head, I'll say there are some times, and I've been writing reports this way for ten years or so now, when I'm not sure if any one data point is relevant or not. I often feel that way in the data acquisition stage when I am acquiring data, like when I'm doing a clinical interview.
- Dr. Kukor** Most of us, I think, follow clinical hunches or we have diagnostic criteria in the back of our heads as we are asking questions, and we have some sense of when to stop pursuing something. I have some ideas about what my own decision rules for those things are, but that's something all of us do. I often don't know in that process if something is going to be relevant until I've had a chance to discuss it with somebody.
- Dr. Kukor** Let's take trauma as an example. Sure, it's a good idea to get somebody's trauma history. Is trauma going to be relevant in every single competency? Probably not. Is it going to be relevant in some competencies or some criminal responsibilities? Probably. But again, until I know what are the symptoms and then I can establish a connection, a clear connection, between that symptom and the functional legal capacity
- Dr. Kukor** I am assessing, I don't know the answer to that question. So that's why I think my if you were to observe me do a case, you would think Terry's doing the same thing that everybody else is doing as he acquires data, whether it's in an interview or in collateral or anything else, but applying that filter is when I have to make a decision.
- Dr. Kukor** Okay, I wrote this down in my notes. Is it going to make the trip to my report, yes or no? How does that help me answer the legal question? So, conceptually could it be non-binary or non dichotomous? I guess it could be. My experience is if I'm really thinking hard about that specific question, did I

make use of this data point in arriving in any way, no matter how small the step?

Dr. Kukor If my answer to that question is yes, it's relevant.

Dr. Millkey Antoinette Kavanagh says in trainings, and said here, "Ask everything, write some things." And it sounds like what you're talking about is being a very thorough interviewer and a very intense curator of what goes in the report.

Dr. Kukor Exactly. And I think, you know, we should be able to decide, or to describe rather! our thought process and I in terms of why we wrote something down, why we decided that we were not going to include something in our report. Those are all, I think, teachable skills and some of the best postdocs that I've had. I'm thinking of one in particular. Who is very fond of saying, don't tell me what you think.

Dr. Kukor Tell me how you decided what was relevant or why did you stop taking notes at this point in your inquiry? And it was profoundly uncomfortable because I didn't know the answer to those things at first. I really had to step back for my own process and give that a lot of thought so that I could say, well, with the benefit of hindsight, here's what I was thinking in the moment.

Dr. Kukor And I think that's a very, very useful kind of exercise for people involved in training positions, because that's teachable. We teach people a lot about data. I don't think we teach trainees enough about how to think about the data.

Dr. Guyton And I think, kind of related to that, how they present the data to somebody else who's not trained like they are, who needs to use this data to make, you know, a finding, or, you know, settle the case before that. And that's something that I think I've been thinking a lot about in recent years. Seb Rilen also kind of talks about this as well, about how we present the data, making it increasing readability, through a number of ways, but really kind of this, you know, there's this whole psychology or industry out there about how people interface with websites.

Dr. Guyton And, you know, I'm sure there's like tons of people who wonder why I buy things on Amazon and then market new products to me. Right, because they study how I use that and how I interface with that. And it strikes me that we as forensic clinicians don't always think about how someone's going to interact with the product that we are then producing for them, you know, so that this in some ways seems like it aligns with this idea of helping your,

the consumer of your products, you know, to use a kind of sort of different analogy, but to use the consumer of your product to use that more accurately, more efficiently, and hopefully help

Dr. Guyton them come to the decisions that you're designed to do, right. So that I'm giving them the data that they need. They're not getting lost in all of this other data that is irrelevant. I'm not hiding the findings. You know, in the middle of my report or something like that, right? That I'm making it very clear to them in very obvious ways so that they can they don't have to have that cognitive strain to find the useful nuggets in my report.

Dr. Kukor Exactly. And when somebody asks me how I decide what data points go into my report, I'm thinking about three primary data filters we've been talking about. The first, is it relevant as defined in the federal or state rules of evidence? The second would be is it necessary? And there I'm thinking about federal rule of evidence 403, which talks about, how a court can exclude even relevant evidence under six conditions.

Dr. Kukor One of them being number six, needlessly presenting cumulative evidence. As I read that, the question that comes to my mind is, is it necessary? It may be relevant, but is it necessary? So, for example, how many instances of the symptom, or examples of a symptom, do I need to describe to establish that it's present? How many examples of a particular behavior that's being exhibited

Dr. Kukor do I need to know it before I can say that there's a pattern? So the federal Rules of Evidence are pointing us to avoiding needlessly presenting cumulative evidence, even if it's relevant. It should also be necessary. And then the third filter would be is it required or mandatory. And there certain data points might be required by a statute, by administrative rule, by relevant case law or, even some policies and procedures.

Dr. Kukor And when I talk about this issue around the country, I encourage people to take a very hard look at their own policies and procedures. I've seen plenty of report templates for example, that may have been written in the 80s or 90s, and they really haven't changed. And maybe there's good reason for that. Maybe every single element in there is relevant and necessary, but maybe not.

Dr. Kukor So for things like that, I think we shouldn't be getting in our own way. We shouldn't have policies and procedures that are obstacles for us, rather than helping us craft something that is going to be, a good, high quality product for the court.

**Dr.
Guyton**

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