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A content analysis of forensic psychological reports written for sentencing proceedings in criminal court cases in South Africa

by

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ABSTRACT

Since the 1970s there has been a rising trend in South Africa for legal professionals to use the services of psychologists in legal proceedings. Psychologists have therefore increasingly started to appear as expert witnesses in court cases. Despite this, the field of forensic psychology in South Africa has yet to be defined and delineated.

Currently there are no set guidelines or regulations regarding who is qualified to do forensic work, and no standards against which this work can be measured. Psychology in the courtroom has begun to receive a notorious reputation as a result of this. The *Professional Board for Psychology* (PBP) of the *Health Professions Council of South Africa* (HPCSA) is investigating the creation of a new category of registration, that of Forensic Psychologist, partly in an effort to manage and address this problem. However, to date little, if any, research has been conducted on the scope of the work presented to the courts by psychologists appearing as expert witnesses. This research aimed to address this gap by analysing a sample of forensic psychological reports. The following aspects were investigated:

1. Who (category or registration, length of registration, etc.) is doing sentencing reports;
2. How (interviews, collateral information, psychometric tests, etc.) these reports are compiled; and
3. Whether these reports measure up to professional expectations as well as adhere to the guidelines of the HPCSA.

It is clear from the results of this research that some of the psychologists doing forensic assessments and writing reports do so in an idiosyncratic way. Besides the fact that no uniformity exists, forensic work is sometimes done by psychologists who are not

qualified to do so in terms of their registration category and thus their scope of practice. The reports analysed did not always measure up to guidelines or professional standards from abroad (in lieu of local standards or guidelines for reports) and/or transgressions were made in terms of HPCSA policies and guidelines. This situation is understandable in the light of two shortfalls in this field, namely training and regulation.

The following recommendations can be made on the basis of this study:

1. That psychologists who are adequately trained and have the proven experience in forensic work, be accredited by the PBP;
2. That guidelines and standards for forensic work be drawn up by the PBP; in addition, that more complete ethical guidelines than those contained in chapter 7 of the PBP's *Rules of Conduct Pertaining Specifically to Psychology* also be drawn up;
3. That adequate training at MA level in basic forensic issues be made compulsory, with the option of advanced training for those wishing to specialise in the field; and
4. That lawyers be trained in basic concepts of psychology so as to allow for better selection of an appropriate psychologist to assist them and also to assure effective cross-examination regarding psychological issues in court.

If these recommendations were implemented, they could aid in regulating the field, thus producing forensic work of a consistently high quality. This will hopefully help to narrow the gap between the expected and actual interaction between law and psychology.

Key terms: forensic psychology; psychologist expert witness; psychological expert testimony; psychological ethics; sentencing; forensic psychological report; registration category; scope of practice; psychometric tests; forensic psychological assessment.

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Chapter 1

INTRODUCTION

This chapter introduces the reader to the research topic by describing the context of the research problem. Once the background to the problem has been sketched, the research question is posed. The aims of the research as well as the structure of the remaining chapters are then discussed.

1.1 CONTEXT

Up until the 1970s psychologists in South Africa (SA) mainly became involved in forensic matters when requested by a psychiatrist to administer psychometric tests, or as part of the forensic team of one of the state psychiatric hospitals. Since then there has been a rising trend of legal professionals making use of the services of psychologists in court proceedings. As the contribution of psychologists to forensic cases increased, so did the complaints from jurists with regard to the way in which the psychologists were providing this service. The main complaints were regarding the subjectivity and relativity of psychology. Members of the psychology profession itself also became increasingly dissatisfied with the findings and opinions of some of their colleagues in the courts. The result was that 19 concerned psychologists met at the University of Port Elizabeth in 1990 to establish the *South African Society for Forensic Psychology*. The society was soon afterwards acknowledged as an official division of

the then *Psychological Association of South Africa*, which later became known as the *Psychological Society of South Africa* (PsySSA). Unfortunately the *South African Society for Forensic Psychology* existed only for a brief period (Louw & Allan, 1996).

In 2002 PsySSA established a forensic interest group and recommended that only psychologists who have had three years' post-registration experience and have undergone expert supervision in forensic matters should consider themselves competent to give an independent forensic opinion in court. PsySSA has suggested that the *Professional Board for Psychology* (PBP), a subsection of the *Health Professions Council of South Africa* (HPCSA), consider promulgating a specialist registration category in Forensic Psychology, partly in an effort to manage and address this problem (Cohen & Malcolm, 2005).

The PBP is currently investigating the creation of such a new specialist category and in a PBP discussion document the scope of practice for forensic psychology is provisionally proposed as follows: "Forensic psychologists work within the legal and judicial system to assess, diagnose and intervene with people in order to develop an understanding of criminal behaviour using psychological principles" (Professional Board for Psychology, 2007, p. 10 – Annexure D).

Although there are currently no set guidelines in SA about how forensic work should be done, the PBP responded to an enquiry from one of its members by stating the following in a letter:

> Resolved that it be confirmed that to provide services of a forensic nature there are no formal requirements by the Board. Registration with the HPCSA as a psychologist and a proven track record of competency entitles a person to

provide services of a forensic nature (E. Chanza, personal communication, July 20, 2007, p. 1 – Annexure E).

Most psychologists who fulfil the role of expert witness are clinicians who do forensic work in addition to their other professional activities (Louw & Allan, 1998).

A forensic evaluator in the United States of America (USA) must be competent in forensic evaluation procedures and forensic issues relevant to the case. In order to accomplish this, the forensic evaluator must know the basic law as it relates to the assessment of the particular case. Psychology graduate students often do not receive sufficient training in forensic ethics. Also, few psychologists receive training in the *Specialty Guidelines for Forensic Psychologists* that were adopted by the *American Psychology-Law Society* and the *American Board of Forensic Psychology* in 1991. The reason for this was that few of them see themselves as forensic psychologists (Greenberg and Shuman, 1997).

Haas (1993) agrees that the mere possession of generic professional psychology credentials cannot be claimed to provide the expert witness with the necessary and sufficient skills to perform competently as a forensic psychologist. These generic credentials do not provide the psychologist with expert knowledge on the matter before the court either.

The situation is much the same in SA. In the mid-nineties South African psychologists still felt as they did in the mid-eighties, namely that their forensic training was inadequate and that they received little guidance from their profession. They were ill-prepared to contend with the relevant ethical questions, the uncertainties of the law of evidence and the demands of forensic work (Lamprecht, 1986; Louw & Allan, 1998).

Research (Louw & Allan, 1996; Louw & Allan, 1998; Allan & Louw, 2001) and the views of many experts working in the courts indicate that psychologists appearing in the courts of South Africa often do less than satisfactory work. Psychology in the courtroom has consequently started to become notorious.

At the 1999 PsySSA Congress Judge Booysen noted some mistakes psychologists make in expert witness testimony:

- a lack of objectivity;
- believing patients and their family members too easily;
- maintaining their opinion when circumstances or facts have changed;
- using terminology that judges and lawyers do not understand; and
- not being fully prepared to face hostile cross-examinations (Nicholas & Coleridge, 2000).

Nicholas (2000) evaluated the summary and individual psychological reports on five perpetrators (former Vlakplaas commander Brigadier Jan Cronjé, who at the time was overall commander of the other applicants for amnesty, namely Venter, Mentz, Hechter and Jansen van Vuuren) of human rights abuses that had been submitted to the Truth and Reconciliation Commission of SA (TRC). All the applicants received amnesty for offences that included assault, murder and the bombing of a car. Nicholas argued that the quality of the reports in the case of the Cronjé group were uniformly poor as they included conflicting statements and “jumbled diagnoses” (p. 5), which in turn reflects badly on our profession.

Nicholas and Coleridge (2000) further emphasised the obligation of expert witnesses to testify within their areas of expertise and write accurate reports in an unbiased manner, regardless of the beneficial or detrimental impact upon the person they have assessed.

Louw and Allan (1998) agree that forensic reports produced by local psychologists are not held in the same esteem by lawyers as are those of their English and American counterparts.

Despite this lack of training, structure and guidelines pertaining to forensic work in the field of psychology in SA, there has, as abroad, comparatively been less effort to survey the practice of forensic psychology than general clinical practice (Lally, 2003). In fact, in SA there is a dearth of literature on forensic mental health issues, which in turn contributes to the general difficulties in achieving an effective interface between the legal and mental health disciplines. This is quite surprising if it is taken into account that psychologists have been asked to assist the courts and be involved in other legal proceedings for many years (Kaliski, 2006). Louw and Allan (1996) state that formal research projects of a high quality on forensic psychology in SA are basically absent, and Allan and Louw (2001) go on to say that what is missing from the debate on the involvement of psychologists in the South African justice system, is empirical data. To date little, if any, research has been conducted into the examination of the scope and quality of the work presented to the courts by psychologists appearing as expert witnesses. This study was aimed at helping to address this matter in part by analysing a sample of forensic reports written by psychologists for court proceedings.

1.2 RESEARCH QUESTION

In view of the described lack of structure and guidelines pertaining to forensic work in the field of psychology in SA, the research question is therefore as follows: What is the scope of forensic psychological reports written for sentencing proceedings in criminal

court cases in South Africa, and how do these reports compare to local and international expectations according to current literature as well as HPCSA guidelines?

1.3 AIMS OF THE RESEARCH

The aim of this research was to analyse a sample of 20 forensic psychological reports written by psychologists for sentencing proceedings in criminal trials in order to establish the scope of these reports.

This aim is broken down into the following basic components:

1. Who (category or registration, experience, etc.) is writing sentencing reports; and
2. How (interviews, collateral information, psychometric tests, etc.) are these reports compiled?

These two components were then compared to available literature to help determine if the “who” and the “how” measure up to professional expectations as well as the guidelines of the HPCSA.

As was stated above, the HPCSA is in the process of considering the inclusion of a category of registration for forensic psychology. This research might contribute towards establishing a standard against which the quality of forensic reports can be tested, and offer insights that can be taken into account in the development of such a category of registration.

1.4 STRUCTURE

After an introduction to the research problem in this chapter, chapter 2 gives an overview of literature with regard to the different elements involved in forensic psychology, expert witnesses and report writing in particular. The research methodology is then set out and described in chapter 3, after which the results obtained from the study are reported in chapter 4. Chapter 5 discusses these results, bringing in relevant literature where applicable. Finally, conclusions are drawn and recommendations regarding the findings are made.

Chapter 2

LITERATURE REVIEW

This chapter gives an overview of literature regarding the different elements involved in forensic psychology, with specific reference to report writing. A basic explanation of the SA criminal justice process is also given, with specific reference to sentencing. This overview will sketch the background to the research problem.

2.1 DEFINITION OF FORENSIC PSYCHOLOGY

The term **forensic** stems from the Latin word *forensis*, which means belonging to the Forum, more specifically the Imperial Court of Rome, which was a public gathering place where matters in dispute were settled in the form of debates (Gudjonsson & Haward, 1998). A debate on the definition and scope of forensic psychology still exists. Some professionals use the term broadly to describe any intersection of the legal system and psychology.

In the USA, Hess and Weiner (1999) proposed a functional definition that included providing psychological services in the justice or legislative systems, developing a specialised knowledge of legal matters as they affect the practice of psychology and doing research on legal matters that involve psychological processes. Wrightsman and Fulero (2005) proposed that forensic psychology should be broadly defined as any application of psychological research, methods, theory and practice to a matter the

legal system is dealing with. Most psychology dictionaries also define forensic psychology in these broad terms. According to Magill (1996), it is a science that involves the relation and application of psychological concepts and theories to legal problems, while Colman (2003) defined it as a field of applied psychology dedicated to psychological facets of legal processes in court.

Others use the term to specifically describe the clinical practice of psychology in legal contexts. For example, the *American Board of Forensic Psychology* and the *American Psychology-Law Society* define forensic psychology as:

> The professional practice by psychologists within the areas of clinical psychology, counselling psychology, neuropsychology and school psychology, when they are engaged regularly as experts and represent themselves as such, in an activity primarily intended to provide professional psychological expertise to the judicial system (Huss, 2001, p. 25).

Such a definition focuses on the mental health elements of psychology.

In the United Kingdom (UK), Gudjonsson and Haward (1998) also gave a narrower definition and described it as a branch of applied psychology that deals with the gathering, examination and presentation of evidence for judicial purposes. Their definition thus centres around the final outcome – giving evidence.

Haney (1980) suggested three possible relationships between psychology and the law, namely ‘psychology in the law’, involving the integration of psychology into law (mainly providing assistance to the courts in the form of clinical assessment); ‘psychology and the law’, suggesting a combination of the two in which empirical evidence from psychology, i.e. explaining crime or intervention for offenders, could lead to legal reforms; and ‘psychology of the law’, suggesting an incorporation of legal behaviour

into psychology, where all legal subjects (offenders, juries, judges, police) become subjects of psychological knowledge, in other words legal procedures would be shaped by psychological information.

Although Louw and Allan (1998) stated that forensic psychology as a field is poorly defined in SA, Kaliski (2006) defined the term **forensic** as a general term indicating any investigation or process for legal or juridical purposes, while the term 'psycholegal' specifically refers to the forensic work that mental health professionals engage in.

2.2 SCOPE OF FORENSIC PSYCHOLOGY

Forensic work can broadly be divided between the civil litigation field and the criminal litigation field. As this research focused on the latter, some of the areas within this field are discussed briefly.

One of the more experimental areas of forensic psychology is eyewitness identification. Eyewitness errors are the single most common cause of wrongful convictions. Eyewitness accuracy was one of the first topics in experimental psychology, but in the past 15 years there has been a dramatic increase of research on this topic and psychologists now have extensive information on how eyewitness evidence can be improved (Wrightsman & Fulero, 2005).

In South Africa, too, the mistaken identification of an eyewitness has played a key role in sending innocent people to jail. Indeed, legal history has many such examples (Tredoux & Chiroro, 2005) and therefore research on this topic has also increased in

South Africa (Chiroro, Sithole & Muromo, 1997; Chiroro & Valentine, 1995; Newell, Chiroro & Valentine, 1999).

Another area on which forensic psychology focuses, is the rehabilitation, treatment and management of offenders once they are caught. The most effective theoretical bases for correctional rehabilitation programmes have proven to be social learning theory, cognitive models, skills training, differential association and behavioural systems, including family therapy (Polaschek & Reynolds, 2004).

Investigative psychology, on the other hand, focuses on how behavioural science can help to expose offenders or the investigative issues that could aid the defence or prosecution of suspects. The newly emerging field of investigative psychology grew from the need to offer a scientific basis for the previously anecdotal activity of offender profilers (Canter & Alison, 2003).

The psychological profile of an offender includes his or her personality, motivations, characteristic ways of committing crimes and treating his or her victims (Wrightsman & Fulero, 2005). Investigative psychology thus sets out to provide an understanding of the processes of collecting investigative information, developing models for making suitable inferences from that information, and contributing to and studying police decision-making. The central questions in this field are therefore about the most important aspects of criminal activities, the foundation for linking a series of crimes to a common offender, and procedures for guiding the prioritisation of suspects (Canter & Alison, 2003). Offender profiling is best viewed as an investigative tool in police investigations. However, expert evidence with regard to offender profiling has in recent years been brought before the courts both in the USA and the UK (Gudjonsson & Haward, 1998).

Jury selection, specifically in the USA, is yet another area of forensic psychology. The selection of an impartial jury is challenging and the past several decades have generated a significant amount of criticism as to whether a jury can in fact be impartial. The assumed impartiality of each juror is questionable, as many factors, both sociological and psychological, can influence the means by which a juror reaches a decision about a defendant's guilt (Arrigo, 2000).

2.3 ROLES OF FORENSIC PSYCHOLOGISTS

Wrightsman and Fulero (2005) distinguished between the following main roles of the forensic psychologist in the USA:

- researching legal mental health areas;
- acting as consultant to law enforcement (selection and training of police);
- acting as trial consultants: jury selection, case preparation and pre-trial publicity;
- presenting psychology to appellate courts and legislatures;
- acting as forensic assessor (assessment); and
- acting as expert witnesses: insanity defence, competence to stand trial, sentencing, eyewitness identification, child custody, etc.

In the UK the roles of the forensic psychologist are divided as follows:

- Clinical assessment role: a personal interaction with someone connected to the case and making a formal assessment, using objective psychometric measurements, subjective scales and questionnaires, and information from other sources.

- The experimental role: experiments devised for forensic purposes in a laboratory or in the field, from which facts can be obtained and extracted that are both relevant and meaningful to a jury.
- The actuarial role: the forensic psychologist presents evidence of the probability of some event.
- The advisory role: forensic psychologists examine the evidence put forward by another expert, usually but not always of their own profession (Gudjonsson & Haward, 1998).

In South Africa, a survey by Louw and Allan (1998) of 75 South African psychologists who engage in forensic work, found that forensic activities in the civil litigation field constituted 56.3% and forensic activities in the criminal litigation field constituted 43.7% of the total forensic activities of the participants. Some of the activities that constituted the largest portion of the forensic work was custody evaluations (27.6%), followed by evaluations in the personal injury field (26%), evaluations related to the merits of criminal cases (23.5%) and pre-sentence evaluations (19.5%).

2.4 PSYCHOLOGISTS AS EXPERT WITNESSES

According to Cohen and Malcolm (2005), since the 1970s there has been a rising trend in SA for legal professionals to make use of the services of psychologists in legal proceedings. Serving as an expert witness is a role that psychologists have thus increasingly started to occupy.

2.4.1 Definition and function of an expert witness

An expert witness can be anyone who has knowledge and expertise beyond that of the court. In the mental health field it is often a psychiatrist, psychologist, social worker or occupational therapist (Kaliski, 2006). Psychologists profess to have the tools and skills necessary to make better-than-chance assessments of, for instance, an individual's fitness to stand trial, possession of mental competence, psychopathology and the likelihood of that individual acting in a violent manner. This is accomplished by reviewing existing scientific literature, performing scientific research and conducting sound psychological assessments. These efforts result in the provision of expert testimony to the court (Haas, 1993).

Although an expert testifies in the form of opinions, unlike a fact witness, the expert's opinions should be grounded in his or her specialised knowledge, skill, training, education and experience. These opinions should be based on evidence cautiously gathered from various sources and integrated in a manner that is accepted by the particular discipline. Psychiatry and psychology are scientifically based, and scientific principles should therefore underlie the opinion. Personal opinions based on personal preference and gut feelings should not be confused with expert opinions (Conroy, 2006).

The courts must establish whether witnesses have the skill, training and experience that will enable them to testify as experts. This is normally done at the beginning of the evidence, usually with the assistance of a curriculum vitae. Judges in the UK regard experts as vital resources and encourage lawyers to instruct an expert as early as possible (Welldon & Van Velsen, 1999). Under USA law, to be an expert witness a

person needs knowledge, skill, experience, training or education. This is a fairly loose-fitting standard that implies that experience, knowledge or skills are just as important in the eyes of the law as education or training in the specific field (Babitsky & Mangraviti, 2005).

Although South African courts are not specific about the criteria that should be met to be considered an expert, it is clear that experts must have both theoretical and practical knowledge and are therefore expected to demonstrate that they have been trained in a specific discipline or have gained sufficient experience in the field they are expressing opinions on (Kaliski, 2006). In *S v. Gouws* (1967) the court concluded that the main function of an expert is to help the court with a correct decision with regard to aspects within his or her field of specialisation (Joubert, 2001). In this case the appellant was tried for unlawfully selling a potentially harmful drug called Drinamyl. The magistrate said the following about the evidence of the expert witness, a registered chemist:

> The expert's correct function would have been to point to the components or substances listed in the schedule which make up Drinamyl. So guided the magistrate would have been in a position to arrive at his own conclusion on the all-important question which it was his duty to decide, viz. whether Drinamyl is a potentially harmful drug. Instead of that he allowed the witness to make the crucial finding and adopted that finding as his own. In doing so I am of the opinion that he erred (*S v. Gouws*, 1967).

In another case, *S v. Gouws* (1997), the report of a social worker was discarded on the basis of the previous ruling in *S v. Lister* (1993), during which the court pointed out the danger in following the suggestion of the expert during sentencing when the expert

considered only the personal circumstances of the offender. The following was said during the *S v. Lister* (1993) case:

> The approach of a sentencing officer is not the same as that of a psychiatrist. The sentencing officer takes account of all the recognised aims of sentencing including retribution; the psychiatrist is concerned with diagnosis and rehabilitation. To focus on the well-being of the accused at the expense of the other aims of sentencing, such as the interests of the community, is to distort the process and to produce, in all likelihood, a warped sentence (South African Legal Information Institute, 1993).

In *S v. Gouws* (1997) both reports, namely that of the social worker and the correctional services, concentrated on the personal circumstances of the offender and a sentence that would suit him as a person. The presiding officer decided that the nature and seriousness of the crime, as well as the interest of the community, outweighed the appellant's personal circumstances. Imprisonment was therefore the only suitable punishment instead of correctional supervision, as recommended by both reports (South African Legal Information Institute, 1997). This is an illustration of the fact that it is up to the courts to accept or reject an expert's opinion (Cronjé & Heaton, 2003; Hall & Smith, 2001).

The view that expert witnesses should keep to their field of specialisation is not unique to the SA context, as Haas (1993) from the USA also states that expert opinions must be given only within the area of their expertise. Shapiro (1990, p. 746) urges that "psychologists must remain scrupulously close to the data, present only material that is solidly documented, and present only conclusions that can be firmly supported by the data".

Skilled experts should know the strengths and limitations of their information and decision-making. The competent forensic psychologist should know that opposing counsel, as well as its experts, will do everything in its power to highlight any inadequacies and deficiencies in the psychologist's evaluation findings. Knowing the limits of one's testimony is also vital, as an expert witness should be able to help a judge or jury make more accurate judgements (Haas, 1993).

Experts are therefore consultants who are there to serve the court, providing an opinion that is beyond the knowledge of the court. Their function is to assist the court and not to promote the case of a particular side in a hearing (Kaliski, 2006). Welldon and Van Velsen (1999) from the UK add that the experts should only express opinions that they genuinely hold and that they should not be biased in favour of one of the parties. They should also not mislead by omitting information.

Because of the latter conflict, there has been much criticism of expert witnesses. As Saks (1992) stated, experts control the knowledge of their fields; they decide what to emphasise in the material they use. Loftus (Loftus & Ketcham, 1991) professes that she would inevitably become an advocate of sorts if she believes in her patient's innocence. In a recent report of the *Law Reform Commission of Western Australia* (Allan & Louw, 2001, p. 18) it is stated that "the lack of impartiality of expert witnesses is a major problem. The slang term for expert witnesses in the USA is 'saxophones': the lawyer hums the tune and the expert witness plays like a musical instrument". Greenberg and Shuman (1997) agree that a forensic psychologist is obliged to be neutral, independent and honest without becoming invested in the legal outcome and advocates for the results of the evaluation, whatever these results turn out to be.

Another complicating factor is the fact that unlike other witnesses, expert witnesses are paid for their evidence, which can imply that experts will tend to align with their employers, namely the lawyers. Kaliski (2006, p. 361) refers to the worst manifestation of this problem as the phenomenon of the “hired gun” – experts who are known to be willing to produce assessments and testify in court for the obvious and sole benefit of those paying them. Haas (1993) adds that the seduction of highly compensated evaluations and testimony can lead to huge temptations to be a "hired gun" for the side that obtains one's services.

The major challenge in claiming expert status as a mental health professional is having the capacity to acknowledge the difference between clinical practice and forensic requirements and being able to act accordingly (Gaughwin, 2004).

2.4.2 Admissibility of expert testimony

Psychologists should expect courts to demand evidence of the research that supports their opinions and that supports the data acquisition methods on which opinions are based (Greenberg & Shuman, 1997).

The issue of admissibility of expert testimony occurred in 1923 in America in a case entitled *Frye v. United States* (1923). James Alphonzo Frye appealed his conviction for second degree murder. Frye, who confessed and then retracted his confession, had been prosecuted by the federal government and convicted by a jury sitting in a Washington, D.C. trial court. At the trial, the court refused to let Frye introduce evidence about his truthfulness by means of a systolic blood pressure deception test, a

crude precursor to what is now popularly known as a lie detector or polygraph test. The court also refused to let Frye introduce an expert witness to testify about the deception test and Frye's conviction was affirmed (Frye v. United States, n.d.).

This forced the court to sharpen its definition of expert testimony. The result was a general acceptability theory, meaning that "the thing from which the deduction is made (by the expert witness) must be sufficiently established to have gained general acceptance in the particular field in which it belongs" (Blau, 1998, p. 6). This became the model for other courts for most of the 20th century. One of the problems with the Frye standard is that it did not define what "generally acceptable" meant. The formula for admissibility of scientific evidence created by Frye, namely whether the practice or procedure was generally accepted in the scientific community, eventually proved too difficult for courts to manage as the scientific community expanded and progressed. Although the Frye standard came under increasing criticism, it was used by the majority of courts up until 1993, when the Supreme Court articulated a new standard in the case of *Daubert v. Merrell Dow Pharmaceuticals* (1993) (Lally, 2003).

Jason Daubert and Eric Schuller were born with serious birth defects. They and their parents sued the pharmaceutical company in California, alleging that the birth defects had been caused by the mothers' ingestion of Bendectin, a prescription anti-nausea drug. The testimony of eight well-credentialed experts, who based their conclusion that Bendectin can cause birth defects on animal studies, chemical structure analyses and the unpublished reanalysis of previously published human statistical studies, was not accepted by the court, who determined that this evidence did not meet the applicable "general acceptance" standard for the admission of expert testimony (Daubert v. Merrell Dow Pharmaceuticals, n.d.). The Supreme Court held that admissibility of expert testimony should be controlled by Rule 702 of the Federal Rules of Evidence,

and that it need not only be generally accepted in the scientific community to be admitted, as with the Frye standard. Expert testimony should rather be admitted if it rests on a reliable scientific foundation and is relevant to the issue at hand (Lally, 2003).

The Daubert standard is now used in all federal courts and has been refined in later circuit court and Supreme Court decisions to expand the applicability of the Daubert ruling to include expert testimony derived from "other specialised knowledge" (p. 84) or technical knowledge, the former generally serving as the foundation of psychologists' expert testimony. Although many states have chosen to use the Daubert standard, other states continue to use the earlier federal standard, namely the Frye standard, which mainly focuses on general acceptance of a technique in a given scientific field as the necessary foundation for the admissibility of testimony. Therefore, forensic psychologists' knowledge of the accepted practices of their peers is often a vital part of ensuring that useful and admissible information is provided to the legal system (Archer, Buffington-Vollum, Stredny & Handel, 2006).

It would appear that SA courts, like the courts in most other English-speaking countries, use the general acceptance standard test, which is common to both the Frye and Daubert cases, when considering the admissibility of scientific testimony. In the case of psychology, the first question is whether the general body of psychological knowledge is based on theories that are supported by reliable and valid research. This question has never been overtly examined in SA, but there are such a high number of cases where psychological testimony was permitted, that it can be accepted that SA courts do consider psychology per se to be an acceptable field of expertise. The second question is whether the psychological material that forms part of the expert testimony has scientific credibility. At this stage it seems as if courts establish the

general acceptance of new psychological material by taking into consideration the opinions of other experts in the field and case law from other countries (Allan, 2005).

In *Genturico AG v. Firestone SA (Pty) Ltd* (1972) the Appeal Court (now called the Supreme Court of Appeal) concluded that the true test of the admissibility of an expert witness's opinion was when the court received valuable assistance from the witness regarding the matter in question, therefore the evidence should not be redundant or irrelevant (Joubert, 2001).

2.4.3 Criticism of expert witnesses

According to Haas (1993) there are six factors that could threaten the competency of the forensic psychologist, the first of which is failure to understand the justice system, i.e. the justice system requires evidence to support conclusions and therefore careful preparation is required. Numerous cases have been demolished because the expert psychologist did not have access to his or her records, did not review the findings scrupulously or missed or omitted key material.

Secondly, professional arrogance, which often leads psychologists to rely on their memory, not adhere to standards of record keeping or documentation or make a diagnosis solely on the basis of a report by a third party. Thirdly, advocating rather than testifying, which occurs when psychologists are swayed from their position of scientific objectivity to an advocacy position. Fourthly, failure to attend to changes in the knowledge base, in other words, becoming acquainted with current, well-validated assessment instruments. Fifthly, cynicism or being burned out, which leads to extreme

difficulty in becoming aware of your limitations. The last factor is usually greed, as forensic work is seen as a lucrative line of work (Haas, 1993).

Gaughwin (2004) adds the following areas that can and have produced criticism of experts:

- psychologists who reports similar diagnoses in most of their opinions on various cases, or no diagnoses at all;
- inability or refusal to consider other hypotheses;
- inability or refusal to admit that they could have been misled by a plaintiff/defendant;
- failure to take an adequate history and focusing only on the incident at hand;
- failure to include details in the report that could be unfavourable to the assessed or contradict the already pre-determined diagnoses; and
- expression of views that are out of date or not grounded in professional literature.

These criticisms should ideally be a positive corrective for expert witnesses in their efforts to meet the responsibilities they agree to accept when entering the forensic field (Gaughwin, 2004).

A study by Allan and Louw (2001) showed that in general psychologists who do forensic work in South Africa do not meet the expectations of South African lawyers. These expectations include the competency rule (not offering opinions beyond their academic-professional abilities), the comprehensibility or clarity rule (testimony that is comprehensible to those in the legal profession), the relevancy rule (evidence must be legally relevant to the matter considered by the court) and the objectivity rule (opinions

must be objective, honest and non-partisan). The biggest area of concern was the objectivity of the psychologists. The SA courts have often expressed themselves regarding this matter. For example, the judge in *Stock v. Stock* (1981) stated:

> An expert in the field of psychology who is asked to testify in a case…understand that he is there to assist the Court. If he is to be helpful he must be neutral. The evidence of such a witness is of little value where he, or she, is partisan and consistently asserts the cause of the party who calls him (Louw and Allan, 1997).

2.4 FORENSIC ASSESSMENT

A forensic assessment is normally done through a referral, which, according to Kaliski (2006, p. 4) "should occur via a legal representative or juridical body".

Psychologists must clearly understand the legal issue concerned and the psychological evidence asked of them. Psychologists are advised to inform the referring legal counsel that their findings will not necessarily correspond with the legal strategy of the lawyers. The referral should also include a detailed statement about the exact requirements of the assessment (Cohen & Malcolm, 2005).

According to Walker and Shapiro (2003), the steps in the communication process between legal counsel and the expert should include clarifying the referral question, obtaining appropriate collateral materials, performing an initial assessment, a consultation between expert and legal counsel about the initial findings, a complete forensic evaluation, an integration of the findings and an oral discussion between expert and legal counsel regarding these findings. This could lead to an additional

agreement to further consult on the case, preparing a written report, preparing for trial or deposition, reviewing the entire file shortly before trial testimony is scheduled and conferring after trial testimony is completed.

Allnutt and Chaplow (2000) urge psychologists to allow enough time to do the evaluation and adequately review the available evidence. The time frame can also be negotiated with the referral agent. They suggest considering refusing the case if the time is too limited. After receiving a clear mandate, the starting point for the evaluation would be a thorough assessment of the accused. This may involve numerous interviews, collateral sources of information and psychometric tests. Once the information has been integrated, a written report would be compiled (Kaliski, 2006).

Heilbrun, Marczyk and DeMatteo (2002) distinguished between therapeutic assessment (undertaken for diagnostic and/or treatment-planning purposes) and forensic assessment. They postulated differences in (i) scope (forensic assessment being narrower), (ii) significance of the patient's perspective (less in forensic assessment), (iii) voluntariness (more restricted in forensic assessment), (iv) threats to validity (bigger risk of intentional distortion of self-report in forensic assessment), and (v) pace and setting (brisker in forensic assessment due to externally imposed time constraints). They proposed that although forensic assessments provide opinions, they all have the following three components in common, namely the determination of a diagnosis; an appreciation of the functional demands enclosed within the related legal and juridical briefs; and the strength of the causal link between the first and second requirements.

2.4.1 Assessment instruments

With the increasing presence of psychologists in the courtroom, tests are being used to help determine legal questions or legal constructs. As a result, there is a growing debate on the utility of these tests in the courtroom (Arrigo, 2000).

Psychiatrists generally base their opinions, of which the main focus generally is a diagnosis, exclusively on their interview and on collateral sources (records and interviews of other appropriate parties). As psychological tests are uniquely employed by psychologists, it gives psychologists a third source of information on which to base their opinions (Lally, 2003).

Psychometric testing includes the methodical measurement of individual differences along particular traits or dimensions. Psychometric tests have been developed to measure a wide variety of psychological variables, including tests of intelligence, neuropsychological functioning, personality, mental state, social functioning as well as many other psychologically applicable characteristics (Cohen & Malcolm, 2005).

The PBP is the South African controlling statutory body with the only authority to classify, review and approve the use of psychometric and psychological tests, as well as prescribed questionnaires, apparatus and instruments for the determination of intellectual ability, aptitude, personality make-up, personality functioning, psycho-physiological functioning and psychopathology (Professional Board for Psychology, 2001). According to the PBP's *Policy on the Classification of Psychometric Measuring Devices, Instruments, Methods and Techniques* (Professional Board for Psychology, 2006b, p. 1):

> The use of a psychometric measuring device, test, questionnaire, technique or instrument that assesses intellectual or cognitive ability or functioning, aptitude, interest, personality make-up or personality functioning is constituted as being a psychological act. According to the *Health Professions Act 1974* only registered psychologists are permitted to perform such psychological acts.

Thus tests, measures, questionnaires and instruments that tap psychological constructs must be used, interpreted and controlled by psychologists. Certain psychological tests can, however, be used by people other than registered psychologists and it is therefore necessary to classify tests to facilitate the determination of the category of tester who may use them. The two general psychological test classification categories are firstly psychological tests and secondly prescribed tests used by other professionals, e.g. psychometrists, psycho-technicians, speech and occupational therapists (Professional Board for Psychology, 2006a, p. 2).

Tests should be standardised, which means that a test is always administered, scored and interpreted in the same manner. Test scores only have meaning in relation to the standardised norms of that specific test and the population on which the norms are based. Standardisation of interpretation is ensured through the use of empirically derived norms that are used as a base for attaching meaning to individual scores. The individual to whom the test is administered should be adequately similar to the reference group for the norms to be applicable. This is a prominent issue in SA. There has been considerable debate in respect of the 'culture fairness' of psychological tests, in other words whether a test assesses exactly the same attribute in the same manner across different cultures. Very few tests have been normed on the diverse SA population, and non-SA normed tests should therefore be used with great caution in SA courts (Cohen & Malcolm, 2005). It is therefore imperative that the tester must be

familiar with the broad domain of psychometric theory and research regarding the use of tests and test results (Professional Board for Psychology, 2006b, p. 1).

The PBP has issued a list of 'approved' tests for use within SA contexts. The tests in the *List of Tests Classified as being Psychological Tests* (Form 207) of the PBP represent a summarised list of tests that have been classified by the *Psychometrics Committee* (from 1996 onwards) as psychological tests or were classified as such by the *Test Commission of the Republic of South Afr*ica (up until 1996) or the *Human Sciences Research Council*, with these classifications being condoned by the *Psychometrics Committee* in 1998. Tests included in this list will hereafter be referred to as 'approved tests'. However, many of these have not been validated within SA (Professional Board for Psychology, 2006a). It is therefore unclear which criteria the PBP used to determine which tests will be classified as approved.

Heilbrun (1992) suggested helpful guiding principles for the use of psychological testing in forensic assessment:

- The test should be known and reviewed in scientific literature and should include a manual.
- Tests with a reliability coefficient of less than 0.80 are not suitable for forensic work.
- The test must be relevant to the legal matter at hand or the psychological construct underlying the legal issue.
- The standard administration suggested in the manual of the test should be followed.
- Scores from one test should not be used for a purpose for which the test was not developed.

- He suggested using a combination of clinical data and actuarial data for forensic purposes.
- He further recommended administering a battery of tests instead of one single test. Using tests that assess different aspects of psychological functioning gives a wider range from which inferences can be drawn.

Boccaccini and Brodsky (1999) studied test usage by forensic psychologists and found that the main reason for using a test was established norms, followed by the following reasons: their personal clinical experience, the instrument's acceptance within the field and research support and content.

There are two broad categories of tests, namely objective and projective tests. Objective tests normally have a structured design, a formal procedure that everybody should follow, numerical scoring, with established 'error of measurement', confidence intervals and validation (Gudjonsson & Haward, 1998). Examples of these tests are the Minnesota Multiphasic Personality Inventory (MMPI) and the 16 Personality Factor Questionnaire (16PF). Only a small number of these tests have been standardised for the SA population. Examples of those that have been standardised are the South African Wechsler Adult Intelligence Scale (SAWAIS) and the 16PF.

In contrast, projective tests rely on psychodynamic models of understanding, which in forensic work can provide an important basis for formulating clinical hypotheses. The testee can express his or her immediate problems without explicitly identifying him- or herself with them (Gudjonsson & Haward, 1998). Examples of projective tests include the Rorschach Inkblot Method (hereafter only referred to as the Rorschach) and the Thematic Apperception Test (TAT).

Borum and Grisso (1995) studied psychological test use in criminal forensic evaluations and found that when tests were used, certain tests like the Wechsler Adult Intelligence Scale Revised (WAIS-R) and the MMPI were used most often. Martin, Allan and Allan (2001) completed a survey on the use of psychological tests by Australian psychologists who do assessments for the courts. Their survey reveals that the Wechsler Intelligence Scales, Rey Complex Figure Test, and the MMPI are used most frequently.

Lally (2003) did a study on forensic experts' opinion about the acceptability of using various tests and techniques within six areas of forensic practice within criminal law. The tests that were fairly uniformly endorsed across the evaluation types were the MMPI-2, the Wechsler Adult Intelligence Scale Third Edition (WAIS-III) (both objective tests with norms) and to a lesser degree the relative newcomer, the Personality Assessment Inventory (PAI). Archer et al. (2006) confirmed these findings, as their study showed the marked and continuing popularity of traditional clinical assessment instruments such as the MMPI-2 and the Wechsler Intelligence Scale. Besides the PAI gaining widespread acceptance, specialised forensic assessment instruments such as the HCR-20, VRAG, and LSI-R in the risk assessment category and the STATIC-99 in the sex offender risk evaluations are also increasing in popularity. Taking the above studies into consideration, it seems that the MMPI and the Wechsler Intelligence Scale have been popular in forensic settings in the past decade.

In the study done by Lally (2003), he tested the opinion of forensic experts and found that projective tests were not viewed favourably by the majority of the respondents, specifically projective drawings with somewhat less uniformity of opinion. The TAT and sentence completion tests were also rated as unacceptable across the different evaluation types by the majority of the respondents. Heilbrun (1992) made the point

that projective tests could overcome some important factors, such as defensiveness, evasiveness, denial and malingering, which lower the validity of cognitive tests. Still, despite the forensic potential of projective tests, with few exceptions, they have poor inter-scorer reliability and lack validity (Gudjonsson & Haward, 1998).

Consequently, the acceptability of the Comprehensive System for the Rorschach (RCS) in courts is a contentious issue. The RCS is a specific approach to the Rorschach developed by Exner and first published in 1974 (Ritzler, Erard & Pettigrew, 2002a). In the USA, Grove, Barden, Garb and Lilienfeld (2002) are of the opinion that the RCS does not meet the standards for admissibility. They argue that the following five points are vital in evaluating the legal admissibility of the RCS:

- the intense scientific controversy regarding it, which is evidence of the lack of general acceptance by the relevant scientific community;
- the norms for many RCS variables are in error and are likely to make normal individuals appear pathological;
- a considerable proportion of RCS variables probably cannot be scored at a level of reliability that is adequate for clinical and forensic use;
- the validity of most RCS scores is debatable;
- and the data of John Exner, which constitute the scientific foundation of the RCS, appear to be mostly unavailable to the scientific community for scrutiny. The availability of key evidence to the relevant scientific community is a prerequisite to general acceptance by that community.

According to them, no responsible jurist should permit expert testimony involving the interpretation of Rorschach inkblots using the RCS.

Refuting these arguments are Ritzler et al. (2002a), who state that the RCS consists of a standardised method of administration and scoring that produces systematically

defined variables for use in interpretation. According to them cross-examination, the rules of evidence, judges' instructions, as well as jurors' dependence on the sum of the evidence and their common sense normally prevent seduction by experts with questionable theories and techniques. They furthermore state that in multifaceted litigation, jurors need access to professional opinions from fields such as psychology, medicine, economics and engineering, which are not often based on the kind of simple predictive relationships favoured by Grove et al. (2002), but rather on a multifaceted blend of theory, research and professional judgement. Ritzler, Erard & Pettigrew (2002b) add that the Rorschach has without fail proven, when correctly used as part of a broader psychological assessment, to have accuracy equivalent to the two other most widely used tests in the field of psychology, the MMPI and the WAIS; to compare favourably in predictive validity with many standard medical laboratory tests; and to have been fully accepted in clinical training institutions and courtrooms.

Gazono and Meloy (1994) confirm the value of the Rorschach in assessing psychopaths and aggressive offenders for the courts. In contrast, Lally's (2003) study reveals that although the Rorschach was not rated as negatively as other projective tests, it was still rated as unacceptable by the majority of respondents.

In SA Pieters and Louw (1987) published criticism on the SAWAIS, saying that it may no longer be serving its purpose more than 25 years after its introduction. Besides technical errors and misprints, more substantial points of criticism included that the proposed correct answers to questions were no longer appropriate and certain words used were outdated. One of the implications of this was that international journals did not want to publish research based on the SAWAIS. Nell (1994) pointed out that the SAWAIS is not simply a SA version of the Wechsler Adult Intelligence Scale, published in 1955, but rather based on the much older Wechsler-Bellevue Intelligence Scale,

which dates back to 1939. He proposed that it is not within public interest to continue using this test as the norms are outdated (now nearly 40 years old) and the statistical properties are unknown. Therefore, diagnostic conclusions based on this instrument may be misleading. Shuttleworth-Jordan (1995) added to this by advocating that SA clinicians discard the SAWAIS and rather make use of the more updated test administration procedures and normative resources of the WAIS-R with its accompanying vast body of internationally reviewed literature.

Du Toit (2003), who conducted a study to examine the utility of the MMPI-2 in predicting responsibility in pre-trial forensic patients, suggested that this test could become a valuable tool in SA forensic settings. The ability of the MMPI-2 to identify psychopathology is vital in assessing responsibility in pre-trial forensic patients. Its capacity to identify distinguishable personality clusters also helps to provide guidelines for understanding this population, thereby also identifying treatment and placement needs (which is an indirect goal of forensic assessments). However, as yet there are no SA norms.

Most test instruments are designed to be one component of a multi-component assessment. Standing alone, the instruments do not provide enough information to make up an informed opinion regarding the matter before the court. A thorough clinical interview is a critical part of assessment and data from the psychometric assessment need to be evaluated in the light of the information obtained through the interview (Ackerman, 1999).

2.5 REPORT WRITING

The purpose of the forensic report is to assist the court in coming to an appropriate decision with regard to the matter before it. It is the final product of the forensic assessment (Allnutt & Chaplow, 2000). In South African courts, if the opposing legal counsel accepts the report, then there is no need for the expert to testify in person. If it is not accepted, the expert must testify in person and face cross-examination from the opposing counsel and possibly the presiding officer.

According to Shapiro (1991), it is important to remember that expert psychological opinions are not statements of fact, but only reasonable conclusions based on the available analysed information. Just as assessment methods have their imperfections, the expert's opinion is one of multiple, contradictory expert opinions. Expert opinions become evidence not when they are put together in a consultant's mind, but only when they are stated orally under oath or written down in a forensic report. Reports should focus on matters of concern, i.e. the referral question, and not include all psychological observations that could be made about a person or situation being evaluated. Psychologists should therefore only include what they are prepared to justify in testimony. In other words, anything written in the report will be subject to questioning and psychologists should only include material they will feel comfortable defending in a court of law.

According to Welldon and Van Velsen (1999), the expert’s report should provide a straightforward and not misleading opinion; be objective and not omit factors that do not support his or her opinion and be properly researched. If an opinion is based upon insufficient data because that data is unavailable, the expert should say so and indicate

that his or her opinion is only provisional for this reason. Kaliski (2006) stated that it should be kept in mind that the expert loses control and ownership of the report's contents immediately following its submission and it could be distributed widely.

The focus of the report will vary, but should be guided by the client's needs within the limits of the professional judgement and ethical standards of the expert. In other words, psychologists should not provide lawyers with conclusions so as to strengthen their case, but as Hess and Weiner (1999, p. 509) put it: "Meeting the client's needs refers to providing the desired services, not the desired findings."

Regarding the structure of the report, there are two fundamental forms that can be used when writing up results of a forensic evaluation, the first of which could be called a test-by-test chronology, where the writer merely discusses each test individually and reports on those results. The second is an integrated approach that focuses on conceptual concerns about the individual’s functioning and draws from various test results and collateral sources to support those conceptual hypotheses. A combination of these approaches will result in a test-by-test chronology followed by a summary integration. The integrated approach provides a more readable report that can be more helpful in the forensic arena (Ackerman, 2006).

Hess and Weiner (1999) suggested the following guidelines for forensic reports: Reports should be clear by stipulating the sources of information they have used, using ordinary English and limiting their use of technical jargon; and writing about the people they have evaluated, rather than about psychological processes. Reports should also be relevant by addressing and attempting to answer the referral question. Forensic reports should be written in an informative manner that educates the non-psychologist reader. Such an informative educational approach that is easy to understand and

speaks explicitly to the issues at hand, promotes effective communication. Lastly reports should be defendable, as discussed above. Kaliski (2006) added to these guidelines by suggesting an impersonal direct writing style instead of making use of "I". Reports should have a logical and systematic layout. Allan (2000) proposed numbering the paragraphs for easy referral when testifying in court. In an HPCSA newsletter it was stated that the PBP has resolved that the psychologist's category of registration has to be displayed in all communications by the psychologist, which of course includes forensic reports (Professional Board for Psychology, 2001).

Allnutt and Chaplow (2000) suggested writing the report as a phenomenologist first and a diagnostician second. Diagnostic categories can create enormous difficulties for both the justice system and the expert. It is often more appropriate to address the issue in terms of the phenomena and relevant symptoms rather than the diagnosis. They also suggested dividing the report into the findings and the opinion, the latter being based on the former. The nature of the psychopathology should be outlined, the impact of the psychopathology on the person’s behaviour should be explained and finally, how the behaviour and psychopathology apply to the legal issue at hand should be described. Inconsistencies and contradictions should also be addressed.

In SA there is an alarming tendency to prepare over-lengthy and detailed reports of up to 100 pages. Psychologists run the risk of making errors and including information irrelevant to the legal question confronting the court. Often these reports include highly confidential clinical material that is not relevant to the questions at hand. Psychologists should bear in mind that the report is a summarised statement and not a clinical case history (Allan, 2005).

2.6 CODES OF ETHICS AND REGULATIONS

Working with both the mental health and legal systems presents some distinctive ethical challenges, as the two systems function according to different principles. The legal system assumes that the truth will be known through a critical examination of opposing sides of the current matter. The mental health system is much more collegial and beneficent and assumes that diagnostic or treatment truth will be known through a cautious consideration of all possible sources of information. Because of the differing philosophies of fact finding, the guiding principle that a psychologist will work in the best interest of his patient is not always applicable to forensic cases (Gillis & Rogers, 1990).

The use of expert psychological evidence in court can influence the result of a case and have a direct or indirect impact on the individuals involved, as well as on society in general. In this regard expert opinion in court takes on a powerful ethical and human rights aspect and is value-laden. A number of high profile cases in SA, such as the TRC hearings and the criminal trial of Eugene de Kock, have highlighted ethical and professional issues for psychologists acting as expert witnesses (Cohen & Malcolm, 2005; Nicholas, 2000; Nicholas & Coleridge, 2000).

In the USA there are two sets of standards that speak to the actions of psychologists who do forensic work and serve as expert witnesses. The first is Part 7 of the *American Psychological Association* (APA)'s *Ethical Principles of Psychologists and Code of Conduct*, named *Forensic Activities*, which reminds forensic psychologists that they must comply with all other provisions of the code of ethics. The second is the *Specialty Guidelines for Forensic Psychologists* put together by the *Committee on Ethical*

Guidelines for Forensic Psychologists and adopted by the American Psychology-Law Society and the American Board of Forensic Psychology (Bersoff & Koeppl, 1993).

Four ethical goals have been identified for expert witnesses by the *Committee on Ethical Guidelines for Forensic Psychologists*, namely

- assume a special responsibility to be fair and accurate;
- avoid partisan distortion or misrepresentation;
- actively disclose al sources of information;
- be prepared to distinguish between one's expert testimony and legal issues and facts (Brodsky, 1999, p. 4).

South African law requires that psychologists acting as expert witnesses be registered with the HPCSA before they can practise, and complying with the PBP's *Rules of Conduct Pertaining Specifically to Psychology*, of which chapter 7 is dedicated to *Psycho-Legal Activities*. All registered psychologists are required to practise within the guidelines and rules of this code of practice, although adherence to these guidelines does not always occur (Cohen & Malcolm, 2005).

In a study done in New Zealand by Allan, Martin and Allan (2000) it was found that almost half the respondents were asked to change what they had written in forensic reports. Sometimes the request was valid (e.g. for clarification), but there were also requests to show the patient in a more favourable light. Such a request is clearly unethical. The authors comment that this was a disturbing finding and one that has the potential to damage the credibility of psychologists and their profession.

2.6.1 Scope of practice

The *Rules of Conduct Pertaining Specifically to Psychology* (Ch 1, 3.1, p. 2) states that "A psychologist shall limit his or her practice to areas within the boundaries of his or her competency based on formal education, training, supervised experience and/or appropriate professional experience". In the section dedicated to *Psycho-Legal Activities* (Ch 7, 67.2, p. 18), it furthermore states that "a psychologist shall base his or her psycho-legal work on appropriate knowledge of and competence in the areas underlying such work, including specialised knowledge concerning specific populations" (Professional Board for Psychology, n.d. (a)).

The Executive Committee of the PBP responded to a request regarding permission for psychologists to act as expert witnesses in the following way:

> The Committee resolved that it be confirmed that to provide services of a forensic nature there are no formal requirements by the Board. Registration with the HPCSA as a psychologist and a proven track record of competency entitles a person to provide services of a forensic nature. However, provision of such services should be limited to the registered practitioner's scope of practice (E. Chanza, personal communication, July 20, 2007 – Annexure E).

2.6.2 Confidentiality

The HPCSA states in its *Ethical Rules of Conduct for Practitioners Registered under the Health Professions Act, 1974* under *Professional Confidentiality* that

> (1) A practitioner shall divulge verbally or in writing information regarding a patient which he or she ought to divulge only -

(a) in terms of a statutory provision;

(b) at the instruction of a court of law; or

(c) where justified in the public interest (Health Professions Council of South Africa, 2006, p. 7).

The PBP's *Rules of Conduct Pertaining Specifically to Psychology* specify that "a psychologist shall release confidential information upon court order or to conform to legal imperatives" (Ch 3, 30, p. 9); "in psycho-legal testimony and reports, a psychologist shall testify truthfully, honestly, candidly and consistent with applicable legal procedures" (Ch 7, 70.a, p. 18), and furthermore "when a psychologist is required by a court to appear as a fact witness, such psychologist is legally obliged to present evidence" (Ch 7, 74.1, p. 19) (Professional Board for Psychology, n.d. (a)).

The *Mental Health Care Act 2002* acknowledges that a mental health care user is entitled to confidentiality, but that this right can be breached "if failure to do so would seriously prejudice the health of the mental health care user or of other people" (Kaliski, 2006, p. 364).

The same confidentiality therefore does not necessarily apply in forensic evaluations and the expert has the duty to inform the patient that the usual clinician-patient rules do not apply. As Greenberg and Shuman (1997) put it: because the purpose of a forensic relationship is litigation, not treatment, communications between a forensic examiner and a litigant are not protected under a psychologist-patient privilege.

The patient should understand that such an evaluation does not have the same confidentiality as non-forensic assessment or therapy and that anything that is said or done will be open to scrutiny in a forensic report or during testimony (Wrightsman &

Fulero, 2005). In the USA, the duty to inform forensic examinees of the potential lack of privilege and the planned use of the information is embodied in the *Specialty Guidelines for Forensic Psychologists*, which state the following:

> Forensic psychologists have an obligation to ensure that prospective clients are informed of their legal rights with respect to the anticipated forensic service, of the purposes of any evaluation, of the nature of procedures to be employed, of the intended uses of any product of their services and of the party who has employed the forensic psychologist (Greenberg and Shuman, 1997, p.53).

2.6.3 Informed consent

As stated above, the relationship between a professional who is requested to do a forensic evaluation and the relevant subject is not a fiduciary one and therefore it is the duty of the psychologist to inform the subject of this difference in relationship, as the normal rules of confidentiality may not exist (Allan, 2001). Care should be taken though to hold back irrelevant sensitive information and discuss with the patient precisely what will be revealed (Kaliski, 2006).

Although section 12(2)(c) of the *Constitution of the Republic of South Africa 1996* includes the individual's right not to be subjected to medical or scientific experiments without his or her informed consent, an assessment can proceed without the examinee's written consent when the court orders the evaluation. However, an attempt at obtaining informed consent should always be made (Kaliski, 2006). Informed consent has a wider scope than just the patient’s implicit or explicit agreement to participate in the assessment. Genuine informed consent requires that the patient not

only understand the type of assessment or method he or she is consenting to, but also the implications and the possible outcome of the decision (Gillis & Rogers, 1990).

Foote and Shuman (2006) are of the opinion that due to the specialised psychological and legal dimensions of the evaluation, neither lawyer nor psychologist separately can sufficiently inform the patient. They propose a conjoint model in which lawyer and psychologist share the responsibility to inform the patient.

2.6.4 Dual roles

The APA's *Specialty Guidelines for Forensic Psychologists* require that "psychologists avoid performing multiple and potentially conflicting roles in forensic matters" (Knapp & Van de Creek, 2001, p. 249).

According to the *Rules of Conduct Pertaining Specifically to Psychology* (Ch 2, 18.1, p. 5) "A psychologist shall refrain from entering into a multiple relationship if such multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence or effectiveness in performing his or her functions as psychologist." In chapter 7 (71.1, p. 18) it furthermore states that "a psychologist shall avoid performing multiple and potentially conflicting roles in psycho-legal matters" and "a psychologist shall be aware of the competing demands placed upon him or her by the code and the requirement of the court system, and shall attempt to resolve such conflicts by making known his or her commitment to these rules and by taking steps to resolve such conflict in a responsible manner" (Ch 7, 72, p. 18) (Professional Board for Psychology, n.d. (a)).

Wrightsman & Fulero (2005) believe that dual relationships can lead to ethical problems in that the clinician's objectivity might be tainted. Greenberg and Shuman (1997) add that conflicting therapeutic and forensic relationships exacerbate the danger that experts will be more concerned with case outcome than the truthfulness of their testimony.

Greenberg and Shuman (1997) differentiated between the therapist and assessor in the following ways: The therapist is a care provider and usually supportive, accepting and empathic; the forensic evaluator is an assessor and usually neutral, objective and detached as to the forensic issues – his or her task is a dispassionate assessment of the forensic issues.

Another difference in the roles of therapist and forensic evaluator is the degree of scrutiny to which information obtained from the patient is subjected. Historical truth plays a different role in each relationship. Effective therapy can usually proceed even in the face of substantial historical inaccuracy, whereas competent forensic evaluation almost always includes verification of the accuracy of information provided by the patient against other information sources about the events in question. Whereas the patient and therapist work collaboratively to define the goals of a therapeutic interaction and a time frame within which to realise them, the time frame and goals of a forensic evaluation are defined by the legal rules that govern the proceeding (Greenberg & Shuman, 1997).

Lastly, to develop a positive therapist-patient alliance, a therapist must suspend judgement of the patient. In contrast the role of a forensic examiner is to assess, to judge, and to report that finding to a third party. Because a forensic psychologist has not engaged in a helping, confidential relationship with the patient, it is less likely that

his or her judgement-laden testimony would cause serious or lasting emotional harm to the patient than would that of a psychologist who has fulfilled a therapeutic role (Greenberg & Shuman, 1997).

Ackerman (1999) outlined in table format 10 differences that distinguish a therapeutic from a forensic relationship as identified by Greenberg and Shuman (1997), including the ones discussed above. It is demonstrated in Table 1.

Table 1

Therapeutic versus forensic relationships

		Therapeutic	Forensic
1	Whose client is the patient or litigant?	Mental health practitioner's	Legal counsel's
2	What is the relational privilege that governs disclosure in the relationship?	Therapist-patient privilege	Legal counsel-client and legal counsel work product privilege
3	What is the cognitive set and evaluative attitude of the expert?	Supportive, accepting, empathic	Neutral, objective, detached
4	What are the differing areas of competency of the expert?	Therapy techniques for treatment of the impairment	Forensic evaluation techniques relevant to the legal claim
5	What is the nature of the hypotheses tested by the expert?	Diagnostic criteria for the purpose of therapy	Psycho-legal criteria for the purpose of legal adjudication

6	What scrutiny is applied to the information utilised in the process, and what is the role of historical truth?	Mostly based on information from the person being treated with little scrutiny of that information by the therapist.	Litigant information supplemented with that of collateral sources and scrutinised by the evaluator and the court.
7	Who structures and controls the relationship?	Patient-structured and relatively less structured than forensic evaluation.	Evaluator-structured and relatively more structured than therapy.
8	What is the nature and degree of "adversariness" in the relationship?	A helping relationship that is rarely adversarial.	An evaluative relationship that is frequently adversarial.
9	What is the goal of the professional in the relationship?	Therapist attempts to benefit the patient by the therapeutic relationship.	Evaluator advocates for the results and implications of evaluation for the benefit of the court.
10	What is the impact on the relationship of the expert's critical judgement?	Basis of the relationship is the therapeutic alliance, and critical judgement is likely to cause serious emotional harm.	Basis of the relationship is evaluative, and critical judgement is unlikely to cause serious emotional harm.

Allan (2001) agrees that the evaluator should refrain from being involved on a therapeutic level, but rather refer the person to someone else. However, when nobody is available, or if it would be inappropriate to refer the patient, the evaluator would need

to intervene therapeutically. Some restrictions would apply though: the intervention must be restricted to crisis intervention and such involvement must be clearly defined in that the patient should be told that he or she would need to consult another therapist for therapy.

On the other hand, Heltzel (2007) argues that multiple relationships are not intrinsically harmful or unethical. In fact, he argues that most professional relationships for a psychologist include a number of different professional roles. For example, therapists almost always at the start, and throughout treatment, fulfil the role of diagnostician or evaluator, albeit for the purposes of therapy. Also, a therapist is ethically bound to uphold reasonable objectivity toward his or her patient, which is consistent with the ethical requirements for a forensic assessor. Heltzel continues to advocate awareness of the ethical challenges of expert testimony, but maintains that the roles of expert and therapist are compatible.

Kaliski (2006) agrees with the majority of authors and believes that therapists need to acknowledge the limits of what they can accurately and reliably say on the basis of therapeutic relationships. By not recognising the intrinsic limitations of their work as therapists, or the conflicting therapeutic and forensic roles, psychologists risk harm to their profession, their patients and the courts.

2.7 SOUTH AFRICAN CRIMINAL JUSTICE PROCESS

The criminal justice process in SA is primarily regulated by the *Criminal Procedure Act 1977* and functions within the criminal justice system. Joubert (2001) divides this

process into four stages. The first stage is the pre-trial process that begins when the crime is committed and continues until the hearing begins.

The second stage is the trial procedure, during which it is the duty of the court to ascertain the truth. The accused is asked to plead guilty or not guilty. The prosecutor presents evidence in the possession of the State (which also has to be made accessible to the defence before the trial), after which the defence presents its own case. Both sides can call on witnesses (either witnesses of fact, or opinion) and each side is given a chance to cross-examine the witnesses. Once both parties have presented their side of the case to the court, each has the chance to address the court, during which they will emphasise aspects that they think will help to swing the balance in their favour. The court then has to deliver its verdict. If the court is convinced beyond reasonable doubt that the accused is responsible for committing the crime, the accused will be convicted. If reasonable doubt exists, the court has to acquit the accused (Joubert, 2001).

The third stage is the sentencing stage, during which the court must make a decision regarding a suitable sentence to be imposed upon the convicted person. If the offender has prior convictions, the court must be notified of these. Thereafter, the defence may submit evidence of factors in mitigation of punishment. The state may then cross-examine the witnesses and lead evidence on aggravating circumstances, which the defence may, in turn, cross-examine. Both parties have the chance to address the court on a suitable sentence. The court will then sentence the convicted person and offer reasons for the particular punishment. The fourth and final stage allows for legal remedies after judgement and sentencing, during which the convicted person may appeal against his or her conviction and/or sentence (Joubert, 2001).

2.8 SENTENCING

Psychologists can be asked at any stage of the trial process to present expert testimony. For instance, during the pre-trial phase psychologists can be asked to give expert opinion regarding competency to stand trial or apply for bail, while pathological criminal incapacity might be argued during the trial phase. This study will, however, focus on the third stage, namely sentencing, where psychologists may be asked to present expert testimony that may have a mitigating or aggravating impact on the sentence.

This evidence could influence the type and severity of the sentence. Here the psychologist is asked to assess the patient's amenability to clinical treatment, the likelihood for rehabilitation and the risk of re-offending. It is not unheard of for SA magistrates and judges to post suspended sentences (for crimes such as shoplifting, drunk-driving, sexual offences) on the advice of a psychologist, e.g. the psychologist might suggest that the offender would benefit from either community rehabilitation or clinical treatment. However, there is no official protocol that requires SA psychiatrists and psychologists to treat offenders on an out-patient basis. Community-service based sentences are likely to be granted only if risk to the community has been taken into consideration, and a court might ask for evidence from a mental health or other professional to inform its decision (Cohen & Malcolm, 2005).

2.8 RISK ASSESSMENT

Webster and Hucker (2007) distinguish between risk attribution, which means that dangerousness is attributed to a person on the basis of characteristics that may be

largely, if not completely irrelevant (e.g. body size, a previous inaccurate psychiatric diagnosis, etc.); risk prediction, which will always be contained within a surrounding, broader risk assessment process; and risk management, which provides information on how violence risk may be contained in terms of supervision, interventions and treatments.

2.9.1 Violence risk assessment

In South Africa, the Booysen Commission recommended that psychopathy not be defined as a mental disorder in terms of the *Mental Health Act 1973* and recommended the introduction of indeterminate prison sentences for dangerous criminals. Legislation therefore changed in 1993 along with the insertion of sections 286A and 286B into the *Criminal Procedures Act*, which allows for the declaration of an individual to be a 'dangerous criminal' (Cohen, 2005). Even if it is probably unwarranted to detain an individual because of the immeasurable chance that he may be seriously violent, many countries have enacted laws to provide for the indefinite incarceration of sexual offenders and routinely violent offenders. Mental health professionals have therefore been increasingly asked to evaluate individuals who are not mentally ill, but violent offenders. Risk assessment may also form part of the expert opinion regarding sentencing of the accused, as it can be argued that the accused is a danger to society and should therefore be incarcerated instead of being placed under correctional supervision, for instance (Kaliski, 2006).

There are several challenges when it comes to risk assessment, namely the definition of dangerousness; whether dangerousness is time and context limited or an ever-present quality; and the low base rate (frequency of occurrence of a particular

behaviour compared to behaviour occurring in general) of violence. Dangerousness has been divided into its components of risk factors (the variables used to predict violence), harm (the degree and type of violence being predicted), and risk (the probability that harm will occur) (Kaliski, 2006). Risk factors include static factors, namely past history of violent behaviour, psychopathy, age, substance abuse, violation of supervision, gender; and dynamic factors such as antisocial attitudes, anger, impulsiveness, negative affect, psychosis, problems in interpersonal relationships and poor treatment compliance (Conroy & Murrie, 2007). Beckett (1994) describes dangerousness as a multi-dimensional concept that incorporates the likelihood of re-offending and escalation of offending behaviour, level of remorse, motivation to change, and the degree of trauma a new offence would cause.

Risk assessment is a process dealing with a variety of matters – risk for what, when, where and to whom – not just the mere prediction of future violence. It should also include situational aspects (e.g. living conditions, substance abuse, and medication) and foreseeable events or stressors. When making predictions, some predictions will be correct, and some will be in error. Errors in prediction take two forms: errors of under-prediction, or false negatives (where individuals are not predicted to be violent, but are) and errors of over-prediction or false positives (when individuals are predicted to be violent, but are not) (Auerhahn, 2006).

Cunningham and Reidy (1999) observed the following errors in violence risk assessment in their study of capital sentencing: inadequate reliance on base rates, failure to consider context, susceptibility to illusory correlation, failure to define severity of violence, over-reliance on the clinical interview, misapplication of psychological testing, exaggerated implications of antisocial personality disorder, ignoring the effects

of aging, misuse of patterns of behaviour, neglect of preventative measures, insufficient data and failure to express the risk estimate in probabilistic terms.

2.9.2 Sex offender risk assessment

Although future behaviour can never be predicted with certainty, well-informed evaluators can predict sexual offence recidivism with at least moderate accuracy. Some predictors of sexual offence recidivism are sexual deviance, committing a variety of sexual crimes, offending sexually at an early age, or targeting boys, strangers or unrelated victims. The most important predictors though, apart from sexual deviance, are general criminological factors, i.e. prior offences or antisocial personality disorder, and failing to complete treatment (Hanson, 2004). Conroy and Murrie (2007) add sex of the victim and the relationship of the victim to the perpetrator, while Webster and Hucker (2007) add intimacy deficits, i.e. single (never married), conflicts with intimate partners and emotional identification with children, to the list of risk factors. It is interesting to note that subjective distress or general psychological symptoms, e.g. low self-esteem, depression (Hanson, 2004), and verbally accepting responsibility for the offence, expressing empathy for the victim are absent from the list of risk factors (Conroy & Murrie, 2007).

Recidivism studies indicate that over the shorter term (up to five years) untreated child sex offenders vary in their reconviction rate. Intra-familial abusers of girls have the lowest levels of reconviction, with rates ranging from four to 10 per cent (Gibbens, Soothill & Way, 1978; Gibbens et al., 1981). Extra-familial abusers of girls have reconviction rates in the range of 10 to 29 per cent, with extra-familial abusers of boys having the highest reported reconviction rate of 13 to 40 per cent (Furby, Weinrott &

Blackshaw, 1989). However, there are considerable variations within each group of offenders and assessment of the individual needs to be undertaken in order to identify those individual characteristic and situational circumstances that may result in re-offending (Beckett, 1994).

The Minnesota Sexual Offender Screening Tool (SOST) was the first instrument specifically designed to assess the risk of sexual recidivism. The most well-established risk scales for sexual offenders are the Rapid Risk Assessment for Sexual Offence Recidivism (RRASOR); the Static-99; the Violence Risk Appraisal Guide (VRAG) and the Sex Offender Risk Appraisal Guide (SORAG) (Hanson, 2004). According to Webster and Hucker (2007), all of these are consistently more accurate than unstructured professional opinion for the prediction of sexual recidivism.

2.9.3 Risk assessment evaluation

Clinical prediction is usually based on a combination of experience, knowledge and intuition (which includes the clinician's subjective responses), which unfortunately cannot be measured. Risk assessment is therefore a controversial practice as empirical evidence concerning the reliability and validity (i.e. accuracy) of risk assessment is discouraging. Despite significant progress in this field, risk assessment is still developing and has major limitations. The APA stated that "the validity of psychological predictions of violent behaviour….[is]…so poor that one could oppose their use on the strictly empirical grounds that psychologists are not competent to make such judgements" (Cohen, 2005, p. 261). During the past 15 years the mainly discredited clinical approach to prediction of dangerousness has been progressively

replaced by more objective, actuarial methods that create quantifiable data that can be analysed and computed to provide a relative risk score (Kaliski, 2006).

According to Kaliski (2006), for an evaluation to be valid, the examiner must firstly have the expertise to perform the risk assessment, which would include not only suitable forensic mental health credentials, but also a thorough knowledge of the literature on known risk factors; and secondly, sufficient information about the accused and the index offence must be accessible. Polaschek and Reynolds (2004) are of the opinion that assessment of violent offenders should preferably take place over a few sessions and include a combination of interview, self-report (e.g. in vivo thought sampling), psychometric instruments, interviews with others and behavioural observation. Existing documentation will aid in developing a longitudinal perspective of the individual. Offender characteristics to be assessed comprise cognitive processes and products, impulsivity and self-regulation deficits, anger and hostility, empathy, social competence and social support for violence.

Conroy and Murrie (2007) proposed a model of risk assessment that has three components: founded in scientific research, which asks of the clinician to first access the most recent scientific data pertaining to the task at hand; careful consideration of the individual in context, which implies considering the individual's past patterns of behaviour and the context in which the person is most likely to function in the future; and use of the clinician's expertise, which will be necessary in knowing what evidence is required, where it can best be found, how to incorporate the data for a final conclusion, and how to efficiently communicate the conclusion.

Examples of risk assessment tools other than those mentioned for sexual offender risk assessment are the Historical/Clinical/Risk Management 20 (HCR-20), the

Psychopathy Checklist-Revised (PCL-R), the Structured Anchored Clinical Judgement (SACJ) and its updated version, the Matrix 2000. Most state of the art risk assessment instruments have been developed and validated in North America, so their applicability to the SA context is questionable (Cohen, 2005).

The first step when deciding which risk assessment instrument to use for a specific risk assessment is to find out the purpose and context for which the instrument is needed. Risk assessment tools include mainly static variables established through the long-term probability of a previously violent individual to be violent in the future, and are of much less clinical interest when dealing with current risk. On the other hand, the validity of assessments made on the basis of checklists that include dynamic factors is time limited and should therefore be reassessed on a regular basis (Haggard-Grann, 2007). One can understand why objective risk assessment instruments are so appealing to criminal justice practitioners – they have the ring of science and their impersonality is desirable in that it protects individuals from any negative repercussions of the decision-making process (Auerhahn, 2006).

It is important for lawyers and psychologists to be conscious of the controversies surrounding risk assessment and the limits of current risk assessment technology so that expert evidence about risk can be suitably provided and sufficiently evaluated (Cohen, 2005). Kaliski (2006) advises that the expert who engages in these assessments will have to be careful in predicting dangerousness, and should rather present a standardised risk assessment, which the court can use to make its decision.

2.10 CONCLUSION

In terms of the research problem, the writer was able to give a thorough overview of the different elements of forensic work in the field of psychology, as well as the international and local expectations of work conducted by psychologists for the courtroom, with specific focus on forensic reports. Although there is limited literature on the scope of current forensic reports in SA and whether these reports adhere to the expectations, this aspect of the research question was answered to an extent.

Chapter 3

RESEARCH METHODOLOGY

3.1 INTRODUCTION

This chapter describes the research methodology by first explaining the specific research design and then looking at the method of sampling as well as the method of data analysis. Finally, ethical matters are given consideration.

3.2 RESEARCH DESIGN

The research design comprises a document study, which entails analysing written materials that contain information on the phenomena being studied or put simply, the data has already been collected by someone else and the researcher only extracts the necessary information for the purpose of the study (Kumar, 2005).

There are two main types of document study, namely the somewhat unstructured and non-quantitative case-study approach and the structured content-analysis approach that yields quantitative data from verbal documents. Thus documentary methods are classified only on the basis of the structure of the analytical method, and not on the structure of the document itself. The reason for this is that although some documents are more standardised than others, almost all of them have in common the fact that

they were not written for the purposes of the research, and are therefore generally not organised so as to make them amenable to research (Bailey, 1987). The structured content-analysis approach that yields quantitative data from documents will be used in this research.

A great deal of the written record is in the public domain and includes the proceedings of government bodies. Judicial records, such as court transcripts and court decisions, are also examples (Singleton, Straits, Straits, & McAllister, 1988). These documents are also considered primary documents, as they are written by people who experienced the particular behaviour of which they are giving accounts (Bailey, 1987). The written materials used in this study will include forensic psychological reports compiled by South African psychologists for use in South African courts. As these are part of evidence given in the trial, they are considered to be public records.

Advantages of using this method include the fact that although documents vary tremendously in quality, these documents are all written by psychologists and may therefore be much more valuable than, for example, unstructured writings such as personal letters, diaries, and open-ended writings (Bailey, 1987). Mark (1996) adds that this can be an economical way of answering research questions. Available materials are often of use in exploring new areas or suggesting hypotheses for further study, as is the case in this study. However, disadvantages of available materials are that the data were compiled by others for their own purposes, which can mean that the data may not be in a form that is useful for answering the research question.

Validity is increased by the fact that documents are often first-person accounts of events or feelings experienced by the author of the document. Thus, as with observation, documents tend to have face validity. Documents lend themselves to

more rigorous checks on face validity than do other data-gathering methods. Not only the content of the document but also word patterns, language, writing style and composition of paper and ink can provide checks on the validity or authenticity of a document. If writing style or grammar changes within a single document, the researcher has cause to doubt its authenticity, or reason to believe that it was authored by more than one person. Such checks within a single document are generally referred to as internal checks as opposed to external checks, which compare the content of the document with some external source (Bailey, 1987).

The fact that authors often write documents for some purpose other than research, tends to damage validity. Although criterion validity is often difficult to establish, since many documents were written long ago and the fact that it is impossible to interview people as validity checks, documents have been shown to have construct validity (Bailey, 1987). Holsti (1969) is of the opinion that if the purpose of the research is purely descriptive, as is the case with this research, content or face validity is normally sufficient.

Reliability may be checked either in similar documents at two or more points in time (instrument reliability), or by comparing the results of two or more researchers at the same point in time (analyst reliability). Because the analysis of documents can be a subjective process, literature seems to pay more attention to the assessment of inter-analyst reliability than to the assessment of inter-document reliability (Bailey, 1987).

Due to the explorative nature of the current study, no hypothesis has been formulated.

3.3 SAMPLING

There are two general approaches to sample selection, namely probability and non-probability sampling, of which the latter has been used in this research. Non-probability sampling is a useful and practical method of selecting a sample in some instances. Often it is the only method to be used. In exploratory research, as is the case with this research, situations where the researcher is attempting to determine whether a problem exists or not, a non-probability sample may be a practical choice. A small pilot study with cases that could possibly exhibit a problem could be conducted (Henry, 1990).

This research aims to explore the nature and scope of forensic psychological reports, thereby serving to indicate whether problems exist in this area of forensic work. Another reason for using this method of sampling is that it is impossible for the researcher to identify all the members of the population. The disadvantage of this method of sampling is that due to the subjectivity of the selection process, non-probability samples add doubt when the sample is used to represent the population as a whole. Therefore, there is a risk that the findings are not valid because of bias, albeit unintended, in the selection process (Henry, 1990).

The sampling method used is called convenience sampling, which as the name implies, involves selecting sample units that are easily accessible to the researcher. It is also occasionally called accidental sampling. The advantages of convenience samples are that they are fairly inexpensive and, by definition, easy to access. Although studies using convenience samples may produce interesting results, these results can not be generalised beyond the samples, and researchers therefore will not

know if the sample is representative of the population being studied. Researchers using this form of sampling should also consider the possible bias involved (Lewis-Beck, Bryman & Liao, 2004a).

Twenty reports that had been used in a court of law and were available to the researcher were used. All these reports were written by different psychologists and all pertain to criminal cases. The psychologists were either appointed by the defence or the prosecution to write these reports in order to help the court reach a decision regarding sentencing the accused. The reports are therefore all sentencing reports.

3.4 DATA ANALYSIS

The basic goal of content analysis is to take a verbal, non-quantitative document and transform it into quantitative data. Content analysis is the same sort of structured analysis applied to documents rather than to the observation of non-verbal behaviour. In other words, it is a structured document-analysis technique in which the researcher first establishes a set of categories and then records the frequency with which each of these categories appears in the documents studied (Bailey, 1987), or as Ericson, Baranek and Chan (1991) put it, quantitative content analysis seeks to show patterns of regularities in content through repetition.

Selecting and defining the categories for content analysis is similar to deciding on a set of closed-ended questions in survey research. Instead of giving the questions to respondents who provide the answers, the content analyst applies them to a document and codes the appropriate category. The "questions" applied to the document should be sufficient for the research purpose and the categories should be clearly defined,

exhaustive and mutually exclusive (Singleton et al., 1988). Categories for content analysis are generally constructed by perusing the documents to be studied and ascertaining what common elements they contain. By letting the categories emerge from the documents, important categories are not left out and the goals of mutual exclusiveness and exhaustiveness are met (Bailey, 1987).

An example of a category in this research would be “collateral information” (Annexure A, question 30). The closed-ended question for this category is: “If the writer made use of collateral information, how was it obtained?”

After the categories have been established, units of analysis are defined. Content analysts refer to their units of analysis as recording units, which are those elements of the text that are described by the content categories (Singleton et al., 1988). Holsti (1969) names five chief recording units: the single word or symbol, the theme, the character (i.e. in a novel or drama), the sentence or paragraph and the item. Sometimes it is not possible to place the recording unit in a particular category without considering the context in which it appears, in which case content analysts also distinguish context units.

In the earlier example, the unit of analysis or recording unit is “Interview”, “Treatment records”, “Legal records” and “Previous convictions” as these are possible sources of collateral information.

There are many ways of quantifying the data in content analysis, but the most basic systems of enumeration are appearance (whether the category appears in the document), frequency (frequency with which a given category appears), time or space measures (the space or time devoted to certain topics) and intensity or importance

(rather than asking if something is important, you ask how important it is). Appearance is the system of enumeration that is used in this research, in other words establishing whether a category appears in the document or not. Having selected the sample, one proceeds to code the material according to the categories and system of enumeration. This gives one a description of the communication content (Singleton et al., 1988).

In the earlier example, if the writer obtained collateral information, this would be coded appropriately. If collateral information was not obtained, it means the category does not appear in the document and will be coded as such.

Coding consists of assigning numbers or symbols to variable categories. If the answers to questions are expressed in numbers, as in the question of how many times the accused was clinically interviewed (Annexure A, question 17), then there is no need to further code the data. However, if the answers are not expressed numerically, numbers must be assigned to each answer. For the category of registration question (Annexure A, question 6), a code of 1 was used for the answer “Clinical”, 2 for “Counselling”, 3 for “Educational” and 4 for “Industrial”. The numbers being used are arbitrary; a code of 2 might just as well have been used for the “Clinical” or “Educational” response (Singleton et al., 1988).

The categories in the questionnaire (Annexure A) were grouped under the following areas of interest: the accused, the report writer, the report and assessment. The second area, namely the report writer, and the last area, namely assessment, answered the first part of the research question, namely “Who is doing sentencing reports?” and “How are these reports compiled?”. The first and third areas, namely the accused and general aspects of the report, provided interesting information regarding the reports, namely the types of crimes that were dealt with, which courts the reports

pertained to and whether the writer was mostly appointed by the defence or the prosecution. The second part of the research question, namely “Do these reports measure up to professional expectations as well as the HPCSA’s guidelines?” was answered by looking at the report writer, the report and assessment.

Because of the convenience sampling method used, which includes unintended subjectivity in the selection process, which could in turn lead to bias when the sample is used to represent the population as a whole, descriptive statistics (which describe characteristics of the sample) instead of inferential statistics (which generalise sample characteristics to a total population) were used (Guy, Edgley, Arafat, & Allen, 1987). Descriptive statistics entail organising and summarising the relevant data to make them more understandable (Singleton et al., 1988).

The data were analysed by means of univariate analysis, in other words the analysis of a single variable rather than the relationship between two or more variables. This method is descriptive rather than explanatory (Babbie, 2008). The chi-square test was done on certain combinations of the variables to establish whether there was any significant relationship between the two. However, because of the scarcity of the data, no meaningful relationship was found. Therefore no bivariate analysis, in other words an analysis of two variables simultaneously, was done.

The variables can be categorised as either discrete or continuous. Discrete variables are those variables that can assume only a limited or finite number of values. For example, “gender” (Annexure A, question 9) and “educational qualification” (Annexure A, question 11) are discrete variables because each assumes a finite number of values (for example, gender – male and female; educational qualification – MA and PhD).

The most common method of summarising the values of a discrete variable is the frequency distribution. A frequency distribution can be defined as a listing of all variable values and a totalling of the number of times each value occurs. Sometimes, though, the number of values a variable can assume is so great that it is impossible to even identify them all, much less list them. Such variables are called continuous variables. Examples include the “length of time between registration at the HPCSA and the compilation of the report” (Annexure A, question 8) in years as well as the “number of tests used during the assessment” (Annexure A, question 18). In addition to the frequency distribution technique, measures of central tendency and of variability were also used in this research. The latter two techniques (which are described below) are more economical of space and for analytical purposes, even more precise (Guy et al., 1987).

Measures of central tendency or average indicate how the scores cluster around the middle of a distribution (Guy et al., 1987). Averages are more properly called the arithmetic mean (the result of dividing the sum of the values by the total number of cases). The mean is only one way to measure central tendency. Two other options are the mode (the most frequently occurring attribute) and the median (the middle attribute in the ranked distribution of observed attributes) (Babbie, 2008). The mean is usually used as a measure of central tendency for numeric variables, while the median is used for ordinal variables and the mode for nominal data (Lewis-Beck et al., 2004b).

Measures of variability indicate how widely the scores in a distribution vary above and below the centre of the distribution, which is called the range (Guy et al., 1987). The range is therefore a simple example of a measure of dispersion. A more sophisticated measure of dispersion is the standard deviation. Basically, the standard deviation is an indicator of the amount of variability in a set of data. A higher standard deviation shows

that the data are more dispersed; a lower standard deviation shows that they are more bunched together (Babbie, 2008).

3.5 ETHICAL CONSIDERATIONS

The reports studied have all been presented as evidence in a court of law, which means that they are public documents. Informed consent from the writers is therefore not required. However, the identities of the psychologists who compiled the reports as well as those of the accused have been protected in that they will not be revealed.

3.6 CONCLUSION

Research findings will be presented in a statistical format, making use of tables and graphs. These results will then be discussed, linking the reported findings to theory discussed in the literature review.

Chapter 4

RESULTS

In this chapter the writer will attempt to answer the research question, namely: What is the scope of forensic psychological reports written for sentencing proceedings in criminal court cases in South Africa and how do these reports compare to the local and international expectations according to current literature as well as HPCSA guidelines? This will be done by portraying the research results and analysing the data. The results with regard to the accused and the crime type will be discussed first. Details of the report writer as well as general aspects of the report itself will then be discussed. Finally the assessment part of the evaluation will be described and discussed. The results portrayed in this chapter are integrated results – the results of each individual report analysed are represented in Annexure B.

4.1 THE ACCUSED

Of the 20 accused, all were male. The population group and language of the accused are portrayed in Tables 2 and 3 below.

Table 2

Population group of accused (N = 20)

Population group	*f*	%
White	11	55
Coloured	3	15
Black (SA)	4	20
Black (Ugandan)	1	5
Black (Mozambican)	1	5

Table 3

First language of accused (N = 20)

First Language	*f*	%
Afrikaans	10	50
English	3	15
Portuguese	1	5
Not indicated	6	30

In five of the six cases where the first language was not indicated, the accused were black, while the sixth was coloured. This is an important factor, as it will have a bearing on their performance in the tests, the instructions of which are mainly in English.

The nature of the crime that the accused was charged with is set out in Tables 4 and 5 below. Table 4 shows the crime(s) each report dealt with.

Table 4

Type of crime involved in each report (N = 20)

Report	Type of crime
1	Sexual violations involving a child
2	Sexual violations involving a child
3	Murder
4	Sexual violations involving a child; and assault
5	Sexual violations involving a child
6	Sexual violations involving a child
7	Murder; and theft
8	Murder
9	Not indicated
10	Sexual violations involving a child; and assault
11	Murder; kidnapping; and illegal possession of firearms and ammunition
12	Sexual violations involving an adult; and assault
13	Sexual violations involving an adult
14	Assault
15	Murder
16	Assault; murder; and theft
17	Sexual violations towards a child; and Murder
18	Theft
19	Sexual violations towards a child; kidnapping; and theft
20	Sexual violations involving a child

Table 5 shows the frequency of each type of crime overall in the research, in order of popularity.

Table 5

Type of crime overall (N = 20)

Type of crime	*f*	%
Sexual violations involving a child	9	45
Murder	7	35
Assault	5	25
Theft	4	20
Sexual violations involving adults	2	10
Kidnapping	2	10
Illegal possession of firearms	1	5
Not indicated	1	5

As can be seen from the above, the type of crime with the highest frequency is sexual violations involving a child, followed by murder.

4.2 REPORT WRITER

4.2.1 Biographical details

Fourteen report writers (70%) were male, while six (30%) were female. The highest level of education of the writers was mostly a Master's degree (70%), while 30% had a doctorate.

4.2.2 Category of registration

The categories of registration for psychologists are portrayed in Figure 1.

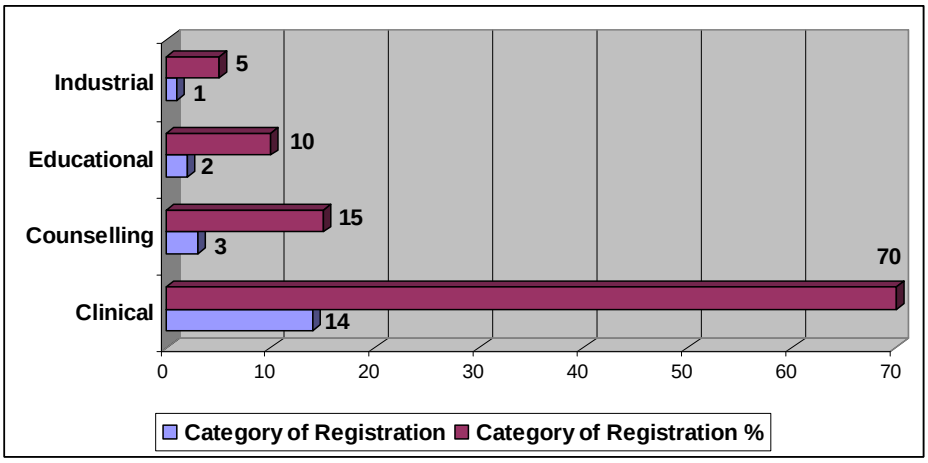

Figure 1. *Category of registration (N = 20)*

From the above figure it is clear that 14 (70%) psychologists were registered as clinical psychologists, three (or 15%) as counselling psychologists, two (or 10%) as educational psychologists and one (or 5%) as an industrial psychologist.

4.2.3 Displaying of category of registration

Of the 20 psychologists whose reports were reviewed, three, in other words 15%, did not indicate their category of registration on their report. After accessing the HPCSA's public register with practitioners' details, it became apparent that the psychologists who had failed to adhere to this regulation were a clinical, counselling and industrial psychologist respectively.

4.2.4 Experience

Table 6 represents the length of time between the psychologists' registration with the HPCSA and the time of writing the report, in other words the years of experience of the report writer at the time of writing the report. This was determined by accessing the HPCSA's public register with practitioners' details.

Table 6

Years of experience (N = 20)

Years	*f*	%	Cumulative *f*	Cumulative %
0 – 5	2	10	2	10
6 – 10	3	15	5	25
11 – 15	2	10	7	35
16 – 20	3	15	10	50
21 – 25	3	15	13	65
26 – 30	4	20	17	85
31 – 35	0	0	17	85
36 - 40	3	15	20	100

As can be seen from the table above, the number of years of experience are spread quite evenly between the report writers, with five having less than 10 years' experience and half having less than 20 years' experience. The least years of experience is four, while the most is 40 years (M = 20.75, SD = 11.6).

4.3 REPORT

Figure 2 represents which courts the reports pertained to.

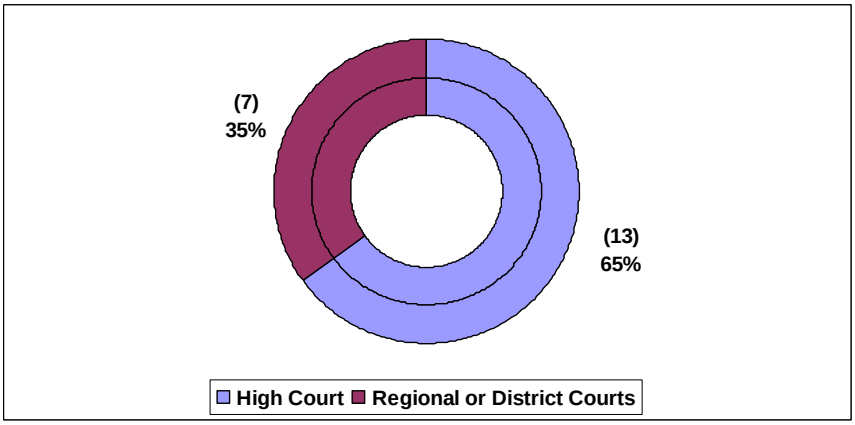

Figure 2. *Courts (N = 20)*

Thirteen of the reports pertained to cases that had been heard in the High Court, and seven pertained to cases that had been heard either in the Regional or District Courts. In all but two reports the writer had been appointed by the defence rather than the prosecution. Reports had mostly been written in English (70%), while 30% had been written in Afrikaans.

4.3.1 Purpose

Figure 3 indicates whether psychologists had made the purpose of the report clear.

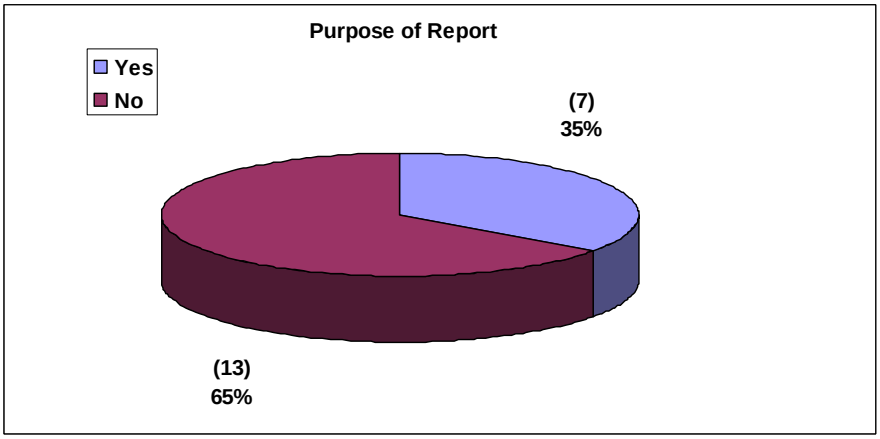

Figure 3. *Purpose of report (N = 20)*

As can be seen from Figure 3, the purpose of the report, namely a pre-sentencing report, had been indicated on the report by only 35% of psychologists. In 65% of the reports the purpose of the report had not been indicated clearly. Although most writers had stated the reason for the report as an evaluation of the accused's psychological functioning, the overall purpose, namely the referral question, and commenting on the sentencing procedure on the basis of the psychological functioning, had not been stated.

4.3.2 Length

Table 7 sets out the various lengths of the reports.

Table 7

Length of report (N = 20)

Pages	*f*	%	Cumulative *f*	Cumulative %
0 – 5	5	25	5	25
6 – 10	5	25	10	50
11 – 15	2	10	12	60
16 – 20	1	5	13	65
21 – 25	4	20	17	85
26 – 30	0	0	17	85
31 – 35	1	5	18	90
36 - 40	2	10	20	100

As can be seen from the above table, the length of the reports varied, with the shortest being three pages and the longest being 38 pages, with 50% being nine or fewer pages and 65% being 20 or fewer pages (*M* = 15.25, *Mdn* = 10, *SD* = 11.32).

4.3.3 Academic references

Only eight (40%) of the reports included academic references, while 60% had no academic references. Three of these eight reports that included academic references in the body of the report did not have a reference list at the end of the report, which made it difficult to find the sources of the quotes or facts being used. Of the five reports that did include a reference list at the end, two were incomplete in terms of dates and publishing details and one contained a mistake in terms of the publishing date.

4.4 ASSESSMENT

In this section the various elements pertaining to the assessment procedure itself are discussed.

4.4.1 Assessment time

4.4.1.1 *Sessions*

The total number of sessions psychologists used to evaluate the accused is set out in Table 8 below:

Table 8

Total number of sessions (N = 20)

Total number of sessions used	*f*	%
1	4	20
2	2	10
3	6	30
4	2	10
5	3	15
6	3	15

As can be seen from the table above, most psychologists, namely six (30%), used three sessions for the evaluation, whilst four used only one session to do the complete evaluation. Six psychologists used five or more sessions (*M* = 3.76, *Mdn* = 3, *SD* = 1.52).

4.4.1.2 *Clinical interviews*

Table 9 indicates the number of clinical interviews that were conducted by the report writers.

Table 9

Clinical interviews (N = 20)

Number of clinical interviews conducted	*f*	%
1	7	35

2	9	45
3	3	15
5	1	5

As can be seen from the table above, most report writers, namely nine (45%), made use of two clinical interviews. As for the rest, the majority, namely seven or 35%, made use of only one clinical interview (*M* = 2.13, *Mdn* = 2, *SD* = 1.02). The types of crime involved in these seven cases were sexual violations involving a child (2), sexual violations involving an adult (2), assault, murder and theft.

4.4.1.3 *Interviews after testing*

Those psychologists who had conducted more than one interview did not state clearly when the interviews had taken place in relation to the psychometric assessment. It is therefore unclear, but there do not appear to have been follow-up interviews to correlate the findings of the assessment. From the reports where there was a clear indication of when the interviews took place, only 11% had interviewed the patient again after the testing procedure to verify the results of the tests.

4.4.1.4 *Total time*

The total assessment time in hours is set out in Table 10 below.

Table 10

Total assessment time (N = 20)

Total assessment time in hours	*f*	%
3	1	5
5	1	5
6	1	5
8	1	5
12	2	10
Not indicated	14	70

In 14 of the twenty reports the total assessment time in hours was not indicated. Two psychologists conducted evaluations amounting to 12 hours, while four psychologists made use of between three and eight hours of evaluation time (*M* = 7.7, *Mdn* = 7, *SD* = 3.72).

4.4.2 Tests

4.4.2.1 *Number of tests*

The total number of tests used by each psychologist in his or her evaluations is set out in Table 11 below:

Table 11

Number of tests (N = 20)

Number of tests administered	*f*	%
0	2	10
1	3	15

2	4	20
3	5	25
4	2	10
5	3	15
6	1	5

As is apparent from the table above, two psychologists did not make use of any tests in their evaluation of the accused. Most psychologists, namely five (25%), had used three tests, followed by four psychologists (20%) who had made use of two tests (*M* = 3.06, *Mdn* = 3, *SD* = 1.51). Three psychologists had based their assessment on only one test, namely the 16PF, the Rorschach and the Millon Clinical Multiaxial Inventory III (MCMI-III) respectively.

4.4.2.2 *Tests administered*

The different tests administered by psychologists who had made use of tests during their evaluations are set out in Table 12 below, in order of popularity:

Table 12

Tests administered

Name of test	*f*	%
Sixteen Personality Factor Questionnaire (16PF)	10	50
Thematic Apperception Test (TAT)	10	50
The Rorschach Inkblot Method (Rorschach)	8	40
Minnesota Multiphasic Personality Inventory 2 (MMPI-2)	5	25

Draw a Person (DAP)	4	20
Wechsler Adult Intelligence Scale – Third Edition (WAIS-III)	4	20
Kinetic Family Drawing (KFD)	2	10
Wechsler-Bellevue Individual Intelligence Test for Adults (SAWAIS)	2	10
Cattell Culture Fair Intelligence Test (Cattell)	2	10
Raven's Progressive Matrices Test (Raven)	2	10
Sexual Adaptation & Functioning Test (SAFT)	2	10
Millon Clinical Multiaxial Inventory 2 (MCMI-II)	1	5
Millon Clinical Multiaxial Inventory 3 (MCMI-III)	1	5
NEO Personality Inventory – Revised (NEO PI-R)	1	5
Buss-Durkee Hostility Inventory (BDHI)	1	5

As can be seen from the table above, the 16PF and the TAT had been the most popular choice of test, and had been used by 10 psychologists (50%). Two psychologists had used the older version of the 16PF test, whilst the latest version, number 5, had been available. The other eight psychologists did not indicate which version they had used. The Rorschach had been used by eight psychologists (40%), while the MMPI-2 had been used by five or 25% of psychologists.

4.4.2.3 *Tests for various types of crime*

Table 13 gives a breakdown of which tests had been used for the various crimes that the accused had been charged with.

Table 13

Tests used for different types of crime

Test	*f*						
	Sexual (Child)	Murder	Assault	Theft	Sexual (Adult)	Kidnap-ping	Illegal possession of firearm
16PF	4	4	2	1	2	1	1
TAT	6	4	2	3	1	1	0
Rorschach	5	3	2	1	0	0	0
MMPI-2	2	1	1	0	1	0	0
DAP	2	1	1	2	1	1	0
WAIS-III	1	4	1	2	0	0	0
KFD	1	0	0	0	1	0	0
SAWAIS	1	0	1	1	1	1	0
Cattell	1	0	1	0	0	0	0
Raven	1	0	1	0	0	0	0
SAFT	2	0	1	0	0	0	0
MCMI-II	1	0	0	0	0	0	0
MCMI-III	0	1	0	0	0	0	0
NEO PI-R	0	0	1	0	0	0	0
BDHI	0	0	0	0	1	0	0

As can be seen from the table above, the TAT and the Rorschach had been the most popular tests used for assessing the accused in cases of sexual violations against children. In murder cases, the 16PF, the TAT and the WAIS-III had been the most popular choice of test to assess the accused.

4.4.2.4 *Standardisation*

Only four of the 15 tests used overall have been standardised for the SA population, namely the WAIS-III, the SAWAIS, the 16PF and the Sexual Adaptation & Functioning Test (SAFT). In four cases, 100% of the tests that had been used by psychologists have not been standardised for the population under evaluation. In two cases, 80% of the tests that had been used by the psychologists, and in another four cases, 67% of the tests used, had not been standardised.

4.4.2.5 Acknowledgement of non-standardisation

Figure 4 indicates whether the non-standardisation of tests used had been indicated in the reports.

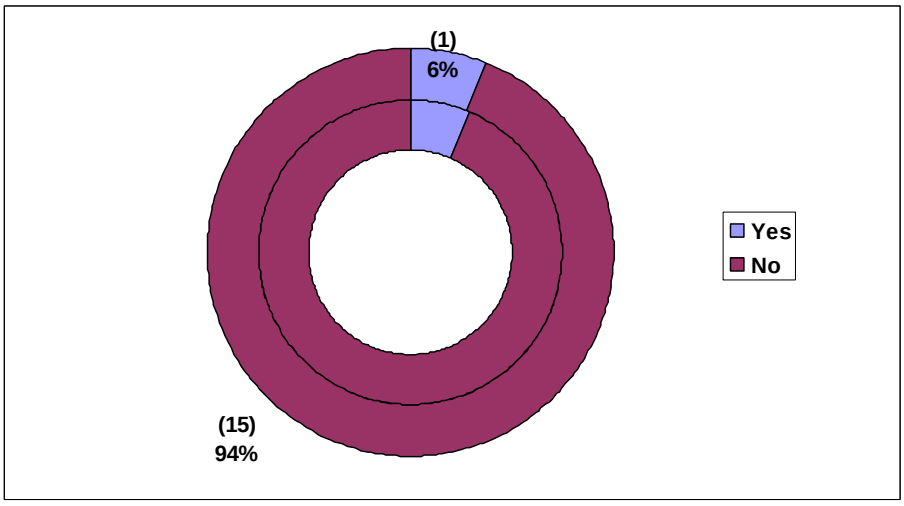

Figure 4. *Acknowledgement of non-standardisation (N = 16)*

As Figure 4 indicates, in 94% of the cases when tests had been used that were not standardised for the population under evaluation, this was not mentioned in the report.

4.4.2.6 *HPCSA's list of approved tests*

Seven of the 15 tests used overall are not on the HPCSA's list of approved tests, namely the Draw A Person (DAP), Kinetic Family Drawing (KFD), WAIS-III, SAWAIS, Millon Clinical Multiaxial Inventory II (MCMI-II), MCMI-III and the BDHI. In one case, 100% of the tests that had been used by the psychologist were not on the HPCSA's list. In another case, 67% and in another three cases, 50% of the tests that had been used were not on the HPCSA's list of approved tests.

4.4.2.7 *Motivation for use of specific test(s)*

In only 22% of the cases where tests had been used, reasons were given for using the specific tests that had been chosen for the assessment.

4.4.2.8 *Explanation of test*

Almost 40% of the cases in which tests had been used as part of the assessment, a short explanation of what each test measures was not given.

4.4.2.9 *Test administration*

Figure 5 indicates the involvement of other healthcare professionals, apart from the psychologist doing the evaluation, with regard to test administration.

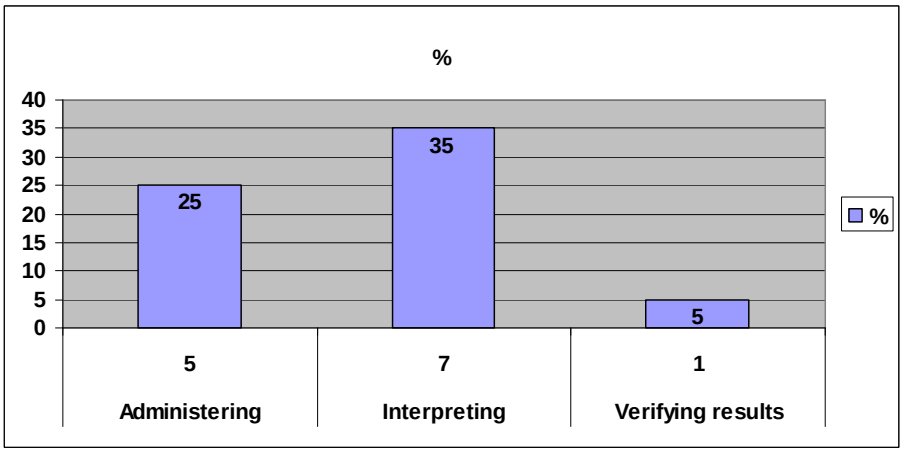

Figure 5. *Other healthcare professionals involved in test administration* (N = 20)

With eight of the 20 reports, in addition to the psychologist who wrote the report, another healthcare professional had been involved in the testing procedure. Five of these psychologists had made use of help from another healthcare professional to administer and interpret the test(s). In the first instance, a clinical psychologist had asked the help of another clinical psychologist to do a blind interpretation of the MMPI-2. In the second instance, a clinical psychologist had asked the help of an educational psychologist, who was also a psychometrist, to help with the Raven's Progressive Matrices Test (Raven), Cattell Culture Fair Intelligence Test (Cattell) and the SAFT. In the third instance, a clinical psychologist had asked the help of a psychometrist with the WAIS-III; in the fourth instance a clinical psychologist had asked the help of a psychometrist with the Cattell and the Raven, and in the fifth instance a clinical psychologist had asked the help of a psychometrist with the WAIS-III.

Two psychologists had made use of help only for the purpose of interpreting the test(s). In the one instance, a clinical psychologist had asked the help of another clinical psychologist with the independent interpretation of the MMPI-2, another clinical

psychologist to assist with an independent interpretation of the BDHI and a “registered psychologist” with an independent analysis of the 16PF. In the other instance no detail about the “external evaluator” was given.

One clinical psychologist had used another clinical psychologist to verify the results of the tests that had been administered (WAIS-III, 16PF, TAT, DAP, MCMI-III and MMPI-2).

4.4.3 Collateral information

The collateral information used by those who had included collateral sources in their evaluation is set out in Table 14 below.

Table 14

Collateral information (N = 15)

Method of obtaining collateral information	*f*	%
View legal records (police docket, charge sheet, interdict, record of court proceedings)	11	73
View treatment records, psychological or social work reports of the accused	10	66
Interview people known to the accused	8	53
Other: Letters	4	27
Other: Personal documents	1	6
Information pertaining to previous convictions	0	0

Five of the 20 psychologists (25%) had not made use of any collateral information. The lack of collateral sources was not addressed in the report, in other words there was no indication that collateral information had been sought. Interestingly, none had made use of information pertaining to previous convictions.

4.4.4 Scope of practice

In this section the scope of practice is compared to the tests used and the diagnostic conclusions drawn by each psychologist.

4.4.4.1 *Scope of practice regarding tests*

As discussed in chapter 2, although all registered psychologists are able to use psychometric tests, the PBP's *Rules of Conduct Pertaining Specifically to Psychology* (Ch 1, 3.1, p. 2) states that "A psychologist shall limit his or her practice to areas within the boundaries of his or her competency based on formal education, training, supervised experience and/or appropriate professional experience" (Professional Board for Psychology, n.d. (a)).

A counselling, educational and industrial psychologist respectively administered, scored and interpreted the MMPI-2, a personality test that was designed to help identify personal, social and behavioural problems in psychiatric patients. A counselling psychologist and educational psychologist used the MCMI-II and MCMI-III respectively, which are used mainly to show personality pathology and some Axis I diagnoses. The

SAFT, a projective technique used for assessing the sexual adjustment and functioning of individuals, was administered by an educational psychologist.

Although these psychologists are within their rights to have administered these tests, some psychologists used the results of these tests, amongst others, to diagnose beyond their scope of practice, as discussed in the next section.

4.4.4.2 *Scope of practice regarding diagnoses*

Figure 6 represents the number of psychologists who acted outside their scope of practice with regard to making a diagnosis.

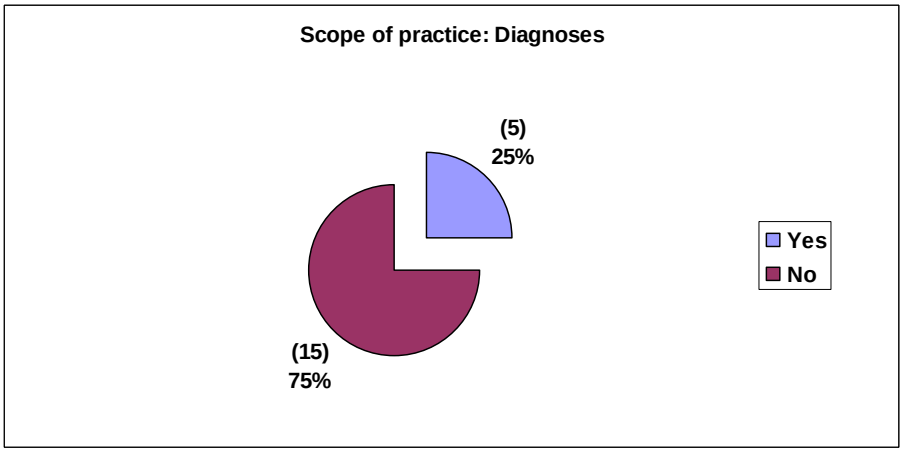

Figure 6. *Scope of practice: Diagnoses (N = 20)*

Figure 6 indicates that five or 25% of psychologists acted outside their scope of practice by making a diagnosis of the accused that they were not qualified to make.

For example, a counselling psychologist who had described paedophilia according to the DSM-IV, confirmed that there was no pathology and that the accused was therefore

not a danger to society. Another educational psychologist had described post-traumatic stress disorder (PTSD) according to the DSM-IV and diagnosed probable complex PTSD and depression. There is no such diagnosis as complex PTSD according to the DSM-IV, only chronic, acute or delayed-onset PTSD.

A counselling psychologist had diagnosed dysthymic mood disorder and “disintegration of personality”. An educational psychologist had diagnosed delusional disorder, general anxiety disorder, paranoid personality disorder and narcissistic personality disorder (with depressive and passive-aggressive features) in a single accused person. These features do not form part of the DSM-IV diagnosis of narcissistic personality disorder.

An industrial psychologist referred to “a mood disorder such as Major Depression” and made a diagnosis of “Depression and Anxiety Disorder”. A clinical psychologist, although not practising outside her scope, made a diagnosis on Axis II of “Personality Disorder, low self-esteem, basic insecurity, manipulative, compensatory behaviour patterns, need for attention, over sensitive for rejection, deep-seated fear of rejection”. She listed diagnostic criteria that the accused met according to her, without specifying the personality disorder. On Axis III she diagnosed “Psychosomatic symptoms: Headache, tiredness, sleeping problems”. Axis III involves any physical disorder or general medical condition that may be causative or the result of a mental disorder (Axis I), and not a personality disorder (Axis II). A psychosomatic disorder should be represented on Axis I.

4.4.5 Role conflict

Although there did not seem to be a high incidence of role conflict, two of the 20 psychologists (10%) had also been the accused's therapist, thereby engaging in conflicting roles, namely therapist versus forensic evaluator.

4.5 CONCLUSION

The research question, namely who is doing sentencing reports and how these reports are compiled was answered in terms of the scope of reports currently being done in SA. The second part of the question, namely how these reports compare to expectations according to available literature as well as the HPCSA's guidelines, was also answered.

It is clear from the results of this study that forensic work is conducted by psychologists of all registration categories and compiled in a variety of ways. The reports analysed do not always measure up to guidelines or professional standards or the HPCSA's policies and guidelines. This situation will be discussed in chapter 5.

Chapter 5

DISCUSSION, CONCLUSION AND RECOMMENDATIONS

In this chapter the results of the research are discussed. Final conclusions are then drawn and recommendations pertaining to the research project made.

5.1 DISCUSSION

Relevant information pertaining to the report writer, the report itself, the assessment procedure (including a discussion of the individual tests used) and other aspects relating to the evaluation process, namely scope of practice, collateral information and role conflict, are discussed in this section.

5.1.1 Report writer

As was mentioned in the literature review, the PBP stipulated in a newsletter (Professional Board for Psychology, 2001) that the psychologist should display his or her category of registration on all communication, which would of course include forensic reports. In fact, in a letter to one of its members who had requested permission to do forensic work, the PBP stated “further resolved that you be requested to ensure that you indicate your registration category on you letterhead” (E. Chanza, personal communication, July 20, 2007, p. 1 – Annexure E).

Of the reports reviewed, 15% did not indicate the category of registration of the writer on the report. Accuracy in professional representation is addressed by the PBP's *Rules of Conduct Pertaining Specifically to Psychology* (Ch 8, 75.1, p. 19), which state that "A psychologist shall not misrepresent in any manner his or her professional qualification with regard to education, experience or areas of competence" (Professional Board for Psychology, n.d. (a)). Although these psychologists did not misrepresent themselves outright, omitting this information borders on possibly deceiving clients and is in contradiction of the PBP's policy regarding this matter. Also, with legal experts often not being able to distinguish between a psychologist and a psychiatrist, not placing the registration category on the report hampers the court's ability to engage in proper enquiries.

As was stated previously, the PBP is of the opinion that "…a proven track record of competency entitles a person to provide services of a forensic nature" (E. Chanza, personal communication, July 20, 2007, p. 1 – Annexure E).

The length of time between initial registration with the HPCSA and the writing of the report, in other words the psychologists' years of experience, ranged between four and 40 years. Though this might be a proven track record of competency as a psychologist, it does not ensure a proven track record of competency as an expert witness regarding the issue before the court that requires their expert input. Also, despite the experience of the psychologist, the court can ultimately decide not to include the opinion of the expert as evidence. According to Joubert (2001), the expert's decision should not replace the court's decision; therefore the court must still consider and decide on each fact. The court also has the discretion to accept or reject the expert's opinion evidence. After taking into consideration all the evidence, the court makes its own finding and is not bound even by the unanimous opinion of psychologists. However, the court will not

lightly discard the opinions of expert witnesses. This will happen only if the court thinks that the experts have based their opinion on insufficient knowledge of the applicable facts or have ignored such facts (Cronjé & Heaton, 2003).

5.1.2 Report

In all but two reports, the psychologist was appointed by the defence rather than the prosecution. It therefore appears as if the state does not often make use of psychological evaluations. Rather, the state often relies on psychiatric reports when an accused is sent for psychiatric observation, during which only two questions are answered, namely what was the mental state of the accused at the time of the offence and what is the current mental state of the accused with regard to testifying. The court therefore misses out on valuable psychological information when its decision is based only on a psychiatric report.

One report did not indicate the type of crime the accused had been charged with. According to Conroy (2006), the specific charge (as there can be more than one) that is currently of concern should be identified, as it is part and parcel of the professional standards of a forensic report in the USA.

In 65% of the reports studied the purpose of the report, namely to comment on the sentencing procedure on the basis of the psychological functioning, was not stated. Conroy (2006) considers the reason for referral to be an important part of the professional standards of what a forensic report should include. It is imperative that the report writer is clear on the forensic opinion being sought, which in the case of this study would be sentencing options.

As was discussed in chapter 2, Ackerman (2006) describes two approaches regarding the structure of the report, namely the test-by-test chronology followed by a summary; and the integrated approach, which focuses on conceptual concerns about the individual's functioning and draws from various test results and collateral sources to support those conceptual hypotheses being generated. All the report writers used the test-by-test chronology, followed by a summary.

The length of the reports varied between three and 38 pages, with 50% being nine or fewer pages and 65% being 20 or fewer pages. The average number of pages was therefore 15. According to Ackerman (2006), brief forensic reports, which address only the important issues in a superficial, summary style, are generally one to three pages long. Standard forensic reports, which would include background information, test results, summary and conclusions, are between two and 10 pages long; and comprehensive forensic reports, which would include almost all the relevant information, can be as long as 30 to 50 pages. In summary, Ackermann concludes that a report should be long enough to cover the necessary information, but not so long that the reader is not likely to read it. Most of the reports analysed fall within the middle category. Although Allan (2005) reported on the alarming trend in SA to write over-lengthy and detailed reports of up to 100 pages, this research, albeit a small study, involved no reports of longer than 38 pages.

Only 40% of the reports included academic references, while 60% had no academic references. Without reference to academic literature the reader is left without any idea of the scientific support for the statements being made. Experts need to be up-to-date with the research in their field (Gaughwin, 2004). Also, this contravenes the PBP's *Rules of Conduct Pertaining Specifically to Psychology,* which state that "A psychologist shall ensure that psycho-legal assessments, recommendations and

reports are based on information and techniques sufficient to provide appropriate substantiation for the findings" (Ch 7, 68, p. 18), and "In psycho-legal testimony and reports, a psychologist shall describe fairly the basis for their testimony and conclusions" (Ch 7, 70, p. 18) (Professional Board for Psychology, n.d. (a)).

A study done by Dietz, Cooke, Rappeport and Silvergleit (1983) universally prescribed solutions to the problems posed by psycho-jargon are to use simple, plain English and to explain any technical terms that must be used. This is supported by Hall and Smith (2001), who propose using simple language that can be understood by a layman. Seven reports (35%) contained technical terms without making any effort to explain their meaning. Examples of these terms are psychosthenia, hypomania, bizarre mentation, perspicacity, histrionic, autistic, perseveration and super ego-strength. The impact of this is that the court will have difficulty in making sense of the evidence and therefore its usability can be reduced. This is especially so if the report is accepted without the expert testifying.

In forensic evaluations where the patient might be ordered to submit to an evaluation against his or her will, the psychologist still has the responsibility to give the reluctant patient the relevant information about the nature of the examination and the future use of information (Knapp & Van de Creek, 2001). Obtaining informed consent must be an essential element of psychological practice and should never be dispensed with or assumed (Gillis & Rogers, 1990). None of the psychologists stated in his or her report that an effort was made to obtain informed consent. It is therefore not clear whether this procedure was adhered to or not. As was mentioned in chapter 2, although written consent is not necessary, the PBP's *Rules of Conduct Pertaining Specifically to Psychology* is very clear about this matter: "When psychological services are court ordered, a psychologist shall inform the individual of the nature of the anticipated

services, including whether the services were ordered…before proceeding" (Ch 2, 11.3, p. 4), and "a psychologist shall inform a client with questionable capacity to consent, or for whom testing is mandated by law, about the nature and purpose of the proposed assessment services, using language that is reasonably understandable to such client being assessed" (Ch 5, 46.4, p. 13) (Professional Board for Psychology, n.d. (a)).

As was stated previously, although the same confidentiality as in other clinical settings does not necessarily apply to forensic evaluations, the expert should inform the patient of the limits of confidentiality, the procedures that will be involved, and that the results of the evaluation will be distributed to a number of different sources, and explain who will have access to the results. This process needs to be officially documented in the report (Ackerman, 2006). None of the report writers gave any indication that an effort had been made to inform the accused of the limits of confidentiality. One is therefore not sure whether the psychologists adhered to this procedure or not. This could be in conflict with the PBP's *Rules of Conduct Pertaining Specifically to Psychology,* in which it is stated that "when a psychologist agrees to provide a psychological service to a client at the request of a third party, such psychologist shall clarify…the role of the psychologist (such as …expert witness), the probable uses of the psychological service provided or the information obtained, and the fact that there may be limits to confidentiality" (Ch 2, 17.2, p. 5) (Professional Board for Psychology, n.d. (a)).

Fourteen psychologists stated that their reports were "Confidential". To do so is also misleading because, as was mentioned, trials are public forums that anyone, even the media, can attend and report on, unless specifically barred from revealing certain information by the court, or if the victim is a minor.

5.1.3 Assessment

A number of interviews are better than only one, and may be crucial in a difficult case (Carson, Eastman, Gudjonsson & Gunn, 1993). Seven report writers made use of only one clinical interview. Although one cannot doubt testimony based on only one interview, testimony based on a comprehensive assessment that included several interviews would certainly have more credibility in a court of law.

In 14 of the twenty reports, the total assessment time in hours was not indicated. As part of the professional standards for a forensic report in the USA, Conroy (2006) states that a listing of the number and duration of interviews should be stated in the reports.

5.1.3.1 *Psychometric tests*

In a study by Borum and Grisso (1995) it was found that testing was seen as essential or recommended by about two thirds of clinicians. Furthermore, about half claimed that they used psychological testing in almost every criminal forensic case. Although these findings do not support a standard that requires testing by a psychologist in every criminal forensic case, test use by forensic psychologists appears to be the norm rather than the exception. According to Gudjonsson and Haward (1998), its importance depends on the nature of the case and the matters being addressed, and also the availability of standardised tests relevant to the issue under assessment.

Two of the report writers did not use any tests during their assessment. Most psychologists (25%) used three tests, followed by those (20%) who used two tests.

Three psychologists based their assessment on only one test, namely the 16PF, the Rorschach and the MCMI-III respectively. At times the courts expect an extensive battery of tests to be administered. An entire assessment should never be based on the results of a single test. A frequent practice for a psychologist is to present the findings of a personality test (such as the 16PF) as the only and full assessment of an accused. Assessments should in actual fact consist of a combination of a variety of findings (Kaliski, 2006). Heilbrun (1992) also recommends administering a battery of tests instead of one single test. Using tests that assess different aspects of psychological functioning gives a wider range from which inferences can be drawn. This being said, systems like the DSM do not require testing for diagnosis and the problem of a lack of standardised tests in SA furthermore complicates matters. So while in the USA test usage might be seen as a best practice in conjunction with other information, in SA the opposite might be true due to the lack of standardised tests.

The 16PF and the TAT were the most popular choice of tests, followed by the Rorschach, the MMPI-2, the DAP and the WAIS-III. This is in line with findings from abroad, which state that the MMPI and the Wechsler Intelligence Scales have been popular in forensic settings in the past decade (Borum & Grisso, 1995; Martin, Allan & Allan, 2001; Lally, 2003; Archer et al., 2006).

It is of interest to note that the second and third most popular tests, namely the TAT and the Rorschach, are projective techniques, despite the criticism against these techniques as was discussed in chapter 2. This is in contrast to the study by Boccaccini and Brodsky (1999) that indicates that the use of projective measures such as the above tests in forensic work has declined. For assessment in cases of sexual violations involving children, the TAT and the Rorschach were the most popular tests. In murder cases, the TAT was also amongst the most popular tests to use. As was mentioned

previously, despite the forensic potential of projective tests, they are not viewed favourably by forensic experts (Lally, 2003), and with few exceptions projective tests have poor inter-scorer reliability and lack validity (Gudjonsson & Haward, 1998).

A study by Archer et al. (2006) showed that specialised forensic assessment instruments in the risk assessment category, such as the HCR-20 and the VRAG, are increasing in popularity. This is in contrast to the findings of this research, as none of the psychologists had made use of any risk assessment instruments such as the VRAG or the HCR-20, which are occasionally used in SA to assess the criminally accused (Kaliski, 2006). This is despite the fact that some report writers in this study gave an opinion with regard to whether the accused pose a danger to society or not. This opinion was therefore based on clinical impressions alone or on a combination of clinical impressions and assessment instruments, without using risk assessment instruments.

As explained in the literature review, the PBP has issued a list of 'approved' tests which have been classified as psychological tests for use by psychologists. The individual tests used will be discussed in order of popularity.

(a) Sixteen Personality Factor Questionnaire (16PF)

This test was used by 50% of those who had employed tests in their assessment. Two psychologists used the older version of this test (SA92), whilst the latest version, number 5, is available. The other eight psychologists did not indicate which version they had used.

This test is on the PBP's list of approved tests and local norms are available. The 16PF is a multiple-item paper-and-pencil test measuring 16 primary personality traits. The purpose of the test is to evaluate the normal, adult personality and is used in personnel selection and placement, vocational and educational guidance, marriage counselling and clinical evaluations. In diagnostic and therapeutic settings, measures are provided for anxiety, neuroticism, rigidity and other behaviour trends (Sweetland & Keyser, 1991). In a survey regarding the acceptability of tests in the forensic arena done by Lally (2003), the 16PF was rated as unacceptable for risk for violence, risk for sexual violence, competency to stand trial and malingering evaluations; and equivocally unacceptable for mental state at the time of the offence evaluations.

On the basis of the above, this test therefore does not seem applicable as it was used in six sex offender case assessments and four murder case assessments.

(b) Thematic Apperception Test (TAT)

The TAT was used by 50% of those psychologists making use of tests in their assessment. The TAT is on the PBP's list of approved tests. It is a technique for the investigation of the dynamics of personality as it manifests itself in interpersonal relationships and in the apperception or meaningful interpretation of the environment. It is also a vehicle for revealing central fears, anxieties and insecurities as well as the defence and coping mechanisms used to deal with these fears, anxieties and insecurities. Unlike Exner's statistical age norms and norms for different psychiatric disorders for the Rorschach, with hundreds of empirical studies using the same set of quantitative scoring variables, the studies that attempted to develop empirical scoring approaches to the TAT did not also test the same quantitative scoring variables with

different clinical groups in order to compare what is typical for normal individuals of the same age with what is typical for individuals with different psychiatric disorders. However, the clinician has available norms for typical themes on the TAT and for varying scoring variables within the USA (Bellak & Abrams, 1997). These norms are however not standardised on the SA population. Furthermore, most psychologists in SA do a qualitative, not quantitative analysis of the TAT.

In a survey regarding the acceptability of tests in the forensic arena done by Lally (2003), the TAT was rated as unacceptable for evaluating a risk for violence, risk for sexual violence, competency to stand trial, malingering as well as mental state at the time of the offence. This test was used in seven sexual offence cases and three murder cases. Two of the accused assessed with this instrument were coloured and one black. The appropriateness of using this instrument in these instances is questionable in terms of the above study, as well as the fact that norms are not available for the population groups on which it was used.

(c) Rorschach Inkblot Method

The Rorschach consists of 10 inkblot figures which, when administered in a standardised manner, prompt the individual to make a sequence of decisions that lead to a series of responses. The Rorschach interpretations focus on the psychological organisation and functioning of the person. It gives greater emphasis to the psychological structure or personality of the individual rather than to the behaviours of the person (Exner, 2003). Exner has established statistical age norms and norms for different psychiatric disorders on the Rorschach with hundreds of empirical studies

using the same set of quantitative scoring variables (Bellak & Abrams, 1997). These norms are of course not valid for the SA population. It is however on the PBP's list of approved tests.

This test was used by 40% of the psychologists who had used tests for forensic evaluations. This is in line with Boccaccini and Brodsky's (1999) findings, which indicate that the Rorschach remains one of the most frequently used psycho-diagnostic tests, ranking fourth in overall use, after the MMPI, WAIS and the MCMI. This is despite the criticism against it (Grove et al., 2002; Lally, 2003), as was discussed in chapter 2.

The Rorschach was used in four sex-offender cases, two murder cases and one combined murder and sex-offender case. The accused who had been tested included three black people. One was from Uganda (although his first language was unknown, one could speculate that it could be Lugandan or Swahili), one spoke Portuguese as a first language and the third's first language was unknown. None of the reports indicated that the test had been administered in the person's first language. Therefore one assumes it had been administered in English. None of these reports gave any indication as to the accused's level of command of the English language. Describing what one sees in the inkblots requires a comprehensive vocabulary. Failing to do this could lead to a distortion of the results.

(d) Minnesota Multiphasic Personality Inventory 2 (MMPI-2)

The MMPI-2 was used by 25% of the psychologists in their assessments. The MMPI was originally developed in a medical setting during the late 1930s and early 1940s to

serve as a screening instrument for the differential diagnosis of psychopathology. No psychological test is based on stronger scientific foundations than the MMPI and its updated version, the MMPI-2. The MMPI-2 can be used for a variety of forensic assessment issues. It is particularly useful for assessing test-taking attitudes and the current clinical state of test subjects. It can also be used to draw inferences about personality features and behaviours that may have substantial relevance to legal issues under consideration.

Although there is not a typical MMPI-2 profile associated with dangerous or violent behaviour, scores can contribute to our understanding and prediction of such behaviours. Scale 4 in particular is expected to be most helpful in this regard when it is considered along with other information such as intelligence level and history of violent behaviour. Standard scores are based on an up-to-date sample of individuals who represent the general population of the USA (Ben-Porath, Graham, Hall, Hirschman & Zaragoza, 1995). This test is not standardised for the SA population. It is, however, on the PBP's list of approved tests.

The MMPI-2 was used in three sex-offender cases, one murder case and one assault case. Of the five accused who had been tested with this instrument, one spoke Afrikaans as a first language and one a black language (possibly Lugandan or Swahili) as a first language. Again, the reports did not state the proficiency of the accused in the English language, while the MMPI-2 consists of 567 questions in English.

(e) Draw A Person (DAP)

Projective drawings like the DAP are used to get a sense of the person's perception of himself. The only drawing test with adequate norms is the Goodenough Draw-a-Person Test for children and adolescents from 3 to 15 years of age, and even these sets of age norms are basically employed only for a rough estimate of the developmental maturity of an individual, since norms for other types of scoring, such as emotional indicators, have not been established (Bellak & Abrams, 1997). The DAP is not on the PBP's list of approved tests. Despite this, it was used by 20% of the psychologists in three sex-offender cases and one murder case.

(f) Wechsler Adult Intelligence Scale III (WAIS-III)

Practitioners who assess adults most often report using intelligence tests to measure cognitive potential and to obtain clinically relevant information (Kaufman & Lichtenberger, 1999). The WAIS-III is also useful for the differential diagnosis of neurological and psychiatric disorders affecting mental functioning. For this purpose, intellectual testing is frequently conducted in the context of a broader assessment that includes a clinical interview, other cognitive and neuropsychological tests, and self-report measures of psychopathology and personality. The Wechsler scales represent the highest psychometric standards (Wechsler, 1998). This test has been adapted and there are norms available for the broader population of South Africa. This test was used by 20% of the psychologists in three murder cases and one combined sex-offender and murder case.

(g) Kinetic Family Drawing (KFD)

Projective drawings like the KFD are used to get a sense of the person's perception of himself and his family. The KFD is not on the PBP's list of approved tests. This test was used in two sex-offender cases by 10% of the psychologists who made use of tests.

(h) South African Wechsler Adult Intelligence Scale (SAWAIS)

As was discussed in the literature review, the SAWAIS has been harshly criticised in academic literature (Nell, 1994, Shuttleworth-Jordan, 1995; Pieters & Louw, 1987) as having outdated norms and therefore any diagnostic conclusions based on this test may be deceptive. According to the PBP's *Rules of Conduct Pertaining Specifically to Psychology* "a psychologist shall not base his or her assessment or recommendation on data or test results that are outdated" (Ch 5, 55.a, p. 15) (Professional Board for Psychology, n.d. (a)).

Despite this and the fact that it is not on the PBP's list of approved tests, it was used in two sex-offender cases. In the one instance the accused was coloured and in the other instance the accused was black. This test instrument was never standardised for either of these population groups.

(i) Cattell Culture Fair Intelligence Test (Cattell)

Of the psychologists who made use of tests for forensic evaluations, two chose this test. It was used on two black accused in sex-offender cases. The Cattell is a paper-and-pencil non-verbal instrument. It was developed with the purpose of reducing the effects of cultural and educational experience. This multiple choice test includes four subtests: Series Completion, Classification, Matrices and Conditions. Although the test does eliminate culturally laden items and verbal elements, extensive verbal instructions are required during the administration stage, causing difficulty for patients from a different linguistic background. The subtests are also highly speeded, which further reduces the cultural fairness of the test, as the emphasis on speed or times can differ cross-culturally (Samuda, Feuerstein, Kaufman, Lewis, Sternberg and Associates, 1998).

(j) Raven's Progressive Matrices (Raven)

This test is on the PBP's list of approved tests and was used by 10% of the psychologists who made use of tests for forensic evaluation. It was used on two black accused in sex-offender cases. The Raven's test can be described as a test of observation and clear thinking. It was developed to assess two components, namely educative ability and reproductive ability. Educative mental activity involves making meaning out of confusion; developing new insights; going further than the given to see that which is not immediately clear; forming (large non-verbal) constructs that assist in the handling of intricate problems involving numerous mutually dependent variables. Reproductive mental behaviour involves mastering, recalling and reproducing the

(largely verbal) material that forms a cultural accumulate of clear, verbalised knowledge.

Clinical disorders are commonly identified and diagnosed because an individual performs in a manner incongruent with his or her perceived or previously established ability level (Raven, Raven & Court, 2003). This test of non-verbal reasoning requires a person to problem-solve using an abstract task. The patient is presented with a set of figural matrices, consisting of rows and columns in which one element is missing. The patient has to choose the missing figure from a range of alternatives. Because of the non-verbal construction of the test, the examinee's fluency in English is irrelevant. The non-speeded nature of this test is also a culturally sensitive attribute (Samuda et al., 1998).

(k) Sexual Adaptation & Functioning Test (SAFT)

This test was used by 10% of the psychologists who used tests. The SAFT is a projective technique used to assess the sexual adjustment and functioning of individuals of 16 years or older and assists in determining the factors underlying sexual dysfunction or sexual adaptation problems in a person or sex partner. The test is mainly used as an aid to plan the required psychotherapeutic intervention technique to be used in order to solve problems relating to sexual functioning (Olivier, 1984). It is therefore not a diagnostic test and is designed for people experiencing normal sexual problems in relationships, rather than pathology such as paedophilia. Although this test is on the PBP's list of approved tests, it was developed for a white population (all the pictures are of white people). One of the accused tested with the SAFT was black, which questions the appropriateness of the choice of test as well as the results.

(l) Millon Clinical Multiaxial Inventory (MCMI)

One psychologist made use of the MCMI-II and another one made use of the MCMI-III. The MCMI-III is a 175-item true-false self-report measure of 14 personality patterns and 10 clinical syndromes for use with adults 18 years of age and older who are being evaluated and/or treated in mental health settings. The MCMI-III normative sample consisted of 998 psychiatric patients from the USA and Canada. It was not meant to be used with non-clinical populations, and doing so will yield distorted test results (Strack, 2002). This test is not standardised for the SA population nor is it on the approved list of the PBP. Both these tests were used on two white Afrikaans-speaking accused. All the questions are in English and no information was given on the fluency in English or English vocabulary of the accused.

(m) NEO Personality Inventory – Revised (NEO-PI-R)

One psychologist made use of this test. This is a 181-item paper-and-pencil test providing a general description of an adult's personality. Domains assessed are Neuroticism (N), Extraversion (E), Openness to experience (O), Agreeableness (A) and Conscientiousness (C). The purpose of the test is to measure these five major personality domains of adults. It is normally used in clinical psychology, psychiatry, behavioural medicine, vocational counselling and industrial psychology (Sweetland & Keyser, 1991). Although the test is on the PBP's list of approved tests, there are no SA norms available. It was used as part of an assessment on a white English-speaking man accused of assault.

(n) Buss-Durkee Hostility Inventory (BDHI)

One psychologist made use of this test. The BDHI is a questionnaire on aggression. The original questionnaire consists of 66 items with false-true answers and includes seven scales, namely Assault, Indirect aggression, Irritability, Negativism, Resentment, Suspicion and Verbal aggression. Despite the use of the BDHI in several investigations, the scales of the original BDHI lack factorial validity.

The revised BDHI has four scales: Verbal aggression, Physical aggression, Anger and Hostility. In contrast to the original BDHI, the scales of the new questionnaire were formed on the basis of factor analysis (Lange, Dehghani & De Beurs, 1995). It was therefore factor analysed to generate two factors, namely neurotic hostility and expressive hostility. Expressive hostility includes mainly the assault and verbal hostility subscales, but could also include the indirect hostility subscale or both the indirect hostility and irritability subscales. Neurotic hostility is made up of primarily the resentment and suspicion subscales (Felsten, 1996). The new questionnaire is shorter, comprising 29 items, and instead of true-false categories, the testee chooses from five categories (Lange et al., 1995).

The first version of this test was used instead of the latest version. The psychologist's report also referred to the test only as the "Buss and Durkee Aggression Scale", without ever referring to the official name of the test. This test was used as part of a sexual offender's assessment.

Table 15 shows an integration of the tests used, namely which tests were used for different types of crime and population groups, and by which psychologists.

Table 15

Integration of tests used

Report	Psychologist	Type of crime	Population group of the accused	Language of the accused	Tests
1	Clinical	Sex (child)	White	English	TAT, DAP, KFD, 16PF, MMPI-2
2	Counselling	Sex (child)	White	Afrikaans	TAT, 16PF, MCMI-II, Rorschach, SAFT
3	Educational	Murder	Black (Ugandan)	Black language	MMPI-2, 16PF
4	Clinical	Sex (child)	Black	Black language	TAT, Rorschach, SAFT, Cattell, Raven
5	Clinical	Sex (child)	White	Afrikaans	None
6	Industrial	Sex (child)	White	Afrikaans	16PF, MMPI-2
7	Clinical	Murder	Coloured	Not indicated	TAT, Rorschach, WAIS-III
8	Clinical	Murder	White	Afrikaans	TAT, Rorschach, 16PF, WAIS-III
9	Clinical	Not indicated	Black	Portuguese	Rorschach, Cattell, Raven

10	Clinical	Sex (child)	Black	Black language	Rorschach
11	Counselling	Murder	Black	Black language	16PF
12	Clinical	Sex (adult)	Black	Black language	16PF, SAWAIS
13	Clinical	Sex (adult)	White	English	TAT, KFD, DAP, BDHI, MMPI-2, 16PF
14	Counselling	Assault	White	English	MMPI-2; NEO-PI
15	Educational	Murder	White	Afrikaans	MCMI-III
16	Clinical	Murder	White	Afrikaans	TAT, DAP, 16PF, WAIS-III
17	Clinical	Sex (child) and Murder	White	Afrikaans	TAT, Rorschach, WAIS-III
18	Clinical	Theft	Coloured	Afrikaans	None
19	Clinical	Sex (child)	Coloured	Afrikaans	TAT, SAWAIS, DAP
20	Clinical	Sex (child)	White	Afrikaans	TAT, Rorschach, 16PF

Bellak and Abrams (1997) emphasise the vital importance of:

> The rights of all individuals to be evaluated and assessed in their own terms within the framework of their own cultural framework and often in their own native languages, as opposed to being tested with gender and/or culturally biased materials and tested by mainstream middle-class professionals who do not speak their language or understand their basic cultural assumptions.

Louw and Allan (1996) agree that language, culture and ethnic differences make the use of psychological tests in SA a very disputed and controversial issue.

Table 16

Tests used on different population groups

Test	Black	Coloured	White
16PF	3	0	7
TAT	1	2	7
Rorschach	3	1	4
MMPI-2	1	0	4
DAP	0	1	3
WAIS-III	0	1	3
KFD	0	0	2
SAWAIS	1	1	0
Cattell	2	0	0
Raven	2	0	0
SAFT	1	0	1
MCMI-II	0	0	1
MCMI-III	0	0	1
NEO PI-R	0	0	1
BDHI	0	0	1

As was mentioned previously, none of the reports stated that tests had been administered in the first language of the accused. It was therefore assumed that all tests had been administered in English. As can be seen from Table 16 and as was

discussed above, tests are used that are clearly not being administered in the native language of the accused or within the accused's own cultural framework. In two of the nine cases where these tests had been inappropriately used, they had been administered by an educational and counselling psychologist respectively. In the other seven cases they had been administered by clinical psychologists.

5.1.3.2 *Standardisation, HPCSA approval and test administration*

In only 22% of the reports reasons were given for use of the specific tests that had been chosen for the assessment. Butcher and Pope (1993) state that psychologists who conduct forensic assessments on a regular basis may be vulnerable to a special occupational hazard: having assembled a standard battery of tests with which they are comfortable, they may use that battery without evaluating whether the tests are appropriate for the specific assessment task at hand for each new case.

Almost 40% of the reports did not give a brief explanation of what each test measures. A court report is the presentation of psychological information for a non-psychological purpose and clarity is therefore crucial (Gunn & Taylor, 1993).

In four cases, 100% of the tests that had been used were not standardised for the population under evaluation. As was mentioned previously, very few tests are available that have been developed and applied take the cultural and other diversity concerns into account with a view to standardising them for all South Africans (Professional Board for Psychology, 2006b).

The position of the PBP on the use of these tests is quite specific:

It needs to be noted that even though a test may be classified as a psychological test, the onus rests on the test user

- to ensure that the test is valid for the purposes for which it is being used;
- appropriate norms are consulted;
- and where tests that have been developed in other countries are concerned, appropriate research studies need to be undertaken to investigate whether the tests are culturally biased and special care should be taken when interpreting the results of such test (The Professional Board for Psychology, 2006a, p. 3).

However, the PBP contradicts itself by keeping non-standardised tests on its list of approved tests.

When tests were used that were not standardised for the population being tested, as was the case in 94% of the cases, this was not mentioned in the report. This highly unscientific conduct is exacerbated by the fact that very few psychologists disclose this fact, and the implications thereof, to the court. When these tests are used, the psychologist should clearly state the limits of the inferences drawn from them (Louw & Allan, 1996).

Seven of the 15 tests that were used overall were not on the HPCSA's list of approved tests. In one case, 100% of the tests used, and in another three cases, 50% of the tests used were not on the HPCSA's list of approved tests.

From the above it is clear that there is a contradiction between tests that are not standardised for the SA population, but are on the HPCSA's list of approved tests (Rorschach, TAT, Cattell, Raven's, MMPI-2 and the NEO Personality Inventory), and

tests that are standardised for the SA population but not on the HPCSA's list of approved tests (WAIS-III and SAWAIS).

The PBP's *Policy on the Classification of Psychometric measuring devices, instruments, methods and techniques* (Form 208) clearly states that "psychometrists…will not be permitted to use projective techniques (for example TAT, CAT, Rorschach); specialist neuropsychological measures; and measures that are used for the diagnosis of psychopathology (for example MMPI-2)" (Professional Board for Psychology, 2006b, p. 1). None of the psychometrists employed by the report writers to help with the administration and interpretation used any of these measures.

5.1.4 Collateral information

Five of the 20 psychologists (25%) did not make use of any collateral information. The lack of collateral information was not addressed in the report, in other words there was no indication that collateral had been sought.

A key difference between a forensic evaluation and a general clinical report is the responsibility of the forensic evaluator to seek out collateral information, which should be stated in the final report (Conroy, 2006). Ackerman (1999) agrees that collecting and analysing data is possibly the most critical responsibility of the forensic psychologist. In his foreword to the WAIS-III administration and scoring manual, Matarazzo (Wecshler, 1998) states that because psychologists' statements are reaching the courtroom more and more, only professionals who are thoroughly trained in the science and art of weaving the examinee's demographic information, such as life history, educational background, socioeconomic status, and other extra test information

with the complex scores that are obtained from such an instrument, should interpret the results of the test. Bowden (1990) states that reports prepared without objective informants are of greatly reduced value.

Although this is the ideal, sometimes material is simply unavailable or people are not willing to be interviewed. In such cases, it is important for the expert to qualify his or her final opinion in the light of the information that is not available. This qualification not only strengthens the credibility of the expert witness, but also protects the expert from the typical attack of cross-examination in which he or she will inevitably be confronted with all the things that he or she should have done, but did not do (Shapiro, 1991).

5.1.5 Scope of practice and role conflict

With regard to making a final diagnosis on the accused, 25% of psychologists made a diagnosis that fell outside their scope of practice, as was outlined in chapter 4.

The *Ethical Principles of Psychologists* according to the APA stipulate that psychologists must not undertake work in areas in which they have not been appropriately trained. Therefore psychologists in forensic contexts must not overextend the limits of their training by rendering services in areas where they have not been specifically trained (Gillis & Rogers, 1990). Shapiro (1990) states that expert witnesses doing forensic work are continually tempted to go beyond the limits of their competence and to give opinions in areas in which either the psychologist has no specific training or his or her knowledge is so inadequate that opinions should not be rendered.

According to the PBP, the current scope of practice of the major fields in psychology is defined as follows:

> Clinical psychologists assess, diagnose, and intervene in order to alleviate or contain relatively serious forms of psychological distress and psychopathology, or what is commonly referred to as abnormal behaviour.
>
> Counselling psychologists assist relatively well-adjusted people in dealing with normal problems of life concerning all stages and aspects of a person's existence in order to facilitate desirable psychological adjustment, growth, and maturity.
>
> Educational psychologists assess, diagnose and intervene in order to facilitate the psychological adjustment and development of children and adolescents within the contexts of family, school, social or peer groups and communities.
>
> Industrial psychologists apply the principles of psychology to issues related to the work situation of relatively well-adjusted adults in order to optimise individual, group and organisational well-being and effectiveness (Professional Board for Psychology, n.d. (b)).

As was mentioned, the HPCSA is clear about psychologists practising within their scope of practice and cautions in a newsletter:

> The onus is on you to ensure that you practice within the scope of your training in professional psychology and not stray into categories of registration where you are presumed not to have recognised competence based on formal education and training, e.g. a clinical psychologist making an organisational diagnosis or a counselling or educational psychologist making a clinical diagnosis (Professional Board for Psychology, 2001).

Furthermore, in the PBP's *Rules of Conduct Pertaining Specifically to Psychology*, it is stated that "a psychologist shall base his or her psycho-legal work on appropriate knowledge of and competence in the areas underlying such work, including specialised knowledge concerning specific populations" (Ch 7, 67.2, p. 18) (Professional Board for Psychology, n.d. (a)).

As mentioned in chapter 2, according to the *Health Professions Act 1974* only registered psychologists are permitted to use psychometric tests (Professional Board for Psychology, 2006b, p. 1). Although no distinction is made in terms of the category of registration of the 'registered psychologist', the proposed draft scope of practice of the PBP states the following in terms of assessment:

> Clinical psychologists perform assessments of cognitive, personality, emotional and neuropsychological functions in relatively serious forms of psychological distress and/or psychopathology.
>
> Counselling psychologists perform assessments of cognitive, personality, emotional and neuropsychological function in relation to life challenges and developmental problems; perform assessments with special reference to developmental processes (e.g. career choice) and adjustment.
>
> Educational psychologists perform assessments of cognitive, personality, emotional and neuropsychological functions of people specifically related to learning.
>
> Industrial psychologists perform a range of psychometric and other assessments for determining the potential and/or suitability for training, development and employment (Professional Board for Psychology, 2007).

Although none of the psychologists practiced outside of their scope in terms of test administration according to the current regulations, it is clear that under the draft proposed new scope of practice (Professional Board for Psychology, 2007) the mentioned actions of the two educational and one industrial psychologist, as outlined in chapter 4, would be prohibited, especially when these lead to diagnoses that falls outside of their scope of practice.

Tests must be administered by an expert qualified in their use. An industrial psychologist should not be allowed to discuss the results of a personality test in a murder trial, nor should a clinical psychologist be allowed to discuss the results of a brain scan (Kaliski, 2006).

Although there did not seem to be a high incidence of role conflict, two of the 20 psychologists had also been the therapist of the accused. Kaliski (2006) states that both the HPCSA and the Society of Psychiatrists of South Africa (SASOP) recommend that treating clinicians should not conduct forensic evaluations for their own patients. The reasons for avoiding dual roles were discussed at length in chapter 2. The HPCSA's *Rules of Conduct Pertaining Specifically to Psychology* (p. 18) state: "A psychologist shall avoid performing multiple and potentially conflicting roles in psycho-legal matters" (Professional Board for Psychology, n.d. (a)).

5.2 CONCLUSION

The majority of report writers were male, had a Master's degree, were registered as clinical psychologists and had varied years of experience as a psychologist. Keeping in

mind that the majority were clinical psychologists, Table 17 shows which psychologists did not adhere to generally accepted guidelines for reports or transgressed in terms of the current HPCSA policies.

Table 17

Non-adherence to guidelines and policies

	Clinical (14)	Counselling (3)	Educational (2)	Industrial (1)
Nature of crime not indicated (1)	1	0	0	0
	7%	0%	0%	0%
Non-disclosure of category of registration (3)	1	1	0	1
	7%	33%	0%	100%
Purpose of report not indicated (13)	11	0	1	1
	79%	0%	50%	100%
Academic references not given (12)	9	1	1	1
	64%	33%	50%	100%
Diagnosed outside scope of practice (5)	0	2	2	1
	0%	33%	100%	100%
Administered tests outside scope of practice (6)	0	2	2	1
		67%	100%	100%
Not making use of collateral information (5)	4	0	1	0
	29%	0%	50%	0%
Role conflict (2)	1	0	0	1
	7%	0%	0%	100%
All tests used not standardised for SA population (4)	2	1	1	0
	14%	33%	50%	0%

The impact of poor professional practice on human welfare (as evidenced by Table 17), the credibility of scientific psychology and the ability of the legal system to administer something approaching justice can be either greatly helped or greatly hindered by the practices of forensic psychologists (Haas, 1993).

Davidson (1965, p. 54) attached great significance to reports by calling them “an immortal and influential document” that may “save or destroy a life”. Butcher and Pope (1993) agree that psychologists who do forensic assessments sometimes hold a vast power over the lives of others. The result of a forensic assessment may for instance influence – perhaps even determine – whether a person spends years in prison. Whatever implications this power has, it requires that we never take it for granted or treat it carelessly.

Gilles and Rogers (1990, p. 764) state that “serious, and often irrevocable, decisions are made as a result of the information conveyed in a psychologist’s report”. It is evident that the reports psychologists write do have a potentially significant and far-reaching influence on someone’s life. Not only for this reason, but also out of respect to the court and in keeping with the profession’s standards it is imperative that forensic reports be written according to certain standards.

It is clear from the results of this research that forensic work is conducted by psychologists who sometimes are not qualified to do it and that the reports analysed do not always measure up to guidelines or professional standards from abroad (in lieu of local standards or guidelines for reports) or the HPCSA’s policies and guidelines. This situation is understandable in the light of two shortfalls in this field.

The first shortfall is training. As in the USA (Knapp & Van de Creek, 2001), South African psychology undergraduate students do not receive compulsory training in forensic psychology. This is despite the fact that psychologists entering this arena can make serious mistakes if they do not familiarise themselves with its unique rules and ethical dilemmas. Even if psychologists are not interested in working in the forensic field, they may be subpoenaed to testify in court at some stage in their career, where a basic knowledge of forensics will stand them in good stead.

The second shortfall in this field is the lack of regulation of who is qualified to do forensic work, and standards against which this work can be tested. Although chapter 7, *Psycho-Legal Activities,* in the *Rules of Conduct Pertaining Specifically to Psychology* does provide general guidelines, more comprehensive guidelines for forensic work are necessary.

As a result of these two shortfalls in the field of forensic psychology, psychologists conducting forensic assessments and writing reports often do so in an idiosyncratic way. Besides the fact that no uniformity exists, as can be seen from the results of this research, some reports fail to adhere to the current guidelines of the HPCSA and also do not measure up to international standards of forensic reports.

Allan (2000) states that forensic work is the public face of psychology. With the growing number of criticisms against forensic psychologists, a major effort at improvement need to be made.

5.3 LIMITATIONS

As this study used a small sample size and made use of convenience sampling, the results do not necessarily apply to the general population of forensic reports, nor to all sentencing reports.

5.4 RECOMMENDATIONS

In the light of the above, the following recommendations are made, firstly with regard to the results of the study and secondly with regard to the study itself.

5.4.1 Recommendations with regard to the results of the study

With regard to the lack of formal regulation and compulsory training the following recommendations are made.

Louw and Allan (1996) proposed that a register of psychologists who are adequately trained and have the proven necessary experience in forensic work should be drawn up by the HPCSA. The author agrees that a list of psychologists who are sufficiently trained in forensic work should be compiled, whether it is done by means of a register or as a separate registration category. This will result in some form of accreditation with the PBP.

The HPCSA should define and delineate the field of forensic psychology in SA by drawing up guidelines and creating standards of acceptable forensic work. In addition,

more complete ethical guidelines than those contained in chapter 7 of the PBP's *Rules of Conduct Pertaining Specifically to Psychology* should be drawn up. Psychologists who are then accredited with the PBP as forensic psychologists, can work according to these guidelines and standards as approved by the HPCSA. An up-to-date list with tests approved for forensic use should be compiled by the HPCSA, taking into consideration the mentioned contradiction in tests being on the HPCSA's list of approved tests, but not standardised for the SA population, and vice versa.

Besides psychologists being obligated to report misconduct of colleagues, such as practicing outside their scope of practice, the HPCSA should introduce more formal ways of regulating scope of practice.

Adequate training at MA level in basic forensic issues should be made compulsory, with the option of advanced training for those wishing to specialise in the field. Training for lawyers in basic concepts of psychology is also advised so as to allow for better selection of an appropriate psychologist to assist them and also assure effective cross-examination of psychologists in court.

This research proposes the following guidelines for procedures and report writing that could be implemented for all psychologists doing forensic work.

- As far as the report is concerned, the reason for referral should be clearly stated on the report, which will encompass the purpose of the report.
- The psychologist's category of registration should appear on the report.
- Reports should be only as long as necessary to answer the referral question. Overly lengthy reports should be refrained from.

- Psycho-jargon should also be avoided and, where necessary, technical terms should be explained in order for the layman to understand what the report is conveying.
- The number, dates and duration of sessions with the accused should be explicitly noted in the report, as should the nature of each session, e.g. clinical interview or specific test administered.
- For the sake of rigorous and responsible reporting, academic references should be included in the report, with a complete reference list at the end that is compiled according to an approved referencing system, for example the APA method.

In terms of the assessment itself, the following is recommended:

- An up-to date-list with tests approved for forensic use should be compiled by the HPCSA, taking into consideration the mentioned contradiction in tests being on the HPCSA's list of approved tests, but not standardised for the SA population, and vice versa.
- When tests are used, psychologists should use a battery of tests instead of basing their conclusion and opinion on one single test.
- The exact version of the test being used should be indicated.
- When tests are used that are not standardised for the population being tested, this should be stated clearly in the report and the resultant limitations of the test should be discussed.
- A rationale should be given for the choice of the specific tests used, as well as a brief explanation of what each test measures.
- Follow-up interviews after administering tests should be done as best practice.

- An effort should be made to obtain informed consent. If the accused does not want to cooperate in this regard, the psychologist should still explain the nature of the assessment to the accused.
- The limitations of confidentiality should also be communicated to the accused. It should be clearly conveyed that the results of the evaluation will be made available to various people and presented in open court.
- The fact that this has been communicated to the accused should be recorded in the report.
- Psychologists should practice within their scope of practice and be made aware of the ethical implications should they practice outside their scope of practice.
- Collateral information should be sought in an effort to substantiate the opinion and/or diagnosis made by the psychologist. Should it prove impossible to obtain such data, this must be stated in the report, as should the efforts that were made to obtain it, and the limitations it imposed on the opinion expressed.
- Role conflict should be avoided at all costs, in other words a psychologist who is treating a patient should not act as the forensic assessor of that patient or vice versa.

5.4.2 Recommendations with regard to the study

Studies of this kind should be conducted on a bigger scale to ascertain whether the results of this study can be generalised to the wider population of forensic reports.

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Legislation

Constitution of the Republic of South Africa 108 of 1996

Criminal Procedures Act 51 of 1977

Health Professions Act 56 of 1974

Mental Health Act 18 of 1973

Mental Health Care Act 17 of 2002

Annexure A

1.	Report number	V1		

PLEASE ANSWER ALL THE QUESTIONS BY CIRCLING AN APPROPRIATE NUMBER IN A SHADED BOX OR BY WRITING YOUR ANSWER IN THE SHADED SPACE PROVIDED.

ACCUSED

2. What is the gender of the accused?

Male	1	V2	
Female	2		

3. What is the population group of the accused?

White	1	V3	
Coloured	2		
Black	3		
Indian	4		
Other (Specify)	(5-9)		

4. What is the accused's first language?

English	1	V4		
Afrikaans	2			
Zulu	3			
Xhosa	4			
Ndebele	5			
Sepedi	6			

Siswati	7
Sesotho	8
Setswana	9
Tsonga	10
Venda	11
Other (Specify)	(12-15)

5. What is the nature of the charge/crime?

Sexual (Child)	1	V5	
Sexual (Adult)	2	V6	
Assault	3	V7	
Murder	4	V8	
Other (Specify)	(5-9)	V9	

REPORT WRITER

6. In which category of registration is the writer registered with the HPCSA?

Clinical	1	V10	
Counseling	2		
Educational	3		
Industrial	4		

7. Was the category of registration with the HPCSA indicated on the report?

Yes	1	V11	
No	2		

8. What is the length of time between registration at the HPCSA and the compilation of the report in years?

	V12	

9. What is the gender of the report writer?

Female	1	V13
Male	2	

10. What language is the report written in?

Afrikaans	1	V14
English	2	

11. What is the report writer's highest educational qualification?

MA	1	V15
PhD	2	

REPORT

12. Which court does the report pertain to?

High Court	1	V16
Magistrate's Court	2	

13. By whom was the report writer appointed?

Defence	1	V17
Prosecution	2	

14. Was the purpose of the report (namely pre-sentencing report) indicated?

Yes	1	V18

No	2

15. How many pages does the report consist of?

	V19	

16. Were academic references given?

Yes	1	V20
No	2	

ASSESSMENT

17. How many times were the accused clinically interviewed?

	V21	

18. How many psychological tests were used during the assessment?

	V22	

19. Which psychological tests were used during the assessment?

A1		V23	
A2		V24	
A3		V25	
A4		V26	
A5		V27	
A6		V28	
A7		V29	
A8		V30	
A9		V31	
A10		V32	

20. How many, if any, of these tests are **not** standardised for the population being tested?

	V33	

21. If any of these tests are not standardised for the population being tested, is that mentioned in the report?

Yes	1	V34
No	2	

22. How many, if any, of these tests are **not** on the HPCSA's list of approved tests?

	V35	

23. Were reasons given for the use of the specific tests?

Yes	1	V36
No	2	

24. Was a short explanation given of what the tests measure?

Yes	1	V37
No	2	

25. If others were involved with these tests, in what capacity was it?

Administering the test	1	V38
Interpreting the test	2	V39
Other	3	V40

26. Did the person who administered and/or interpreted the tests, do so within the scope of practice of their registration category?

Yes	1	V41	
No	2		

27. Was the accused interviewed after administering the tests to confirm the findings of the test?

Yes	1	V42	
No	2		

28. How many sessions did the writer of the report use to assess the accused?

	V43	

29. What was the total assessment time in hours?

	V44	

30. If the writer made use of collateral information, how was it obtained?

Interview people known to the accused	1	V45	
View treatment records/psychological or social work reports of the accused	2	V46	
View legal records (police docket, charge sheet, interdict, record of court proceedings)	3	V47	
Information pertaining to previous convictions	4	V48	
Other	(5-9)	V49	

31. Was a diagnoses made by the writer that falls outside the scope of practice of their registration category?

Yes	1	V50	
No	2		

32. Was the assessor also the accused's therapist?

Yes	1	V51	
No	2		

Annexure B

RESULTS

Report 1

Accused	
Gender	Male
Population group	White
First language	English
Nature of charge/crime	Sexual (Child)
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	22
Gender	Female
Language	English
Qualification	MA
Report	
Court	Magistrate
Appointed by	Defence
Was purpose of report indicated?	Yes
Number of pages	32
Academic references	Yes
Assessment	

Number of clinical interviews	1
Number of tests administered	5
Tests	TAT; DAP; KFD; 16PF; MMPI 2
Number of tests not standardised	4
Is non-standardisation mentioned?	No
Number of tests not on HPCSA's list	2
Reasons for specific tests	No
Short explanation of tests	Yes
Involvement of other health professionals	Administration & Interpretation
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	4
Total assessment time in hours	Not indicated
Collateral	Treatment records; Legal record; Letters
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 2

Accused	
Gender	Male
Population group	White
First language	Afrikaans
Nature of charge/crime	Sexual (Child)
Report writer	
Category of registration	Counselling
Was category of registration indicated on report?	Yes
Years of experience	17
Gender	Female
Language	Afrikaans
Qualification	PhD
Report	
Court	Magistrate
Appointed by	Defence
Was purpose of report indicated?	Yes
Number of pages	25
Academic references	Yes
Assessment	
Number of clinical interviews	2
Number of tests administered	5
Tests	TAT; 16PF; MCMI-II; Rorschach; SAFT
Number of tests not standardised	3
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	1
Reasons for specific tests	No
Short explanation of tests	Yes
Involvement of other health professionals	None
Was test administered within scope of practice?	No
Interviewed after testing?	Yes
Number of sessions	6
Total assessment time in hours	Not indicated
Collateral	Interviews; Treatment record
Was a diagnosis made outside scope of practice?	Yes
Role conflict	No

Report 3

Accused	
Gender	Male
Population group	Ugandan (Black)
First language	Not indicated
Nature of charge/crime	Murder
Report writer	
Category of registration	Educational
Was category of registration indicated on report?	Yes
Years of experience	24
Gender	Male
Language	English
Qualification	MA
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	Yes
Number of pages	22
Academic references	Yes
Assessment	
Number of clinical interviews	2
Number of tests administered	2
Tests	MMPI-2; 16PF
Number of tests not standardised	1
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	0
Reasons for specific tests	No
Short explanation of tests	Yes
Involvement of other health professionals	None
Was test administered within scope of practice?	No
Interviewed after testing?	No
Number of sessions	2
Total assessment time in hours	8
Collateral	Legal records
Was a diagnosis made outside scope of practice?	Yes
Role conflict	No

Report 4

Accused	
Gender	Male
Population group	Black
First language	Not indicated
Nature of charge/crime	Sexual (Child); Assault
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	16
Gender	Male
Language	English
Qualification	PhD
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	36
Academic references	Yes
Assessment	
Number of clinical interviews	2
Number of tests administered	5
Tests	TAT; Rorschach; SAFT; Cattell; Raven
Number of tests not standardised	4
Is non-standardisation mentioned?	Yes

Number of tests not on HPCSA's list	0
Reasons for specific tests	Yes
Short explanation of tests	Yes
Involvement of other health professionals	Administration & Interpretation
Was test administered within scope of practice?	No
Interviewed after testing?	No
Number of sessions	2
Total assessment time in hours	Not indicated
Collateral	Legal records; Treatment records
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 5

Accused	
Gender	Male
Population group	White
First language	Afrikaans
Nature of charge/crime	Sexual (Child)
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	No
Years of experience	10
Gender	Male
Language	English
Qualification	PhD
Report	
Court	High Court
Appointed by	Prosecution
Was purpose of report indicated?	Yes
Number of pages	12
Academic references	Yes
Assessment	
Number of clinical interviews	1
Number of tests administered	0
Tests	Not applicable
Number of tests not standardised	Not applicable
Is non-standardisation mentioned?	Not applicable

Number of tests not on HPCSA's list	Not applicable
Reasons for specific tests	Not applicable
Short explanation of tests	Not applicable
Involvement of other health professionals	Not applicable
Was test administered within scope of practice?	Not applicable
Interviewed after testing?	Not applicable
Number of sessions	5
Total assessment time in hours	Not indicated
Collateral	Interviews; Treatment records; Legal records
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 6

Accused	
Gender	Male
Population group	White
First language	Afrikaans
Nature of charge/crime	Sexual (Child)
Report writer	
Category of registration	Industrial
Was category of registration indicated on report?	No
Years of experience	15
Gender	Male
Language	Afrikaans
Qualification	MA
Report	
Court	Magistrate
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	4
Academic references	No
Assessment	
Number of clinical interviews	3
Number of tests administered	2
Tests	16PF; MMPI-2
Number of tests not standardised	1
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	0
Reasons for specific tests	No
Short explanation of tests	No
Involvement of other health professionals	None
Was test administered within scope of practice?	No
Interviewed after testing?	No
Number of sessions	3
Total assessment time in hours	5
Collateral	Treatment records
Was a diagnosis made outside scope of practice?	Yes
Role conflict	Yes

Report 7

Accused	
Gender	Male
Population group	Coloured
First language	Not indicated
Nature of charge/crime	Theft; Murder
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	40
Gender	Male
Language	English
Qualification	PhD
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	8
Academic references	No
Assessment	
Number of clinical interviews	2
Number of tests administered	3
Tests	TAT; Rorschach; WAIS-III
Number of tests not standardised	2
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	1
Reasons for specific tests	No
Short explanation of tests	No
Involvement of other health professionals	Administration & Interpretation
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	3
Total assessment time in hours	Not indicated
Collateral	None
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 8

Accused	
Gender	Male
Population group	White
First language	Afrikaans
Nature of charge/crime	Murder
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	26
Gender	Female
Language	Afrikaans
Qualification	MA
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	25
Academic references	No
Assessment	
Number of clinical interviews	2
Number of tests administered	4
Tests	TAT; Rorschach; 16PF; WAIS-III
Number of tests not standardised	2
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	1
Reasons for specific tests	No
Short explanation of tests	No
Involvement of other health professionals	None
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	6
Total assessment time in hours	Not indicated
Collateral	Interviews; Legal records; Letters
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 9

Accused	
Gender	Male
Population group	Mozambican (Black)
First language	Portuguese
Nature of charge/crime	Not indicated
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	40
Gender	Male
Language	English
Qualification	PhD
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	3
Academic references	No
Assessment	
Number of clinical interviews	2
Number of tests administered	3
Tests	Rorschach; Cattell; Raven
Number of tests not standardised	3
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	0
Reasons for specific tests	No
Short explanation of tests	No
Involvement of other health professionals	Administration & Interpretation
Was test administered within scope of practice?	Yes
Interviewed after testing?	Yes
Number of sessions	3
Total assessment time in hours	Not indicated
Collateral	None
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 10

Accused	
Gender	Male
Population group	Black
First language	Not indicated
Nature of charge/crime	Sexual (Child); Assault
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	5
Gender	Female
Language	English
Qualification	MA
Report	
Court	High Court
Appointed by	Prosecution
Was purpose of report indicated?	Yes
Number of pages	9
Academic references	Yes
Assessment	
Number of clinical interviews	2
Number of tests administered	1
Tests	Rorschach
Number of tests not standardised	1
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	0
Reasons for specific tests	Yes
Short explanation of tests	Yes
Involvement of other health professionals	None
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	3
Total assessment time in hours	6
Collateral	Legal records; Treatment records
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 11

Accused	
Gender	Male
Population group	Black
First language	Not indicated
Nature of charge/crime	Murder; Kidnapping; Illegal possession of firearm and ammunition
Report writer	
Category of registration	Counselling
Was category of registration indicated on report?	Yes
Years of experience	7
Gender	Male
Language	English
Qualification	MA
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	Yes
Number of pages	11
Academic references	Yes
Assessment	
Number of clinical interviews	5
Number of tests administered	1
Tests	16PF
Number of tests not standardised	0

Is non-standardisation mentioned?	Not applicable
Number of tests not on HPCSA's list	0
Reasons for specific tests	No
Short explanation of tests	Yes
Involvement of other health professionals	None
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	6
Total assessment time in hours	12
Collateral	Interviews; Treatment records; Letters
Was a diagnosis made outside scope of practice?	Yes
Role conflict	No

Report 12

Accused	
Gender	Male
Population group	Black
First language	Not indicated
Nature of charge/crime	Sexual (Adult); Assault
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	30
Gender	Male
Language	English
Qualification	MA
Report	
Court	Magistrate
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	5
Academic references	No
Assessment	
Number of clinical interviews	1
Number of tests administered	2
Tests	SAWAIS; 16PF
Number of tests not standardised	0
Is non-standardisation mentioned?	Not applicable

Number of tests not on HPCSA's list	1
Reasons for specific tests	No
Short explanation of tests	No
Involvement of other health professionals	None
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	1
Total assessment time in hours	Not indicated
Collateral	None
Was a diagnosis made outside scope of practice?	No
Role conflict	Yes

Report 13

Accused	
Gender	Male
Population group	White
First language	English
Nature of charge/crime	Sexual (Adult)
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	22
Gender	Female
Language	English
Qualification	MA
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	22
Academic references	Yes
Assessment	
Number of clinical interviews	1
Number of tests administered	6
Tests	TAT; KFD; DAP; BDHI; MMPI-2; 16PF
Number of tests not standardised	5
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	3
Reasons for specific tests	No
Short explanation of tests	Yes
Involvement of other health professionals	Interpretation
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	5
Total assessment time in hours	Not indicated
Collateral	Legal records; Treatment records; Personal documents
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 14

Accused	
Gender	Male
Population group	White
First language	English
Nature of charge/crime	Assault
Report writer	
Category of registration	Counselling
Was category of registration indicated on report?	No
Years of experience	4
Gender	Female
Language	English
Qualification	MA
Report	
Court	Magistrate
Appointed by	Defence
Was purpose of report indicated?	Yes
Number of pages	38
Academic references	No
Assessment	
Number of clinical interviews	1
Number of tests administered	2
Tests	MMPI-2; NEO PI-R
Number of tests not standardised	2
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	0
Reasons for specific tests	Yes
Short explanation of tests	Yes
Involvement of other health professionals	Interpretation
Was test administered within scope of practice?	No
Interviewed after testing?	No
Number of sessions	1
Total assessment time in hours	Not indicated
Collateral	Interview; Legal records; Treatment records
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 15

Accused	
Gender	Male
Population group	White
First language	Afrikaans
Nature of charge/crime	Murder
Report writer	
Category of registration	Educational
Was category of registration indicated on report?	Yes
Years of experience	15
Gender	Male
Language	Afrikaans
Qualification	MA
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	9
Academic references	No
Assessment	
Number of clinical interviews	1
Number of tests administered	1
Tests	MCMI-III
Number of tests not standardised	1
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	1
Reasons for specific tests	Yes
Short explanation of tests	No
Involvement of other health professionals	None
Was test administered within scope of practice?	No
Interviewed after testing?	No
Number of sessions	1
Total assessment time in hours	3
Collateral	None
Was a diagnosis made outside scope of practice?	Yes
Role conflict	No

Report 16

Accused	
Gender	Male
Population group	White
First language	Afrikaans
Nature of charge/crime	Assault; Murder; Theft
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	6
Gender	Male
Language	Afrikaans
Qualification	MA
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	20
Academic references	No
Assessment	
Number of clinical interviews	3
Number of tests administered	4
Tests	TAT; DAP; 16PF; WAIS-III
Number of tests not standardised	2
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	2
Reasons for specific tests	No
Short explanation of tests	No
Involvement of other health professionals	Verifying results
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	3
Total assessment time in hours	12
Collateral	Interviews; Legal records; Letters
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 17

Accused	
Gender	Male
Population group	White
First language	Afrikaans
Nature of charge/crime	Sexual (Child); Murder
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	40
Gender	Male
Language	English
Qualification	PhD
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	5
Academic references	No
Assessment	
Number of clinical interviews	3
Number of tests administered	3
Tests	TAT; Rorschach; WAIS-III
Number of tests not standardised	2
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	1
Reasons for specific tests	No
Short explanation of tests	Yes
Involvement of other health professionals	Administration & Interpretation
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	4
Total assessment time in hours	Not indicated
Collateral	Interviews; Legal records
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 18

Accused	
Gender	Male
Population group	Coloured
First language	Afrikaans
Nature of charge/crime	Theft
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	29
Gender	Male
Language	English
Qualification	MA
Report	
Court	Magistrate
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	3
Academic references	No
Assessment	
Number of clinical interviews	1
Number of tests administered	0
Tests	Not applicable
Number of tests not standardised	Not applicable
Is non-standardisation mentioned?	Not applicable

Number of tests not on HPCSA's list	Not applicable
Reasons for specific tests	Not applicable
Short explanation of tests	Not applicable
Involvement of other health professionals	Not applicable
Was test administered within scope of practice?	Not applicable
Interviewed after testing?	Not applicable
Number of sessions	1
Total assessment time in hours	Not indicated
Collateral	None
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 19

Accused	
Gender	Male
Population group	Coloured
First language	Afrikaans
Nature of charge/crime	Sexual (Child); Kidnapping; Theft
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	18
Gender	Male
Language	English
Qualification	MA
Report	
Court	High Court
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	8
Academic references	No
Assessment	
Number of clinical interviews	2
Number of tests administered	3
Tests	TAT; SAWAIS; DAP
Number of tests not standardised	2
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	2
Reasons for specific tests	No
Short explanation of tests	Yes
Involvement of other health professionals	None
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	5
Total assessment time in hours	Not indicated
Collateral	Interviews
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Report 20

Accused	
Gender	Male
Population group	White
First language	Afrikaans
Nature of charge/crime	Sexual (Child)
Report writer	
Category of registration	Clinical
Was category of registration indicated on report?	Yes
Years of experience	29
Gender	Male
Language	Afrikaans
Qualification	MA
Report	
Court	Magistrate
Appointed by	Defence
Was purpose of report indicated?	No
Number of pages	8
Academic references	No
Assessment	
Number of clinical interviews	2
Number of tests administered	3
Tests	TAT; Rorschach; 16PF
Number of tests not standardised	2
Is non-standardisation mentioned?	No

Number of tests not on HPCSA's list	0
Reasons for specific tests	No
Short explanation of tests	Yes
Involvement of other health professionals	None
Was test administered within scope of practice?	Yes
Interviewed after testing?	No
Number of sessions	3
Total assessment time in hours	Not indicated
Collateral	Treatment records; Legal records
Was a diagnosis made outside scope of practice?	No
Role conflict	No

Annexure C – HPCSA communication letter

PROFESSIONAL BOARD FOR PSYCHOLOGY
HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA

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30 April 2001

DEAR COLLEAGUE

THIS COMMUNICATION CONTAINS IMPORTANT INFORMATION AFFECTING YOU AS A PERSON REGISTERED WITH THE PROFESSIONAL BOARD FOR PSYCHOLOGY. IT IS STRONGLY RECOMMENDED THAT YOU RETAIN THIS DOCUMENT FOR FUTURE REFERENCE. BESIDES PROVIDING NEW INFORMATION, FUTURE BOARD COMMUNICATIONS MAY AMEND, VARY OR FURTHER EXPLICATE THE DECISIONS CONTAINED HEREIN. YOUR COMMENT ON ALL PROFESSIONAL MATTERS IS AGAIN INVITED.

The 6th Professional Board for Psychology has been in office for some two years. In that time a lot has happened. This communication includes important decisions made by the Board to date that affect you. The Board has reverted to its declared business and requests you to continue providing feedback on professional issues affecting you.

1. COMPOSITION OF THE BOARD

Dr S Cooper (Chairperson, Johannesburg), Prof AS Magwaza (Vice-Chairperson, Durban), Mr MG Bosman (Psychometrist, Cape Town), Prof P Engelbrecht (Stellenbosch), Prof MC Freeman (Johannesburg), Dr W Hartman (Pretoria), Mr BA Khumalo (Durban), Prof J Louw (Cape Town), Dr CF Malcolm (Cape Town), Ms T-AB Mashego (Pietersburg), Prof AT Möller (Stellenbosch), Rev MI Moloabi (Community, Meadowlands), Dr PW Nel (Pretoria), Mr GB Ngobeni (Community, Letsitele), Prof LJ Nicholas (Cape Town), Dr L Olivier (Pretoria), Prof BJ Pillay (Durban), Prof LM Richter (Pietermaritzburg), Prof WJ Schoeman (Pretoria), Prof PT Sibaya (Empangeni), Prof TWB van der Westhuysen (Stellenbosch), Mr M Yodaiken (Cape Town), and two psychology students on a rotational basis. A Ministerial appointment is outstanding.

1.1 Equity and Representivity

The Professional Board has urged revision of the regulations to ensure representivity. Female and black representation has reduced since the Board's inauguration two years ago, and white representation >90% within the profession. The Board has resolved that there should be at least 50/50 black/white admission to graduate programmes in psychology by 1 January 2004 and that by 2010 there should be a marked increase in black admissions. Equity is a standing item on the Board's agenda and a monitoring mechanism (overseen by the Vice-Chairperson, Prof AS Magwaza) is being implemented. The Board is reviewing its composition in order to ensure greater representivity. To enable efficacy in functioning in terms of the legal mandate of the Board in a fast-changing environment, the following Committees of the Board have been appointed:

1.1.1 Education Committee

All applications for accreditation of academic, internship and individualised training programmes in psychology are considered by this committee that comprises: Prof AS Magwaza (Chairperson), Dr W Hartman, Rev MI Moloabi, Prof WJ Schoeman and Prof F Abrahams (Cape Town).

1.1.2 Committee of Preliminary Inquiry

1.1.2 Committee of Preliminary Inquiry

This committee considers complaints received together with the explanation of the registered person and determines further resolution such as whether the explanation is sufficient, a consultation with the registered person should be held or to refer the matter to formal inquiry. The committee comprises: Dr CF Malcolm (Chairperson), Mr BA Khumalo, Dr L Olivier and Mr MR Lockhat (Cape Town).

1.1.3 Psychometrics Committee

This psychological test classification committee considers all matters related to psychometry and comprises: Prof LJ Nicholas (Chairperson), Mr MG Bosman, Dr AK Msimeki (Pietersburg), Ms KNainaar (Johannesburg), a representative from the Professional Board for Occupational Therapy and one from the SA Council of Social Services Professions.

1.1.4 CPD Committee

Handling continuing professional development matters, this committee comprises: Prof BJ Pillay (Chairperson), Prof AT Möller and Dr PW Nel.

1.1.5 Quality Assurance Committee

This committee, responsible for ongoing evaluation of professional training programmes already accredited by the Board, comprises: Prof PT Sibaya (Chairperson), Dr T-AB Mashego and Prof L Richter.

1.1.6 Executive Committee

The Executive Committee of the Board handles all matters requiring its attention in between meetings of the Board and comprises the chairpersons of all the Board's standing committees as well as the Board Chairperson and Vice-Chairperson who are: Dr S Cooper (Chairperson), Prof AS Magwaza (Vice-Chair & Education Chair), Dr CF Malcolm (Preliminary Inquiry Chair), Prof LJ Nicholas (Psychometrics Chair), Prof BJ Pillay (CPD Chair) and Prof PT Sibaya (Quality Assurance Chair).

1.2 Health Professions Council

Dr S Cooper and Prof AS Magwaza represent the Board at the Health Professions Council. Dr Cooper serves on the Executive and Management Committees of the HPCSA and chairs its Finance and Investment Committee. The Minister of Health, Dr Manto Tshabalala-Msimang, has appointed Dr Cooper to the first National Health Research Ethics Committee.

2. THE BOARD'S MISSION

The Board is a creature of statute whose mandate is to Protect the Public and Guide the Profession in terms of the Health Professions Act, No. 56 of 1974. The Board's Vision is to assure quality psychological practice appropriate to the needs of a diverse South African society. The Board's Strategic Attitude is being Proactive, Transformative and Informative. The Board's Current Initiatives are to ensure:

- an effective and efficiently functioning Board, visible and actively engaging relevant role players;
- a new professional practice framework is in place, aligned with societal changes and transformation and international professional best practices;
- equitably serving the South African society;
- dynamic protection of the scope of the profession.

This is a vibrant mission that shall be revisited from time to time depending on changing circumstances and objective conditions. Your input by 1 June 2001 is invited as the Board will be holding a strategic session prior to its next meeting.

2.1 The Board's relationship with other relevant bodies

Whereas the Professional Board for Psychology is the legally mandated national regulatory body in professional psychology (including the sub disciplines like psychometry), the Board interacts with a variety of other relevant bodies in the public and private sectors, especially in South Africa. These bodies include the Departments of Health, National Education and Labour, other statutory boards like the Medical and Dental Professions Board, the SA Council of Social Services Professions and the Professional Board for Occupational Therapy, the South African Qualifications Authority (which has registered a finite Standards Generating Body for Psychology, that has Board representation, and which has to draw up unit standards from pre-school through to doctoral level within three years), the professional training Universities, and the Psychological Society of South Africa. However, the Board is solely responsible for guiding education and training in professional psychology, as well as regulating the registration and practice requirements thereof. In this regard, the Board enjoys autonomy within the HPCSA, and is primarily accountable to the South African public.

3. REGISTRATION AND PRACTICE REQUIREMENTS

3.1 Psychologists

From 1 January 2004 an accredited Doctoral degree in psychology (eg, DPsych), successful completion of an unbroken minimum twelve months accredited internship, and successful completion of the national Board examination shall be required for registration as a psychologist. Those with Masters degrees and on the register at that time (1/1/2004) will remain on the register. Masters level persons meeting the requirements for registration (including those registering for Masters programmes until 31/12/2003) will have until 31 December 2006 to register as psychologists in terms of the current rules, after when they shall meet the new doctoral requirements. All persons registering for Masters level professional training programmes henceforth shall, after completion of all their academic and internship requirements, successfully pass a national Board examination for registration as a psychologist. However, those currently in Masters programmes and who complete all their academic and internship requirements within the stipulated three year period will not be required to take the examination. The Board is considering the current clinical, counselling, educational, industrial and research categories, as well as any future post-doctoral specialisations, and the Board shall keep you informed of any developments in these matters.

After further consultation with the Council on Higher Education's (CHE) Higher Education Quality Committee, a communication detailing the new practice framework (that will further guide in the structuring of professional degree options) shall be sent to academic training institutions. The Board is presently reviewing current professional training programmes in psychology to enable national benchmarking and minimum standards that will further inform the new practice framework. The review reports (of the site visits), copied to the CHE, will serve before the Education and Quality Assurance Committees of the Board. These reports, after being considered by the Professional Board in September, will be available on the HPCSA website.

3.2 Registered Counsellors

The Board is finalising regulations for the new register of Registered Counsellors (qualified in a defined practice field such as psychometry or career counselling) who may practice for their own account on successful completion of:

i. An accredited four-year degree in psychology, with the degree courses conforming to the requirements of the South African Qualifications Authority (SAQA) and the CHE;

ii. A minimum of 200 hours of Board accredited supervised practical training (in either personnel/organisational/industrial testing or vocational/educational/school testing), which may form part of the degree course, with universities being responsible for the supervision thereof;

iii. The initial period of practical training has to be an uninterrupted period of at least three month's duration and the remaining period of three months practical training has to be completed during the same year;

iv. Successful completion of a national Board Examination (70% pass); Candidates who wish to write the examination in March have to submit their applications not later than 31 December of the previous year and candidates who wish to write the examination in September have to submit their applications not later than 30 June of that year;

v. Registered counsellors shall indicate the defined practice field (while a maximum of two defined practice fields are permitted, currently the Board examination is only in the one defined practice field of psychometry) on all their communications/stationery/documents in the same size, type and format of print as the title of 'Registered Counsellor' (cf. 3.11 *infra*);

vi. The scope of practice of registered counsellors shall be determined by their training based on the core competencies (defined practice field/s) which shall reflect a specific area of the scope of the profession of psychology as contained in section 37 of the Health Professions Act (Act 56 of 1974) but which shall not be confused with current categories (cf. ii *supra*).

3.3 Internship and Registration as a Psychologist

Should an internship be in multiple settings, an uninterrupted full time period of not less than six months in an accredited setting, as well as full time periods of not less than three months each in accredited settings, shall obtain. A maximum period of one year after completion of the twelve months of internship will be allowed for the completion of all academic requirements, failing which such applicants will be required to take a national Board examination (70% pass). Registration as a psychologist shall occur after all requirements are met, with the academic and internship programmes being Board accredited. Between completion of an internship and prior to registration as a psychologist a person may not perform any psychological acts for gain. As from 1 January 2002 any person obtaining foreign qualifications will have to meet all the other necessary requirements and take a national Board examination (70% pass) prior to registration.

3.4 Psychometrists

There is no longer any direct registration for psychometrists on completion of an Honours Degree in Psychology. After completion of the minimum practical training (practical experience should be obtained in: interest inventories, aptitude, intelligence and personality tests), a declaration form (certified by a Commissioner of Oaths) has to be submitted for approval by the Psychometrics Committee. A national Board examination (70% pass) has to be then written for registration with the Board. The register of psychometrists shall close on 31 December 2003, but psychometrists on the register at that time will continue retaining their current rights. Psychometrists have to comply with the following requirements in order to replace their current registration with that of the new category of Registered Counsellor (Psychometry):

i. At least 3 years registration with the Board by the deadline dates for applications (cf. v *infra*);
ii. A minimum of 200 hours of Board accredited supervised practical training;
iii. Proof of minimum core competencies in psychometry;
iv. The defined practice field shall be determined by their current scope of practice, eg, industrial, educational;
v Successful completion of the national Board examination (70% pass) that may be taken on the last Wednesday of March and September annually after submission of the relevant declaration; Candidates who wish to write the examination in March have to submit their applications not later than 31 December of the previous year and candidates who wish to write the examination in September have to submit their applications not later than 30 June of that year.

3.5 Psychotechnicians

This Register is closed and there shall be no more additions to it, however psychotechnicians already registered will remain as such.

3.6 Requirements for Supervision

Psychologists who supervise other psychologists and/or interns have to comply with the following:

i. A doctoral qualification; or
ii. A minimum of three years approved practical experience; and
iii. Appropriate training and/or experience within the relevant scope of practice;
iv. A ratio of a maximum of six intern psychologists (10 psychometrists/registered counsellors) to each supervising psychologist shall not be exceeded.

The Board is reviewing these criteria to enhance quality assurance and national minimum standards and your comment is invited by 1 June 2001.

3.7 Names that may not be used

The Professional Board for Psychology has resolved that use of the term "*senior psychologist*" is inappropriate save where a person is the incumbent of a post with such a designation. No person who is not registered with the Board may use the term "psychologist", "psychometrist" and/or "registered counsellor". In terms of the ethical rules, a psychologist or registered counsellor may only practice in his/her own name, or, where practitioners practice in partnership or as juristic persons, in the names of such practitioners, unless the Board, under exceptional circumstances, approves an alternative name for a practice.

3.8 Research Psychologists

The Board has resolved that research psychologists are entitled, in the normal course of their work, to use psychological tests within the ambit of the ethical rules, their training and experience, but that it is not permissible for research psychologists to render clinical, diagnostic and/or psychotherapeutic/counselling services or to charge for such services.

3.9 Information on Communications

The Board has resolved that the nomenclature "psychologist", together with the category/categories of registration, be displayed in all communications of psychologists (eg, stationery, business cards, brochures, electronic mail) and shall be printed in the same size type and font (eg, if **Psychologist** is in 11 point Times New Roman bold font the category **Counselling** should be the same as that of **Psychologist**). ***It is required that you display the category of your registration on all communications***, eg, Educational Psychologist **or** Psychologist (Educational), Industrial Psychologist **or** Psychologist (Industrial), Research Psychologist **or** Psychologist (Research).

3.10 Registration in more than one Category and "transverse registration"

Persons registered with the Board in more than one category shall retain this privilege on payment of the necessary fee for each additional registration with effect from the next registration period effective 1 April 2002. The Board is willing to consider "transverse registration" of those who may be registered in any current category on terms that will be made available on individual application before 31 October 2001, provided that, if successful, the person deregisters in the current category and registers in the category allocated by the Board *Ad Hoc* Committee set up for this purpose.

3.11 Limited Prescription Rights for Psychologists

The Board is awaiting the response of the Medical and Dental Professions Board in this matter, and appreciates the patience and understanding displayed by those who are desirous of taking the Board examination. The matter was also unfortunately delayed due to the problems associated with the promulgation of the SAMMDRA Act. Once this matter (part of transformation within the health sector in a country undergoing massive change) is finalised those affected will be informed.

3.12 Services using new technologies

The Board is developing policy in respect of professional services that may use new technologies like the Internet, which will be posted on the HPCSA website.

3.13 Selection "Clearing House" Process

The Board is considering the voluntary implementation of a clearing house process for applications for professional psychology training (based on the UK model) to enable, *inter alia*:

i. Students to make a single less-costly application, with a certain maximum of choices;
ii. Establish national ascertainable minimum criteria, without detracting from a University's rights to set its further requirements;
iii. The complement of places on offer being taken up, thus obviating non-recourse programme-hopping by students, timing conflicts in the selection processes of the Universities offering professional psychology training, and helping prevent internship positions being lost to the profession;
iv Reduction in negative perceptions of certain selection processes;

v. The profession implementing an appropriate selection process that is compatible with where the country is going and pre-empt any bureaucratic impositions.

Your comment on this process is invited by 1 June 2001.

3.14 Ethical Code of Professional Conduct

Adopted in1999, and of which you were previously informed, this comprehensive Code of Professional Conduct (which may be amended from time to time) for persons registered with the Board is available on the HPCSA website. Your attention is specifically drawn to, *inter alia*, the Health Professions Act and Regulation No. R 1379, promulgated on 12 August 1994 relating to "Rules specifying the acts or omissions in respect of which disciplinary steps may be taken by a Professional Board and the Council" and Annexure 17 thereof, relating to the "Performance of professional acts by psychologists, intern psychologists, psychometrists, psychotechnicians and students in psychology." It is in your interests to familiarise yourself with the law affecting you.

You are reminded that you are required to notify the Board of any change in your address and provide other information relating to your profession that may be requested of you by the Board and/or HPCSA. Furthermore, the onus is on you to ensure that you practice within the scope of your training in professional psychology and not stray into categories of registration where you are presumed not to have recognised competence based on formal education and training, eg, a **clinical psychologist** making an organisational diagnosis, a **counselling** or **educational psychologist** making a clinical diagnosis, a **research psychologist** making clinical, learning or organisational diagnoses or providing psychotherapeutic/counselling interventions, an **industrial psychologist** making any non-organisational diagnosis or providing psychotherapeutic/counselling interventions.

4. PSYCHOMETRIC AND PSYCHOLOGICAL TESTS

The Board is the South African controlling statutory body with the sole national authority to classify, review and legalise the use of psychometric and psychological tests, as well as prescribed questionnaires, apparatus and instruments for the determination of intellectual ability, aptitude, personality make-up, personality functioning, psycho-physiological functioning and psychopathology. In terms of Section 59 of the Health Professions Act it is also illegal for any person who has not been registered by the Professional Board for Psychology to administer or interpret any psychometric test, techniques or instruments, or to charge for such services.

It is the right of members of the public to enquire of any person administering or utilising any psychometric or psychological test whether such test has been classified by the Board, which is the only official body with this legal mandate in our country. It is furthermore the responsibility of the developer of the test to apply to the Board for classification, and it is the responsibility of the student in psychology, psychotechnician, psychometrist, intern psychologist, registered counsellor or psychologist to ensure that any test he/she intends to use has been classified by the Professional Board and that such a test is accompanied by a classification certificate issued by the Board. The onus is on practitioners to be aware of test limitations (such as validity and reliability), cultural sensitivity and legal implications (eg, the Constitution of the RSA, the Employment Equity Act, the Health Professions Act, and other relevant legislation and regulations) with respect to testing in the South African context, and should familiarise themselves with the Board's testing guidelines. These testing guidelines and a list of tests classified by the Board for use in South Africa are available on the HPCSA website; the Board may be contacted for clarification and for information on any test currently under evaluation; all other tests have not been legally classified for use in South Africa.

The previous system of classifying tests as B and C level tests has been revised and is no longer in use. Tests are now classified as either psychological or not. If it is established that a test does not tap psychological constructs or is not essentially psychological in nature, it does not fall under the purview of the Board. After evaluation, if it is established that a test is psychological, it is classified as follows:

i. *Tests reserved for psychologists.* This implies that all aspects of the tests fall under the control of registered psychologists; psychologists may, however, decide to utilise an appropriately trained person, such as a psychotechnician or psychometrist to administer the tests under their supervision, but the interpretation and the feedback of test results shall be done by appropriately trained psychologists.

ii. *Tests that may be used by other persons registered with the Board,* ie, Registered Counsellors, Psychometrists, and Psychotechnicians. It must be noted that each of these categories of registration has scope of practice limitations. Registered counsellors may practice psychometry for their own account, but may not use projective, neuropsychological and other highly specialised clinical and psychopathological tests, except under the direct supervision of a psychologist trained to interpret such tests. Psychometrists may use psychological tests under the supervision of an appropriately trained psychologist, but may not practice for their own account.

iii. *Tests approved by the Board for use by other appropriately qualified professionals in the normal course of their work*, eg, Occupational Therapists, Speech Therapists, Educationists.

5. BUDGET

The 2000 audited financial statements of the HPCSA are posted on the HPCSA website. The Board incurred unforeseen expenses due to the cessation of the erstwhile CPD system and a series of unscheduled meetings with PAG, exceeding its expenditure over revenue by approximately R235 000. The Board is engaging in a wide-ranging cost-cutting exercise, although the current reporting period is longer than the customary twelve months as it extends from 1 January 2001 till 31 March 2002 (this latter is due to the HPCSA changing the date on which annual fees become payable from 1 January to 1 April in order to alleviate the peak registration period over December-January). A key principle underpinning Board autonomy is financial viability, which the Board is committed to ensuring.

6. DEFAMATION ACTION

The Professional Board for Psychology wishes to record its sincere appreciation to the Registrar of the HPCSA, Advocate BM Mkhize, for negotiating a successful withdrawal of the legal action brought by the Psychological Society of SA, Prof LJ Nicholas and Dr S Cooper in the High Court against PAG and six others, after PAG apologised and unreservedly retracted any statements uttered by them which may have been defamatory or impairing on the dignity or reputation of PsySSA, Prof Nicholas and Dr Cooper. The HPCSA, which this Board is a part of, has resolved that membership, and indeed Executive office, in other bodies within the profession does not constitute conflict, save where there is no declaration of such membership and the member does not recuse him/her self from discussion on the matter. Furthermore, the Executive Committee of the HPCSA has directed that when it comes to matters of concern of the members of the Professional Board for Psychology, the first recourse should be the Board, and if the member is not satisfied with the outcome of the action by the Board, the matter may be referred to the Registrar (not any elected official such as the President of the HPCSA) for submission to the Executive Committee of the HPCSA. This Board has been proactive and informative in all its business and urges all within the profession to communicate directly with the Board on any matter over which the Board has jurisdiction, noting that it is a time honoured tradition for psychologists to approach one another first with concerns and to avoid "making unfounded allusions regarding the probity or professional reputation or skill of any person registered under the Act."

7. CPD

Continuing professional development is indelibly part of the national qualifications landscape in South Africa in the 21st century in keeping with international best practices. The Board has resolved that a CPD system aligned with that of all the other Professional Boards of the HPCSA be implemented from next year for psychologists and

registered counsellors. A number of other Boards have already begun their CPD systems, all of which adhere to a common formula and are administered by the HPCSA. This uniform rolling annual 50 CPD point system is predicated on a one point per hour of accredited activity basis. Although some Boards have delegated the accreditation function to other institutions and professional societies, the Professional Board for Psychology has decided to retain this function as its own responsibility. Nevertheless, all those psychologists who participated in the erstwhile CPD system will not lose the credits they gained in enhancing their professional competency. The Board is appreciative of the positive response received from many of you who commented on improving the CPD system and recognises the good faith participation of those psychologists committed to ongoing and lifelong professional development. You will be informed in due course of how any previous credits obtained will be incorporated into the rolling annual 50 CPD point system common to all the HPCSA's Professional Boards.

8. MANUAL & LOGO

The Board would like to have a Manual available (which includes registration requirements, regulations, the ethical code, continuing professional development, etc) next year and invites your suggestions by I June 2001 on what you would like included. You are also invited to make suggestions for a logo for the Professional Board for Psychology by 1 June 2001.

9. CONCLUSION

The Board has resumed its statutorily mandated business and will continue to inform you of relevant developments affecting the education, training and registration of psychologists, registered counsellors, intern psychologists, psychometrists, psychotechnicians and students in psychology.

The Board wishes to thank you for bearing with it during one of the most difficult periods in professional psychology. Transformation and establishment of national minimum standards aligned with international best practices are fraught with varying interpretations and degrees of acceptance and participation. The Board understands that leadership is not something to be taken lightly, given historically trying circumstances, particularly within the science and profession of psychology. Many Board members have contributed significantly and unstintingly to an unprecedented visibility and image of the profession both at home and abroad (eg, Prof Nicholas represents South Africa at the International Test Commission and Dr Cooper is the first sub-Saharan African to be elected to the Executive of the International Union of Psychological Science). Let us commit to interact constructively, and in the manner of our discipline and training, to achieve common and successful outcomes that will enable society to value psychology with renewed regard.

You are encouraged to continue to provide any comment to the Board in writing, *via* mail, facsimile transmission or e-mail.

Protecting the Public and Guiding the Profession,

Yours in the service of psychology,

S. Cooper

Dr S Cooper
Chairperson: Professional Board for Psychology

Annexure D - HPCSA communication letter: Scope of practice

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PROFESSIONAL BOARD FOR PSYCHOLOGY

Department: PROFESSIONAL BOARDS
SENIOR MANAGER: DR N T MOSIA
Manager: Mr E Chanza
My Ref: 18/2/B
Mr E Chanza/ew –Ext 9339

27 June 2007

Dear Prof/Dr/Sir/Madam

DISCUSSION DOCUMENT ON THE SCOPE OF PRACTICE FOR THE PSYCHOLOGY PROFESSION

I wish to advise that the Board is in the process of developing a new scope of practice for the psychology profession.

The Education Committee of the Board was requested to -

i. develop the core competency outcomes, education and training guidelines and scopes of practice for the different registration categories;

ii. consider an appropriate registration category for the Bachelors degree in psychology.

The Board approved the attached draft scope of practice for the psychology profession in principle and resolved that the document be distributed to all registered persons for comment before 17 August 2007.

Comments received will be considered by the Board at its next meeting.

Yours faithfully

MR C CHANZA
MANAGER: PROFESSIONAL BOARD FOR PSYCHOLOGY

HPCSA
Health Professions Council of South Africa

DISCUSSION DOCUMENT

HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA

PROFESSIONAL BOARD FOR PSYCHOLOGY

SCOPE OF PRACTICE

Mental Health Assistant

Registered Counsellor

Psychometrist

Research Psychologist

Industrial Psychologist

Educational Psychologist

Counselling Psychologist

Clinical Psychologist

Neuropsychologist

Forensic Psychologist

Mental Health Assistant

Scope of Practice

Facilitate mental health and wellness in individuals, families and communities.

Psychological Assessment

Perform basic mental health screening **excluding the use of psychometric tests**

Psychological Intervention

Identify mental health problems and provide guidance for the exploration of wellness options, **excluding psychotherapy**
Contain emotional distress in crises situations
Contribute to setting up of social support structures and identify support systems and resources

Policy Development and Programme Design

Promote mental health and wellness through educational programs

Training and Supervision Roles

Train individuals, families and communities to provide support enhancing mental health

Ethics and legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology
Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology
Have the knowledge of relevant legislative frameworks which impact on psychological practice and research
Conduct research and practice in accordance with these legislative parameters

Professional Practice

Identify people with particular needs and refer to appropriate services
Maintain records and reports

Research

Assist in implementing research programmes aimed at promoting mental health

Education and Training Guidelines

Complete 2-year diploma at NQF level 6 at an accredited education and training institution
Complete the following SAQA approved modules:

Provide counselling support services
Provide individual counselling support
Demonstrate basic understanding of human developmental stages and social and cultural factors that impact on mental health
Engage in promotion of health and wellness
Apply basic interactional skills in a group context
Demonstrate and apply an understanding of marital, family and domestic relationships to counselling
Demonstrate knowledge of ethics and legal frameworks related to counselling

In addition, MHA should complete a module on basic introduction to psychiatric and mental health conditions

Registered Counsellor

Scope of Practice

Registered Counsellors are psychological workers who perform psychological screening and basic assessment as well technically limited psychological interventions with a range of individuals aiming at enhancing personal functioning in a variety of sectors and contexts, including school, work, sport, family and community

Psychological Assessment

Perform primary mental status screening in a variety of sectors
Perform a limited number of psychological assessments in which they have been trained, excluding projective, neuropsychological and diagnostic tests

Professional Practice

Ability to identify clients requiring more sophisticated or advanced psychological assessment and refer these clients to appropriate registered professionals

Psychological Intervention

Enhance personal functioning of children, adults, families and communities
Perform a range of supportive rather than curative psychological interventions with children, adults, families and communities
Perform routine psychological interventions (e.g., pre-HIV test counselling)

Policy development and Programme Design

Participate in policy formulation based on various aspects of psychological theory and research
Design, manage and evaluate psychologically-based programmes in diverse settings and organizations such as health, education, labour and correctional services

Training and Supervision Roles

Train and supervise mental health assistants

Ethics and Legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology
Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology
Have the knowledge of relevant legislative frameworks which impact on psychological practice and research
Conduct research and practice in accordance with these legislative parameters

Research

Conduct and report on research projects and implement findings in policy and practice

Psychometrist

Scope of Practice

Psychometrists are psychological workers, with special expertise in the use of psychological tests who perform assessments and also contribute to the development of psychological tests and procedures in a range of settings.

Psychological Assessment

Assess psychological functions including cognitive, interest, aptitude and personality in a variety of sectors

Projective, neuropsychological and diagnostic tests may only be used for research and development of tests

Professional Practice

Ability to identify clients requiring more sophisticated or advanced psychological assessment and refer these clients to appropriate registered professionals

Psychological Intervention

Provide feedback to clients on the results of psychological assessments

Policy Development and Programme Design

Participate in the development of policy in respect of psychological assessment in a variety of sectors

Design, manage and evaluate psychological assessment procedures in diverse settings and organizations such as health, education, labour and correctional services

Conduct needs analysis regarding psychological assessment in diverse settings and organizations, and to select/ compile appropriate batteries of tests

Training and Supervision Roles

Train and supervise registered counsellors and psychometrists in supervised practice in relation to testing

Ethics and Legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology

Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology

Have the knowledge of relevant legislative frameworks which impact on psychological practice and research

Conduct research and practice in accordance with these legislative parameters

Research

Design and implement research which contributes to the development of psychological assessment instruments, to report on such research, and implement the findings of such research in policy and practice

Research Psychologist

Scope of Practice

Research psychologists are involved in planning, developing and applying psychological research methods which have broad scientific validity and among scientific peers.

Psychological Assessment

Perform assessments of cognitive, personality, emotional and neuropsychological functions in a variety of sectors for research, including the development of psychological measures

Psychological Intervention

Develop and test research-based interventions
Monitoring and evaluation
Programme evaluation

Policy Development and Programme Design

Research psychologists advise on the development of policy applicable to a variety of sectors and issues, based on various aspects of psychological theory and research
Design, manage and evaluate measurement and intervention programmes in diverse settings

Training and Supervision Roles

Train and supervise other registered psychological practitioners in relation to research psychology

Ethics and Legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology
Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology
Have the knowledge of relevant legislative frameworks which impact on psychological practice and research
Conduct research and practice in accordance with these legislative parameters

Professional Practice

Refer to appropriate professionals for assessment or intervention
Adherence to scope of practice

Research

Design, manage, conduct, report and supervise psychological research and implement findings in policy and practice, especially in relation to research in diverse contexts

Education and Training Guidelines

Complete a programme in research psychology at NQF levels 7-9 (Bachelors, Honours and Masters programme) at an accredited education and training institution

Industrial Psychologist

Scope of Practice

Industrial psychologists apply the principles of psychology to issues related to the work situation to optimise individual, group and organisational well-being and effectiveness.

Psychological Assessment

Perform a range of psychometric and other assessments for determining the potential and/ or suitability for training, development and employment
Design, develop and implement assessment tools and procedures related to the work situation

Psychological Intervention

Facilitate individual and group processes for effective organizational function
Design and implement training programmes for effective organizational function
Design and develop strategies in consumer behaviour
Develop interventions to ameliorate poor performance in work settings
Design and implement programmes based on understanding ergonomics

Policy Development and Programme Design

Industrial psychologists advise on the development of policy applicable to a variety of sectors and issues, based on various aspects of psychological theory and research
Design, manage and evaluate industrial psychology intervention programmes in diverse settings

Training and Supervision Roles

Train and supervise other registered psychological practitioners in relation to industrial psychology

Ethics and Legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology
Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology
Have the knowledge of relevant legislative frameworks which impact on psychological practice and research
Conduct research and practice in accordance with these legislative parameters

Professional Practice

Refer to appropriate professionals for assessment or intervention
Adherence to scope of practice

Research

Design, manage, conduct, report and supervise industrial psychology research and implement findings in policy and practice, especially in relation to organizations and work place settings in diverse contexts

Education and Training Guidelines

Complete a programme in industrial psychology at NQF levels 7-9 (Bachelors, Honours and Masters programme) at an accredited education and training institution

Educational Psychologist

Scope of Practice

Educational psychologists are involved in assessment, diagnosis and intervention in order to optimise individual, group and organisational functioning in the broad context of learning.

Psychological Assessment

Perform assessments of cognitive, personality, emotional and neuropsychological functions of people specifically related to learning
Identify psychopathology and its impact on learning processes
Identify and diagnose a broad range of learning disorders

Psychological Intervention

Apply psychological interventions to people with educational and learning problems
Perform a range of therapeutic psycho-educational interventions

Policy Development and Programme Design

Educational psychologists advise on the development of policy applicable to a variety of sectors and issues, based on various aspects of psychological theory and research
Design, manage and evaluate educationally-based programmes in diverse settings

Training and Supervision Roles

Train and supervise other registered psychological practitioners in relation to educational psychology

Ethics and Legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology
Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology
Have the knowledge of relevant legislative frameworks which impact on psychological practice and research
Conduct research and practice in accordance with these legislative parameters

Professional Practice

Refer to appropriate professionals for further assessment or intervention
Adherence to scope of practice

Research

Design, manage, conduct, report and supervise psychological research and implement findings in policy and practice, especially in relation to educational and learning in diverse contexts

Education and Training Guidelines

Complete a programme in educational psychology at NQF levels 7-9 (Bachelors, Honours and Masters programme) at an accredited education and training institution

Counselling Psychologist

Scope of Practice

Counselling psychologists assess, diagnose and intervene with people in dealing with life challenges and developmental problems to optimise psychological well-being.

Psychological Assessment

Perform assessments of cognitive, personality, emotional and neuropsychological function in relation to life challenges and developmental problems
Perform assessments with special reference to developmental processes (e.g., career choice) and adjustment
Identify psychopathology and its impact on developmental processes and adjustment
Identify and diagnose a broad range of disorders of adjustment

Psychological Intervention

Apply psychological interventions to people with developmental challenges and adjustment problems
Perform a range of therapeutic counselling interventions

Policy Development and Programme Design

Counselling psychologists advise on the development of policy applicable to a variety of sectors and issues, based on various aspects of psychological theory and research
Design, manage and evaluate programmes dealing with developmental and adjustment problems in diverse settings

Training and Supervision Roles

Train and supervise other registered psychological practitioners in relation to counselling psychology

Ethics and Legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology
Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology
Have the knowledge of relevant legislative frameworks which impact on psychological practice and research
Conduct research and practice in accordance with these legislative parameters

Professional Practice

Refer to appropriate professionals for further assessment or intervention
Adherence to scope of practice

Research

Design, manage, conduct, report and supervise psychological research and implement findings in policy and practice, especially in relation to developmental processes and adjustment challenges in diverse contexts

Education and Training Guidelines

Complete a programme in counselling psychology at NQF levels 7-9 (Bachelors, Honours and Masters programme) at an accredited education and training institution

Clinical Psychologist

Scope of Practice

Clinical psychologists assess, diagnose and intervene with people in dealing with life challenges, particularly those with relatively serious forms of psychological distress and/ or psychopathology.

Psychological Assessment

Perform assessments of cognitive, personality, emotional and neuropsychological functions in relatively serious forms of psychological distress and/ or psychopathology
Identify psychopathology in a broad range of psychiatric disorders
Identify and diagnose a broad range of psychiatric disorders

Psychological Intervention

Apply psychological interventions to people with psychiatric conditions

Policy Development and Programme Design

Clinical psychologists advise on the development of policy applicable to a variety of sectors and issues, based on various aspects of psychological theory and research
Design, manage and evaluate programmes dealing with psychiatric problems in diverse settings

Training and Supervision Roles

Train and supervise other registered psychological practitioners in relation to clinical psychology

Ethics and Legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology
Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology
Have the knowledge of relevant legislative frameworks which impact on psychological practice and research
Conduct research and practice in accordance with these legislative parameters

Professional Practice

Refer to appropriate professionals for further assessment or intervention
Adherence to scope of practice

Research

Design, manage, conduct, report and supervise psychological research and implement findings in policy and practice, especially in relation to psychiatric conditions in diverse contexts

Education and Training Guidelines

Complete a programme in clinical psychology at NQF levels 7-9 (Bachelors, Honours and Masters programme) at an accredited education and training institution

Neuropsychologist

Scope of Practice

Neuropsychologists assess, diagnose and intervene with people experiencing neuropathology.

Psychological Assessment

Diagnose and evaluate mental disorders caused by neurological conditions and differentiate them from other mental and non-neurological disorders

Psychological Intervention

Treat and rehabilitate people suffering from neurological conditions

Policy Development and Programme Design

Neuropsychologists advise on the development of policy applicable to a variety of sectors and issues, based on various aspects of neuropsychological theory and research
Design, manage and evaluate neuropsychologically-based programmes in diverse settings

Training and Supervision Roles

Train and supervise other registered psychological practitioners in relation to neuropsychology

Ethics and Legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology
Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology
Have the knowledge of relevant legislative frameworks which impact on psychological practice and research
Conduct research and practice in accordance with these legislative parameters

Professional Practice

Refer to appropriate professionals for further assessment or intervention
Adherence to scope of practice

Research

Design, manage, conduct, report and supervise neuropsychological research and implement findings in policy and practice

Education and Training Guidelines

Complete 6-year programme in neuropsychology at NQF levels 7-9 (Bachelors – Neuroscience / Physiological psychology focus, Honours and Masters programme) at an accredited education and training institution

Forensic Psychologist (this section needs more work)

Scope of Practice

Forensic psychologists work within the legal and judicial system to assess, diagnose and intervene with people in order to develop an understanding of criminal behaviour using psychological principles.

Psychological Assessment

Psychological Intervention

Policy Development and Programme Design

Forensic psychologists advise on the development of policy applicable to a variety of sectors and issues, based on various aspects of forensic psychological theory and research
Design, manage and evaluate forensic psychologically-based programmes in diverse settings

Training and Supervision Roles

Train and supervise other registered psychological practitioners in relation to forensic psychology

Ethics and Legislation

Have a thorough knowledge of the code of professional ethics of the HPCSA and the Professional Board for Psychology
Conduct psychological practice and research in accordance with guidelines for professional practice of the HPCSA and the Professional Board for Psychology
Have the knowledge of relevant legislative frameworks which impact on psychological practice and research
Conduct research and practice in accordance with these legislative parameters

Professional Practice

Refer to appropriate professionals for further assessment or intervention
Adherence to scope of practice

Research

Design, manage, conduct, report and supervise forensic psychological research and implement findings in policy and practice

Education and Training Guidelines

Complete a programme in forensic psychology at NQF levels 7-9 (Bachelors, Honours and Masters programme) at an accredited education and training institution

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Annexure E - HPCSA personal letter

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PROFESSIONAL BOARD FOR PSYCHOLOGY

Department: PROFESSIONAL BOARDS
SENIOR MANAGER: DR N T MOSIA

Manager: Mr E Chanza
My Ref: 18/6/27/1
Mr E Chanza–Ext 9339

20 July 2007

Dear Madam

FORENSIC PSYCHOLOGY

With reference to your previous correspondence in the above regard I wish to advise that the Executive Committee of the Professional Board for Psychology considered the matter at its recent meeting.

The Committee -

i. resolved that it be confirmed that to provide services of a forensic nature there are no formal requirements by the Board. Registration with the HPCSA as a psychologist and a proven track record of competency entitles a person to provide services of a forensic nature. However, provision of such services should be limited to the registered practitioner's scope of practice;

ii. further resolved that you be requested to ensure that you indicates your registration category on your letterhead (i.e. counselling psychology).

Please quote the abovementioned reference number in all correspondence to Council.

Yours faithfully

E CHANZA
MANAGER: PROFESSIONAL BOARD FOR PSYCHOLOGY