The Forensic Mental Health Assessment: How to be a Mind Detective

Sean Kaliski

The forensic mental health assessment (FHMA) is a clinical evaluation, conducted by a variety of mental health practitioners[1] (singly or together), that is used for juridical or legal purposes. The examiner can be engaged to fulfil any 3 of the following roles:

- to conduct an assessment that can be used in proceedings (and which may require expert testimony),
- to mediate between litigants, and
- as a non-witness consultant[2] (Wettstein, 2010).

The variety of contexts that could require a FMHA are listed in table 1.

TABLE 1: POSSIBLE CONTEXTS THAT MAY REQUIRE FORENSIC MENTAL HEALTH ASSESSMENTS

CRIMINAL PROCEEDINGS	**CIVIL LITIGATION**
Fitness to stand trial	*Contractual Competence*
Criminal Responsibility	*Curatorship (Administratorship)*
Risk Assessment / Dangerousness	*Divorce, Custody and Access*
Sentencing	*Testamentary Capacity*
Assessment of witnesses	*Impairment and Disability*
Parole hearings	*In the workplace*
Discharge from a forensic mental health facility	*Driving*
	Gun licence
	Professional negligence
	Surgical procedures
	Organ Transplant
	Reassignment / Transition procedures
	Psychological Autopsy
	Involuntary admission and treatment

The Stages of the Assessment

All forensic assessments should follow a generic pathway that can be modified as needed (figure 1). Essentially the process requires:

1. An understanding of the juridical issue at hand,

[1] The disciplines usually retained are psychiatry, psychology, occupational therapy, and social work. Occasionally others, such as professional nursing and criminologists, are included.

[2] For example, sometimes the expert is asked to attend a hearing to assist legal counsel to understand evidence and advise on issues for cross-examination

2. A clinical assessment that additionally addresses the juridical issue

3. A report that discusses the interactions between the above and provides an opinion on severity of impairment and prognosis (or likely outcomes) with recommendations. Sometimes an evaluation of past interventions or events may be required.

An underappreciated aspect is that whoever requested the assessment and report does not have to follow the recommendations contained in the report (especially if competing reports are also submitted). Consequently, and sometimes distressingly, the assessment and its report can be challenged in a court or similar hearing.

Figure 1: The steps that most forensic assessments follow

The Referral

All referrals have "a specific psycholegal question that requires an expert opinion, generally to advance a legal requirement" (p.S3) (Glancy et al., 2015). The referring agent can be any entity that has a direct interest in the competence of the examinee. Examples of possible referring agents are listed in table 2.

TABLE 2: EXAMPLES OF REFERRING AGENTS AND POSSIBLE REASONS FOR THE REFERRAL

REFERRING AGENT	POSSIBLE REASONS FOR REFERRAL
The Examinee	To apply for compensation, pension, damages etc
The Courts	To determine fitness to stand trial To assess criminal responsibility To provide risk assessment To assist in sentencing To assess witnesses
Civil proceedings	Any of the above reasons Capacity to enter into contractual relationships Competence to provide informed consent Competence to manage financial affairs, for curatorship / guardianship / administratorship To assist in civil litigation: where damages are sought, custody and access of minor children in divorce disputes when testamentary capacity is questioned
Employers, Insurance companies	Generally, these involve assessment of functional capacity to work, the efficacy of treatment already administered, the likelihood of recovery or recommendations for accommodating for the needs of the examinee.
Other	Competence to provide informed consent for medical/surgical procedures Conversely, competence to refuse medical/surgical/psychiatric treatment

The referral should always be in writing in which the pertinent juridical issues are clearly delineated. Ideally there should be a written contract between referral agent and examiner (unless the examiner is expressly employed by an organisation to conduct assessments), which should include important information such the purpose and fees for the evaluation. Attached should be a good description of the context and background to the referral, including the possible uses of, and outcomes of the assessment[3].

Before taking on the case the examiner must:

- *have the requisite expertise to conduct the assessment* (Heilbrun et al., 2002). Sometimes this is referred to as working within one's "scope of practice". The examiner should have the appropriate clinical training and experience in conducting forensic assessments together with registration with a professional body. In most countries, including South Africa, psychiatrists can register as forensic psychiatrists after obtaining the Certificate in Forensic Psychiatry from the College of Psychiatry. Many psychiatrists, who are not so registered, are accepted as experts, based on their experience and expertise. For example, some may have for many years conducted assessments for impairment in the workplace, and most child psychiatrists are amply qualified to provide opinions in a variety of inquiries involving children and adolescents. Other disciplines seldom can register as forensic subspecialists but nevertheless possess impressive forensic skills, usually gained from extensive experience and training, which should also be recognised.

- *not have a conflict of interest.* All forensic evaluations expose examiners to conflicting loyalties. A conflict of interest arises when the examiner's primary loyalty, such as the fiduciary relationship with her patient, is undermined by an external demand. Examples are numerous, such as a court order requiring an opinion, financial rewards offered by an insurance company, reports requested by employers, or when the expert serves on a disciplinary body that is investigating her patient. As Mullen (2000) says *"(t)here are manifest ethical and professional dangers for mental health professionals who assess patients at the behest of employers or social agencies when the main beneficiary of such assessments is the organization, with potentially the loser being the patient"(p.310).* An under-appreciated but vital aspect is that just *the appearance or potential of conflict of interest is sufficient to disqualify an expert*, even if the examiner is convinced of her own integrity. Even if she has cleared the hurdle of "conflict of interest" the examinee should aware of the minefield of "dual agency", in which the examiner's primary loyalty is owed to an outside body, such as the courts, and not to the examinee (Weinstock and Gold, 2004, AAPL, 2002, Kaliski, 2015, Glancy et al., 2015).

- *be assured of impartiality*. Experts sincerely believe that they are objective and honest. Diamond (1994) scoffed at these notions, especially when the expert is paid handsomely for her assessment, and unconsciously has an interest in the outcome[4]. Apart from the obvious assertion that psychiatrists usually act as advocates for the side that retained them, the influence of the psychiatrist's personal, including religious, beliefs, ideological stance and value system can lead to biased opinions. There is a fallacy that cross-examination in court can reveal an examiner's partiality. Unfortunately, most evaluations are not challenged in any forum, firstly, because there is an assumption that the examiner is inherently neutral and agnostic to

[3] The examiner should be wary of vague referrals which do not indicate the possible outcomes. For example, an assessment for impairment in the workplace should not be used subsequently in divorce litigation.

[4] Dr. Diamond, who wrote this in an editorial in 1959, also asserted that experts retained at great expense from the private sector usually produced better assessments because of the resources (from wealthy defendants) made available to them. In contrast, he claimed that psychiatrists appointed by the courts from the state sector tended to do shoddy assessments, even if the examinee had spent a year in their hospitals. He also decried the lack of psychodynamic training and interest in psychodynamic theory in state psychiatrists. This is a reminder how times do change and that often nostalgia for a better past is misplaced.

the outcome, and secondly, because in most cases the examinee cannot afford her own experts. Then there are situations that appear to be impartial but surely are not. Divorcing parents sometimes agree to appoint a panel consisting of psychiatrists and psychologists to determine custody and access issues. But one party agrees to pay the (usually exorbitant) fees, and that party usually gets the result they desired.

a. *have informed consent from the examinee or a court order.* Section 7 of the National Health Act No 61 of 2003 requires that all reasonable steps must be taken to get informed consent and that the examinee should be able to participate in all decisions concerning her well-being. Informed consent should be in writing and must indicate what information was conveyed. Forensic assessments also cannot proceed without some sort of authorisation. Referral by court order is the most straightforward and least controversial[5]. Informed consent should be in writing in the prescribed form. But, what if during the assessment it becomes obvious that the examinee lacked competence to understand and sign informed consent? Consent then should be obtained from a guardian, curator, or a close family member. This may be sufficient if the examinee assents (i.e. agrees to participate without understanding fully). If the incompetent examinee refuses to be assessed, it may be important to obtain a court order. *To repeat and emphasise*:

    I. In criminal cases the assessment is usually by court order which obviates the need for informed consent. Nevertheless, examinees must be appraised of the purpose of the assessment (see below)

    II. Informed consent can only be valid of the examinee is competent to provide it, which may only become evident as the interview unfolds. The examiner has 2 options; either terminate the interview so that consent can be provided by curator ad litem, close family member etc, or the interview can be completed with a view to obtaining consent when the examinee regains competence. The latter situation may be problematic if the examinee never regains competence. Occasionally the interview could continue if it is obviously not prejudicial to the examinee. This can be a tricky decision.

- *be confident that sufficient resources are available to conduct a good assessment.* For many assessments interviewing the examinee may be sufficient. But there are cases that may require more sophisticated evaluations, ranging from brain scans, blood tests, psychometric testing or genetic screening. If these are not available but would be indispensable the examiner may have to negotiate that the report she produces should be regarded as provisional, until further investigations are completed, or perhaps just refuse to take the case.

If in doubt, refer on to a colleague. There is nothing more chastening than having to defend one's integrity in court or any other forum.

Examination of supporting documents

Forensic assessments should never occur in a vacuum. Occasionally a lawyer may verbally ask for an interview "to see what you can find" without providing any details. Or skimpy details may be offered, such "my client is involved in a divorce and the opposing lawyer claims she is off her head. I

[5] Sometimes the examinee objects to the referral but must submit because the court orders it. The examiner may have to take this into account if the examinee is uncooperative.

need you to see her and you will confirm that there is nothing wrong with her". All referrals should be in writing and include the following:

- A clear statement of the juridical issue together with an enunciation of the context and background to the problem.

- Relevant records of previous clinical contacts, which sometimes could include anything from witness statements, affidavits, discharge summaries, nursing process notes, copies of doctors' folders, laboratory test results, social reports, school reports, etc.

What do you do if crucial documents are not included? Options include informing the referring agent, usually in the resulting report, that your conclusions are provisional depending on the content of the missing documents, or rarely refuse to continue with the assessment until that information is available. But generally, be prepared to change your opinion if during a subsequent hearing previously important information magically materialises.

The Interviews

The FMH interview (or interviews) is more than an in-depth interview that explores specific juristic issues. Be mindful of the following:

1. The interview should be in person.

The platinum rule is not to provide definitive assessments on examinees you have not personally interviewed. In 1964 psychiatrists were invited by a popular magazine to comment on Barry Goldwater's fitness to be president of the USA. He successfully sued them, and consequently the American Psychiatric Association incorporated the since named Goldwater Rule, as section 7 of their ethical guide, which expressly prohibits psychiatrists and psychologists from commenting on the psychiatric status of any public figure (APA, 2008). But this can also be extrapolated to general FMH practice.

Does "in person" include online assessments? Prior to the covid pandemic the use of online platforms, such as Skype, was considered controversial, but were used extensively by the courts to allow defendants to attend their trials by video link, especially if the defendants were in remote rural settings (Mars et al., 2012). Objections to conducting FMHAs online ranged from concerns over poor quality of sound and video, possible breaches of confidentiality (especially as the examiner could not determine whether someone else was in the room influencing responses), cheating (for example the examinee could be accessing a smartphone out of sight), the difficulty of evaluating non-verbal cues and authenticity (Drogin, 2020, James and Busher, 2016). The latter issue included doubts that during online assessments it was not possible to establish good enough rapport nor to gauge whether responses were genuine. The courts have not ruled on the admissibility of online assessments, but it is likely that examinees could challenge such assessments, mostly because standard protocols do not yet exist and therefore cannot be used to validate the procedure. Consequently, even during the covid lockdown interviews were only conducted with the examinee's physical presence. Of course, all covid protocols had to be observed, which strained already meagre resources. Despite the pandemic online assessments were avoided.

Can the interview be recorded? Sometimes the examinee requests it, or occasionally the examiner may find it important or more convenient to record the proceedings. Recordings are not regarded as routine practice, but the recommendation is that firstly the examinee should provide consent, and secondly, if the examinee requests the recording, the examiner should also record the sessions (Glancy et al., 2015). Perhaps a reasonable solution would be to provide recordings to both sides.

2. Use of Interpreters

How does an examiner fully understand an examinee who does not speak the same language and belongs to another cultural or ethnic group? In South Africa clinical interviews are often conducted in English or Afrikaans, without assessing the examinee's proficiency in those languages. Forensic interviews seldom take into account the complex relationship between technical terms, home language, and cultural values and perspectives (Wagoner, 2017).

Using interpreters does not necessarily solve this quandary. Local experience has been mixed. When an interpreter without clinical experience is used, subtle (or even obvious) symptoms can be missed and a distorted mental state examination can result (Drennan and Swartz, 2002). Other problems include the interpreter's inability to recognise thought disorders or to distinguish between psychotic symptoms and culturally acceptable beliefs. Sometimes interpreters fail to report everything the examinee says[6]. Worse still, forensic reports almost never mention that the interview was conducted through an interpreter, or his/her role in the assessment, which makes it impossible to assess whether an evaluation has correctly elicited or distorted crucial information (Maddux, 2010). A potentially serious problem is that the interpreter may not scrupulously observe the need for confidentiality or may damage rapport with the examinee.

Guidelines for the use of interpreters:

a. *Ideally the interpreter's first language and cultural/ethnic identity should match those of the examinee. This may also include ensuring that the interpreter is of the same gender, especially if sensitive issues (such as sexuality) are to be discussed (Maddux, 2010). It is also preferable that in consecutive interviews the same interpreter should be used.*

b. *The interpreter should have the requisite clinical skills and therefore be able to assist with assessing the context of responses.*

c. *Before the interview the scope of the assessment, including available collateral information, should be discussed with the interpreter. Sometimes it may be useful to anticipate symptoms or phenomena that may arise in the discussion.*

d. *During the interview the examiner should look at the examinee, when asking questions as well as listening to responses. This is useful not only to be sensitive to physical cues, such as anxiety, weeping, anger etc, but as a means of establishing some rapport.*

e. *The interpreter should be urged to provide an almost verbatim account. This may be difficult when the examinee is disordered, speaking rapidly, or using unfamiliar words. Verbatim accounts can also lengthen interviews. Sometimes this is unavoidable.*

[6] Not uncommonly the interpreter is instructed to ask a question. A lengthy conversation then ensues between interpreter and examinee. Finally, the interpreter reports that the answer is just "no". Obviously, something meaningful could have been omitted.

f. *After the interview it may be useful to discuss with the interpreter the cultural or linguistic issues that may be relevant to the content of the interview.*

g. *The use of an interpreter, together with an indication who the interpreter was, should be noted in the clinical notes.*

Despite the above the examiner must be prepared to concede in court that his/her assessment may be inadequate or wrong, simply because an interpreter was used. Occasionally, in our experience, while an examinee is being interviewed through an interpreter in front of a panel (or ward round), some of the members of the panel who belong to the same culture (and language group) as the examinee disagree amongst themselves about the actual meaning of what was said. Language is a repository of culture, ethnicity, and socioeconomic class that occasionally can be difficult to convey to others. *(see chapter on Culture & Ethnicity)*

3. Conducting the Interview

In almost all cases examinees would rather not be interviewed or may, perhaps falsely, believe that the interview will only be to their benefit. Therefore, before plunging into the interview several preliminary procedures should be followed.

b. Examinees should be asked about their understanding of the purpose and potential consequences of the assessment. If their understanding is poor or wrong, the examiner must try discussing and informing them about the process. Generally, such disclosures are believed to ameliorate possible harms inherent in the assessment by giving the examinee some control over what to reveal. Does this truly avoid harm? Most authorities are sceptical, because forensic practitioners "seduce" examinees (usually by their empathic manner) to reveal prejudicial information they may have the right to hide (Kaliski, 2015, Sadoff, 2011).

c. Examinees should be reminded that they have the right to remain silent. But a paradox may ensue. In criminal evaluations they must be told that their silence can be construed as lack of cooperation and will be noted by the court (Gutheil, 1999). In civil cases non-cooperation may be construed as a concession to the plaintiff's case. Occasionally the right to remain silent can be legitimate if the examinee insists on presenting his account only to the court.

d. Examinees should be informed that information from the assessment cannot be confidential (Glancy et al., 2015).

A difference between forensic and other clinical assessments is that in the latter the examiner's primary aim is to determine what is wrong in order to treat and assist, whereas in the former the primary concern is whether there is anything wrong at all. But the forensic interview is not an interrogation. Examiners are not required to wring confessions out of examinees but must elicit a narrative with enough information to answer the referral questions. Any indication that coercion was used to extract information will undermine the credibility of the interview. Therefore, it is not misplaced to be empathic as a means of establishing rapport. This is not incompatible with having a default sceptical attitude.

Ideally, the interview should be conducted in a comfortable quiet room and should proceed as any other clinical interview, except that, here, the main complaint is the legal issue. There are no requirements that there should be more than one interview. Obviously long frequent interviews may produce more credible information. Sometimes the mental state of the examinee may be clear within the first 5 minutes, and the subsequent time is used to confirm this impression. In hearings

opposing legal counsel sometimes tend to batter experts over the time they spent interviewing the examinee.

A useful starting point, after eliciting important demographic data and establishing some rapport, is an appraisal of the period before the index event, when the examinee supposedly was well. Then the narrative should follow the timeline leading up to, during and after it. Antecedents may be important for setting the scene (crime, accident, relationship breakdown etc) and descriptions of behaviour/mental state after the index event (or events) are crucial for understanding the impact, enduring or not, of the index event or situation.

It is worth repeating the importance of eliciting the timing of everything. Ultimately there must be a clear sequence of what happened and when. If there were symptoms did this lead to the index event, or were they the consequence?

As with any clinical history a detailed longitudinal account from birth till the present must be attempted. Details of how to accomplish this can be found in all good general textbooks, although the following should be appreciated:

- Avoid leading questions. Sometimes examinees are looking for clues to support a particular presentation. If leading questions are unavoidable the examiner should delve deeper by repeatedly asking for clarifications.

- The longitudinal history should contain details relevant to the legal issues. Past traumas, conduct disorder, symptoms, events, medical illnesses, treatments, substance abuse etc. help establish patterns in which current difficulties can be understood as either part of a general pattern or singular presentations.

- Always elicit evidence for possible medical illnesses, not only as potential causes of the examinee's mental state but as comorbid conditions that may exacerbate or have unanticipated influence.

- It may be worthwhile to assess an examinee with a multidisciplinary team (MDT). Remember the blind men and the elephant...

Gathering collateral information

Unsurprisingly examinees often either provide incorrect information or not enough. Or one cannot be sure. Sometimes the examinee may lack insight or knowingly minimise sensitive facts. Therefore, information from other sources can be invaluable. As Heilbrun et al. (2003) note:

> *"An individual may stand to gain or lose a great deal through litigation, and therefore may be more inclined to respond to the litigation-induced incentive to distort the accuracy of self-reported symptoms or patterns of behaviour" (p.75)*

Collateral sources of information can be divided into that gathered from interviews with informed third parties and that derived from documentation. Table 3 provides a list of commonly used sources, with their potential advantages and disadvantages.

Obviously when selecting a source, the consideration must be its potential usefulness. For example, family members intuitively would seem to be the best option, but sometimes the examinee has had

minimal or no contact with the family for some time. There are some contentious issues that should be kept in mind:

- *Confidentiality:* Third parties sometimes reveal secrets that would cause distress or harm and may insist on confidentiality. Even if the sensitive information is not disclosed in the final report the courts and opposing lawyers may insist on perusing the original notes. The conundrum is that if informants are told that confidentiality cannot be assured, they may not disclose important information. If not told their distress and anger could have consequences if they assumed confidentiality would be respected.

- *Admissibility of collateral information in court:* Third party information has a similar status to hearsay evidence yet does not seem ever to have been challenged in case law. Opposing counsel could insist on cross-examining the source of the information, which could have negative ramifications for the provider. Occasionally the court may insist on cross-examining a professional member of the assessing team.

- *Information from the complainant/victim:* Intuitively those who were directly affected by the examinee should be able to provide a reliable description of his/her behaviour, attitudes, and mental state. Victims may fear being re-traumatised or may wish to provide their account solely to the court. When the victim/complainant is a child or adolescent or is otherwise vulnerable it may be advisable to rely on reports that properly qualified experts submit to the court. Sometimes their statement to the police, which should be in the docket, can be useful.

- *Inconsistencies and truthfulness:* Other sources of information may not be truthful. Collateral sources may collude with or attempt to protect the examinee. When faced with differing accounts the examiner may have to concede that determining the "truth" is not possible, which actually is the court's task. In these circumstances the report should include these inconsistencies without drawing conclusions

- *What is a valid source of collateral information?* While it may be true that all sources are useful, in our age of misinformation, the credibility of some sources may be questionable. The exemplar of this uncertainty is anything extracted from the internet. Although many treating clinicians admit to using the internet, which includes almost anything from social media to general posts about the examinee, there are few ethical guidelines to regulate this. In forensic settings, where such information can be prejudicial or harmful, there are currently few formalised restrictions. Although a distinction can be made between personal posts, such as on Facebook or Instagram, and official documents, such as news sites, there probably is no restriction to accessing any such information as it is already in the public domain and cannot be regarded as confidential. Nevertheless, Pirelli et al. (2018) suggest that, with some exceptions, without stating what these may be, examinees and their lawyers should be informed, and that the report should specifically describe how this information was used. I do not agree with this unless a company, or agency, has been retained to gather such information for the purposes of the assessment. It can be useful, for example, to read social media postings by examinees who claim to be unable to function at all, but have

posted on their pages the grand time they have just enjoyed, or how their new business ventures are progressing.

> **Case:** A school principal applied for permanent incapacity because he was suffering from PTSD. A mass murderer who had been on the run arrived at his school early in the morning. In his telling the suspect had pointed a gun and manhandled him. The principal had managed to wriggle free and summoned help. He now had persistent flashbacks and could not return to work at the school. An internet search uncovered a local news site that published an article on the day of the event, under a banner heading "Mass Murderer hands himself over Meekly to School Principal". The article further quoted the principal as stating that the suspect gave him his gun and sat quietly on a log to wait for the police. It is not known if the principal was awarded a disability pension

TABLE 3: SOURCES OF COLLATERAL INFORMATION: THEIR ADVANTAGES AND DISADVANTAGES

SOURCE	ADVANTAGES	DISADVANTAGES
Interviews		
Family, friends, intimates, colleagues, employers, victims/ complainants etc	These are the informants that have had the most contact with the examinee	There may be a reluctance to share information that could be detrimental or they could overemphasise negative or positive attributes to influence the assessment. Other potential problems are that informants may have inadequate memories or know very little that is pertinent to the legal issue. Informants may only participate if assured of anonymity or provide sensitive information on condition it is not disclosed to others
Treating clinicians	Treating clinicians can clarify or expand on information from their contacts with the examinee	Treating clinicians may feel obliged to maintain confidentiality (even if the examinee has provided informed consent) or may be invested in supporting the examinee's application.
Lawyers, Correctional Services personnel, Probation Officers, Police (esp. Investigating Officers)	These can provide information based on their observations and interviews with the examinee. Occasionally they may have had access to other sources of information, such as interviews with witnesses or perusing of documents.	Although seemingly objective these personnel seldom have training in mental health issues and may not be accurate in their descriptions. Another possible issue, especially if they disclose information derived from documents, is whether much of their information should be treated as hearsay.

Documents		
Docket: In criminal cases the prosecution compiles a dossier of statements from the accused and witnesses. Also included are previous criminal records, the physical evidence, probation and social worker reports, writings or drawings from the accused, material sourced from the accused's computer etc.	These sources are indispensable as they not only provide the context and reason for the referral but should be used to test an accused's ability to understand and explain the allegations, which is invaluable in determining general competence, including fitness to stand trial and criminal responsibility.	Such documents are sometimes mistaken to be statements of fact which is held against the accused if he/she disputes the contents. Therefore, they should always be regarded as allegations that have to be tested in court
Clinical records	Past assessments, contacts and admissions to health facilities can assist in determining diagnoses, effectiveness of treatment, or descriptions of mental state. Nursing notes often contain important observations, such as the examinee's mental state, activities of daily living, communication style etc	Clinical records unfortunately are often incomplete and seldom are compiled to address future forensic issues.
Other documents: Wills, contracts, financial statements, school records, correspondence, work reports, emails etc.	Apart from reinforcing other sources of information previously unknown but vital facts can be uncovered. The examinee's email correspondence with others can reveal his/her mental state, intentions, or confirmation of past actions.	Care must be taken how such information is obtained, especially if laws governing access to information are breached. It may be difficult to determine the accuracy of contained information.

Special Investigations

All examiners dread being pummelled in court by lawyers who demand explanations why certain special investigations were not done. The inexorable rise in medical litigation has encouraged examiners to defensively order a barrage of tests, which is expensive and not always relevant. There are routine tests that arguably should always be done, such as for HIV, syphilis, and substances. Otherwise, the choice of investigations should depend on the relevance to the examinee's presentation. Just have a good explanation why the myriad of available investigations was not used.

The resort to psychometric tests can be fraught in the forensic context. Distinguishing malingering from impairment may depend on the expertise of the tester and the data extracted from other sources.

Please refer to the separate chapter on psychometric testing.

Collating the Information

Making sense of the heap of the available information is where the mind detective's skills are really tested. Hopefully the disparate sources of information produce a consistent and coherent picture from which straightforward conclusions and recommendations can be offered. Even so, the examiner must allow that after the report has been submitted and the case supposedly filed away new information can emerge, such as during a hearing or court case, that could undermine the assessment.

Possible approaches to mitigate this possibility could include:

- Discussing the findings with colleagues, or better still, perform the assessment with a multidisciplinary team (some of whom may be willing to co-sign the report)
- Making a note of missing information that could have been included in the report. Sometimes stating why the information could not be accessed may be helpful. The variety of potential sources of missing information is almost endless, from school reports, medical investigations, criminal records etc…
- Regard the final assessment as actually provisional until the legal process has concluded. This may be obvious, but many of us feel compelled to defend our assessments dogmatically even if it leads to being burnt at the stake while testifying.

Writing the report and providing expert testimony

These topics are covered in separate chapters. Both share the following injunctions:

- Ordinary clear language must be used not only to be understandable to non-medical people but also to minimise ambiguity.
- If technical terms and abbreviations are used these must be defined or explained.
- Avoid judgemental and value laden comments and provide a summary of the findings in the first instance. If the courts require more detail these can be provided under cross-examination (Gunn et al., 2014).
- Be prepared to substantiate information and opinions, either from reliable sources or the scientific literature

Conclusion

The forensic assessment is credible only if information has been gathered systematically, analysed logically (and according to accepted scientific practice) and the findings (with recommendations) are presented in an understandable format.

AAPL. 2002. Ethics guidelines for the practice of forensic psychiatry. *www. aapl. org/ethics. htm* [Online]. Available: www.aapl.org/ethics.htm.

APA 2008. *Ethics Primer of the American Psychiatric Association*, American Psychiatric Pub.

DIAMOND, B. 1994. *The psychiatrist in the courtroom. Selected papers of Bernard L. Diamond,M.D.,* Hillsdale,NJ, The Analytic Press.

DRENNAN, G. & SWARTZ, L. 2002. The paradoxical use of interpreting in psychiatry. *Social Science & Medicine,* 54**,** 1853-1866.

DROGIN, E. Y. 2020. Forensic mental telehealth assessment (FMTA) in the context of COVID-19. *International journal of law and psychiatry,* 71**,** 101595.

GLANCY, G. D., ASH, P., BATH, E. P., BUCHANAN, A., FEDOROFF, P., FRIERSON, R. L., HARRIS, V. L., FRIEDMAN, S. J. H., HAUSER, M. J. & KNOLL, J. 2015. AAPL practice guideline for the forensic assessment. *The journal of the American Academy of Psychiatry and the Law,* 43**,** S3-S53.

GUNN, J., RIDLEY, A., RIX, K., CARSON, D., EASTMAN, N., GROUNDS, A., GUDJONSSON, G. & GUNN, J. 2014. Psychiatric reports for legal purposes in England and Wales. *Forensic Psychiatry.* Routledge.

GUTHEIL, T. G. 1999. Ethics and forensic psychiatry. *In:* BLOCH, S., CHODOFF, P. & GREEN, S., A (eds.) *Psychiatric Ethics.* 3 ed. Oxford: Oxford University Press.

HEILBRUN, K., WARREN, J. & PICARELLO, K. 2003. The use of third party information in forensic assessment. In. IB Weiner, & AM Goldstein (Eds.), Comprehensive handbook of psychology, Vol. 11, Forensic Psychology (pp. 69–86). New York: John Wiley & Sons Ltd.

HEILBRUN, K. M., MARCZYK, G. R. & DEMATTEO, D. 2002. *Forensic mental health assessment,* New York, Oxford University Press.

JAMES, N. & BUSHER, H. 2016. Online interviewing. *Qualitative research,* 4**,** 245-259.

KALISKI, S. Z. 2015. The professional role of the forensic psychiatrist: A tale of two (or more) loyalties. *In:* SADLER, J. S., VAN STADEN, C. W. & FULFORD, K. W. M. (eds.) *The Oxford Handbook of Psychiatric Ethics.* Oxford: Oxford University Press.

MADDUX, J. 2010. Recommendations for forensic evaluators conducting interpreter-mediated interviews. *International Journal of Forensic Mental Health,* 9**,** 55-62.

MARS, M., RAMLALL, S. & KALISKI, S. 2012. Forensic telepsychiatry: a possible solution for South Africa? *African Journal of Psychiatry,* 15**,** 244-247.

MULLEN, P. E. 2000. Forensic Mental Health. *British Journal of Psychiatry,* 174**,** 307-311.

PIRELLI, G., HARTIGAN, S. & ZAPF, P. A. 2018. Using the internet for collateral information in forensic mental health evaluations. *Behavioral Sciences & the Law,* 36**,** 157-169.

SADOFF, R. L. 2011. *Ethical issues in Forensic Psychiatry,* Chichester, John Wiley & Sons Ltd.

WAGONER, R. C. 2017. The use of an interpreter during a forensic interview: Challenges and considerations. *Psychiatric Services,* 68**,** 507-511.

WEINSTOCK, R. & GOLD, L. 2004. Ethics in Forensic Psychiatry. *In:* WEINSTOCK, R. & GOLD, L. (eds.) *Textbook of Forensic Psychiatry.* Washington: American Psychiatric Publishing, Inc.

WETTSTEIN, R. M. 2010. The forensic psychiatric examination and report. *The American Psychiatric Publishing textbook of forensic psychiatry***,** 175-203.