



Review Article



The Importance of Legal Language and Formatting in Forensic Psychological Assessments Ordered by the Court

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Abstract

Because forensic assessments are ordered by the court in many instances, forensic professionals must take their audience into account. Judges and lawyers are used to reading and analyzing legal documents for criminal and civil cases. Plain language abounds in legal documents, although there are still some stubborn and archaic writers who use legalese. Because the audience is the court, forensic professionals should take the time to spell out the scientific principles that have lead them to their conclusions and recommendations. Most importantly, forensic assessors should come to a conclusion at the beginning of the report and then explain how they arrived there. This format is very similar to legal arguments and will provide better evidence on which legal decisions can be based. Indeed, this may allow the overwhelmed courts to dispose of cases faster and more efficiently.

This article will discuss the use of plain English in forensic assessments and then tackle legal formatting of forensic reports. Special attention will be paid to certain types of forensic assessments, such as competency, juvenile delinquency, child custody proceedings, and insanity defenses. This article will provide examples of improved language and the utility of transitions and explanations in forensic reporting.

Introduction

Forensic assessments provide a medical, psychiatric or psychological report to assist the court in its decisions. Although treatment issues may emerge in the assessment process, the primary purpose of the forensic assessment is legal and not therapeutic or for treatment purposes [1].

Forensic assessment is used when a psychologist is hired to answer a specific legal question (i.e., competency, insanity, etc.). Depending on the specific question, the psychologist will conduct a clinical interview, collateral interviews (e.g., with witnesses, family, friends, attorneys, police officers, etc.) review records (i.e., medical, psychological, criminal, school, etc.), administer psychological tests, and form a conclusion to answer the legal question.

The importance of forensic assessments cannot be stressed enough in the legal context [2]. Mental health professionals provide a desperately needed service in completing forensic assessments so that justice will be served based on scientific evidence rather than the subject's behavior and speech alone. Forensic assessments are incredibly significant to the legal parties, the judge, counsel for the parties, and the justice system as a whole.

Written forensic expert reports are a key product of forensic assessments performed by qualified experts for courts. Forensic report writing is a core skill of a forensic professional, bridging the gap between the underlying psychological assessment and in-court testimony. ... Thus, the quality of the written reports is of paramount importance[.]

Additionally, forensic psychological evaluations have become a valuable resource for the criminal justice system by assessing risk for violence and aiding in community reintegration [3,4].

Legal Language in General

Legalese

Legalese is defined as “the specialized language of the legal profession [5].” It includes Latin words and phrases that are seen as unnecessary and outdated now. For example, this is a retelling of the popular Jack and Jill story in legalese:

The party of the first part hereinafter known as Jack ... and ... The party of the second part hereinafter known as Jill ...

Ascended or caused to be ascended an elevation of undetermined height and degree of slope, hereinafter referred to as “hill”.

Whose purpose it was to obtain, attain, procure, secure, or otherwise, gain acquisition to, by any and/or all means available to them, a receptacle or container, hereinafter known as “pail”, suitable for the transport of a liquid whose chemical properties shall be limited to hydrogen and oxygen, the proportions of which shall not be less than or exceed two parts for the first mentioned element and one part for the latter. Such combination will hereinafter be called “water”.

On the occasion stated above, it has been established beyond reasonable doubt that Jack did plunge, tumble, topple or otherwise be caused to lose his footing in a manner that caused his body to be thrust into a downward direction.

As a direct result of these circumstances, Jack suffered fractures and contusions of his cranial regions. Jill, whether due to Jack’s misfortune or not, was known to also tumble in similar fashion after Jack. (Whether the term “after” shall be interpreted in a spatial or time passage sense has not been determined.)

Note that the inessential and superfluous language actually hinders one from grasping the simple facts of a children’s story. Additionally, the telling of the story takes much more time and the reader must slow down to make sure s/he comprehends the language in order to understand the story [6].

Legal professionals no longer want to work so hard to discern legal arguments, facts, and conclusions, especially since many

are difficult to understand even in plain English. When writing forensic assessments, forensic professionals should make sure to also use plain language, or use a scientific word and then give an explanation [3].

Plain English or plain language

Legal professionals are not scientists. Accordingly, some words that are so common in the psychological community need to be explained in a legal report. For instance, an assessor might recommend placing a juvenile in a “therapeutic setting.” Most legal professionals would understand that “therapeutic” is closely related to the word “therapy,” but best practices demand that such a phrase be defined. Even better, the assessor should give examples, such as:

I recommend that A.B. be placed in a therapeutic setting, which are places designed to be healing and not punitive, including an in-patient mental health care facility, a halfway house with similar teenagers and available medical care, or a relative’s home where she can receive outpatient mental health care, etc.

Legal professionals may also benefit with definitions and/or examples of these words and phrases that sometimes appear in forensic assessments:

Juvenile decertification	Rehabilitation
Forensic examination	Ideation
Well-oriented	Oppositional qualities
Presents	Expansive mood
Mien	At risk
Any disorder/diagnosis	Treatment intervention
Any medication	Therapeutic serum levels
Secure environment	Boundary event
Confinement	Contextual factor
Stabilize	Preliminary opinion
Punitive environment	Neglect
Consistent	Placement

It is a progressive idea to eliminate forensic jargon altogether, when possible.

Virtually every authority on forensic psychology report writing recommends removing jargon from one’s reports, so it comes as some surprise that the presence of jargon is still one of the top 10 faults found in forensic reports submitted by forensic psychology diplomate candidates, whom one would presume to be advanced practitioners. Jargon simply stands in the way of clear communication in a forensic report. Some report writers have become so inured to the jargon they use in their daily work and conversations that they do not even identify their frequently used terms as jargon. Examples include failing to explain to the lay reader what a particular medication is used

for, or expecting everyone to know what “oriented times three” means [7]. This also includes acronyms [8].

In general, there are certain grammatical lessons that pertain to any type of report. For example, use the present tense for things that are happening in the present. When discussing someone’s history, use the past tense. And of course, when discussing the future, use the future tense. Additionally, write in the positive, instead of the negative. For example, a positive sentence is “Listen to people who have lived long lives.” A negative sentence is “Do not listen to people who have not lived long lives.” Notice that the sentence written in the negative uses two negative words (“not”), and partially contradicts the sentence. It also uses more words that can make writing less concise.

Forensic reports differ from clinical reports in both content and style to meet the demands of the legal system. The reports vary in content because they answer a forensic question that likely requires different data or a different method of acquiring data than a clinical report. The style is different because the report is provided to a different audience, or multiple audiences. By necessity, the report must be more detailed, precise, clearly written, and substantiated by evidence than a clinical report.

Concision, or conciseness, is a goal for which writers should strive. It makes both reading and writing easier and faster [8]. Using action verbs will help assessors be concise. For instance,

Instead of:	Use:
Give consideration to	Consider
Is applicable to	Applies to
Is concerned with	Concerns
A person who is honest	An honest person
A total of 14 birds	14 birds
Close proximity	Proximity
Completely unanimous	Unanimous
Consensus of opinion	Consensus
Cooperate together	Cooperate
Each and every	Each
End result	Result
Exactly the same	The same
Important/basic essentials	Essentials
In spite of the fact that	Although
In the field of psychology	In psychology
In the event that	If
Particular interest	Interest
Period of four days	Four days
Puzzling in nature	Puzzling
Refer back	Refer
Repeat again	Repeat
Revert back	Revert

Summarize briefly	Summarize
Surrounding circumstances	Circumstances
Not honest	Dishonest
Did not remember	Forgot
Did not pay attention to	Ignored
Did not remain	Left
Because of the fact that	Since/because
For the period of	For
Did not succeed	Failed
In the nature of	Like
The question as to whether	Whether

Additionally, the entire written assessment will be clearer to all parties, including the assessor [9]. The forensic professional will avoid confusion and the writing will be more direct and helpful to the court.

Another issue is transitioning throughout the document. Using the following transitions between sentences and between paragraphs will be beneficial in emphasizing and explaining particular facts:

Add: and, again, and then, besides, equally important, finally, further, furthermore, nor, too, next, lastly, what’s more, moreover, in addition, first (second, etc.)

Compare: whereas, but, yet, on the other hand, however, nevertheless, on the contrary, by comparison, where, compared to, up against, balanced against, vis a vis, although, conversely, meanwhile, after all, in contrast, despite, sometimes, occasionally, once in a while

Prove: because, for, since, for the same reason, evidently, furthermore, moreover, besides, indeed, in fact, in addition, in any case, that is

Show time: immediately, subsequently, thereafter, soon, after a few hours, finally, then, later, previously, formerly, first (second, etc.), next

Emphasize: definitely, extremely, in fact, indeed, absolutely, positively, naturally, surprisingly, always, forever, eternally, never, emphatically, unquestionably, without a doubt, certainly, undeniably, without reservation, unequivocally

Summarize or conclude: in brief, on the whole, summing up, to conclude, in conclusion, hence, therefore, accordingly, thus, as a result, consequently

Adding to the concision of the assessment, some psychiatrists have offered a way to make understanding the document easier: (a) limit sentences to twenty-four words or fewer; (b) limit paragraphs to ten sentences or fewer; (c) limit sections to ten paragraphs or fewer; and (d) use a title for each section [10]. These tips should facilitate an efficient report, and subsequently, a just court disposition [11].

Legal Format for Forensic Assessments

General legal format

For common legal documents like trial memoranda and appellate briefs, legal professional generally follow this format:

- Issue/Question Presented
- Brief Answer
- Law/Rule
- Legal Analysis
- Conclusion

For instance, the skeleton of a legal document may look like this:

The issue is whether the defendant is guilty of accessory to murder when the shooter used her gun.

The defendant is not guilty of accessory to murder because the shooter used the gun without the defendant's knowledge.

Abrams v. Dawson, 123 S.W.2d 456 (2018)^[1], is the case that governs this case. Under *Abrams*, to be convicted of an accessory charge, the accused must have had actual knowledge that a crime was going to be, or had been, committed. Additionally, there must be proof that the accessory knew that her action, or inaction, was helping the criminal commit the crime, evade detection, or escape. For example, a person who unknowingly houses someone who has just committed a crime shall not be charged with an accessory offense because she did not have knowledge of the crime.

In the case at bar, the defendant was out of town when the shooting occurred. She had no contact with the shooter until several days after the incident, when she returned from vacation. She did not even realize that her gun was missing until the police interviewed her. The shooter admitted that he did not tell the defendant of his plan to use her gun before the defendant went on vacation. The shooter also stated that he threw the gun into the river after he committed the murder and never informed the defendant that he had taken her gun. Furthermore, there is no proof that the defendant knew that the gun in her home helped the shooter commit the murder. As stated in *Abrams*, a person who unknowingly aids a criminal cannot be guilty of accessory. Accordingly, the defendant here is not guilty of accessory to murder because she simply had no knowledge of the crime or even the circumstances of the shooting.

The defendant in the case at bar is not guilty of accessory to murder because she had no knowledge of the shooter's criminal act.

¹Not a real case.

A forensic assessment can be formatted in a similar way [2,10].

Beginning

At the beginning of the forensic assessment, assessors should include the following information: (1) the defendant's name; (2) the defendant's case number; (3) the charges against the defendant; (4) the referring party; and (5) the type of assessment. Also include the defendant's date of birth, gender, age, date of the offense, date of the arrest, the assessor's name, place of evaluation, and type of evaluation. Indicate that the defendant has been informed about: (a) the lack of confidentiality; (b) the purpose of the evaluation; (c) the fact that the information will be revealed to the court as a report; and (d) the defendant can refuse to participate in the assessment, although a report will still be completed and handed to the court. (UMass Medical School).

Issue and conclusion

Next, state the issue or the question presented, such as, "The issue is whether the defendant, A.B., is competent to stand trial." Sometimes, there is more than one issue. In that case, list the questions to be answered in the assessments as follows: "The questions presented are: (1) if the juvenile, A.B., is competent to stand trial; (2) if she should be tried in court as an adult for the offense of burglary; and (3) if she requires a therapeutic or punitive environment."

Once the issue(s) has been stated, a brief answer just underneath, similar to the legal document's brief answer should immediately follow. For instance, the brief answer may state the following:

It is my conclusion that A.B. is competent to stand trial. In addition, she should not be tried in court as an adult. She should be tried as a juvenile. A.B. requires a therapeutic environment, such as in-patient rehabilitation, for at least six months.

This approach gives the court a roadmap for what will follow in the remainder of the assessment. Legal professionals and others appreciate an overview of an analysis prior to reading the entire document. Forecasting helps the reader to predict what is coming next in the assessment. Thus, the beginning of a forensic assessment should look like this:

Name: A.B. (juvenile), DOB 1/1/2005, Age: 13
 Case No: 123 CVS 456
 Charges: Accessory to Murder
 Referring Party: Black County Superior Court, Hon. Susan Smith
 Offense Date: 5/1/2018
 Arrest Date: 5/10/2018
 Evaluation for competency and juvenile decertification
 Forensic Assessor: P.J. Maynard, M.D.

- ✓ I have informed A.B. about the absence of confidentiality of this report
- ✓ I have informed A.B. about the purpose of this evaluation
- ✓ I have informed A.B. about the fact that this information will be revealed to the court in a report
- ✓ I have informed A.B. that she may refuse to participate in the assessment, although a report will still be completed and handed to the court.

If there is any other legal information, place it in this section. Next, list the sources of data used in collecting a history of the defendant [12].

Chronology

This may perhaps be the most difficult section of the assessment to write because the assessor has information from many facets of the defendant's life, including data from court, attorneys, witnesses, interviews, police, medical records, and school records. It is up to the forensic professional to review and record all pertinent information in the assessment. However, the need to write chronologically is where many evaluators fall short of the mark. It is undisputed that the easiest way to preserve the defendant's information is to summarize each piece of datum separately and let the reader draw it together. Nonetheless, condensing the evidence in a vacuum does not provide context for the assessment and does not help the court fully comprehend the defendant's particular history.

To fix this problem, the assessor must work harder to show the defendant's whole person, as assessed, to the court. Many evaluators start the historical section by listing dates and occurrences and then adding in sentences and transitions so that the writing makes sense. It is a time-consuming endeavor, but best practices demand a full, chronological history [8].

Equally important is the need to attribute factual information to the sources it came from, which will show its relevance. This can be accomplished by putting together all of the evidence considered into an attachment or appendix at the back of the report and then simply referring to a page number like so: "On 8 February 2010, A.B. was suspended from school for smoking in the restroom. (Appx. 67)." Additionally, include only information that is relevant to the purpose of the assessment. Sometimes there will be conflicting information. Include the fact that the information conflicts and then give the information objectively. It will be up to the judge to determine which fact is more credible. Moreover, make sure to include only facts; stay away from inferences, opinion, and speculation [8,12].

Forensic testing

There are a plethora of tests forensic professionals use. The tests

are not law-based and legal professionals do not understand what each test measures, or what the outcome means. Therefore, when discussing test results, assessors should give the name of the test, describe what it measures, and then explain what the defendant's performance on the test means.

For example, an assessor can write, "I administered the Bender Visual-Motor Gestalt Test to A.B. Her designs were in the normal range. Nevertheless, the placement of her figures showed spontaneity and impulsiveness." This sentence is like a foreign language to a legal professional. Instead, evaluators should modify the sentence so that it is easier to understand, even though it may take more time to explain. Try this:

The Bender Visual-Motor Gestalt Test measures visual-motor functioning, developmental disorders, and neurological impairments. It consists of nine index cards picturing different geometric designs. The cards are presented individually and patients are asked to redraw each one from memory before the next card is shown. Test results are scored based on the accuracy and organization of the reproductions.

A scoring system does not have to be used to interpret performance on the Bender Gestalt Test; however, there are several reliable and valid scoring systems available. Many of the available scoring systems focus on specific difficulties experienced by the test taker. These difficulties may indicate poor visual-motor abilities that include:

Angular difficulty: This includes increasing, decreasing, distorting, or omitting an angle in a figure.

Bizarre doodling: This involves adding peculiar components to the drawing that have no relationship to the original Bender Gestalt figure.

Closure difficulty: This occurs when the examinee has difficulty closing open spaces on a figure, or connecting various parts of the figure. This results in a gap in the copied figure.

Cohesion: This involves drawing a part of a figure larger or smaller than shown on the original figure and out of proportion with the rest of the figure. This error may also include drawing a figure or part of a figure significantly out of proportion with other figures that have been drawn.

Collision: This involves crowding the designs or allowing the end of one design to overlap or touch a part of another design.

Contamination: This occurs when a previous figure, or part of a figure, influences the examinee in adequate completion of the current figure. For example, an examinee may combine two different Bender Gestalt figures.

Fragmentation: This involves destroying part of the figure by not completing or breaking up the figures in ways that entirely lose the original design.

Impotence: This occurs when the examinee draws a figure inaccurately and seems to recognize the error, then, he or she

makes several unsuccessful attempts to improve the drawing. **Irregular line quality or lack of motor coordination:** This involves drawing rough lines, particularly when the examinee shows a tremor motion, during the drawing of the figure.

Line extension: This involves adding or extending a part of the copied figure that was not on the original figure.

Omission: This involves failing to adequately connect the parts of a figure or reproducing only parts of a figure.

Overlapping difficulty: This includes problems in drawing portions of the figures that overlap, simplifying the drawing at the point that it overlaps, sketching or redrawing the overlapping portions, or otherwise distorting the figure at the point at which it overlaps.

Perseveration: This includes increasing, prolonging, or continuing the number of units in a figure. For example, an examinee may draw significantly more dots or circles than shown on the original figure.

Retrogression: This involves substituting more primitive figures for the original design—for example, substituting solid lines or loops for circles, dashes for dots, dots for circles, circles for dots, or filling in circles. There must be evidence that the examinee is capable of drawing more mature figures.

Rotation: This involves rotating a figure or part of a figure by 45° or more. This error is also scored when the examinee rotates the stimulus card that is being copied.

Scribbling: This involves drawing primitive lines that have no relationship to the original Bender Gestalt figure.

Simplification: This involves replacing a part of the figure with a more simplified figure. This error is not due to maturation. Drawings that are primitive in terms of maturation would be categorized under “Retrogression.”

Superimposition of design: This involves drawing one or more of the figures on top of each other.

Workover: This involves reinforcing, increased pressure, or overworking a line or lines in a whole or part of a figure.

A.B.’s drawings showed simplification, which is indicative of regression. There were no scribbling or omissions apparent.

There is probably no need to use all of the above descriptions; just use the ones that are relevant to the defendant. In the above example, only the descriptions for simplification, scribbling and omission would need to be shown [13].

Analysis

In the analysis, the forensic assessor should combine the known and relevant facts with the results of any administered tests and develop a diagnosis, conclusion, and recommendation. Furthermore, [t]he importance of the forensic report makes the task more demanding for [assessors]. A forensic report is usually subjected to a high degree of scrutiny, from both

attorneys and the judge. One person is always trying to discredit the evaluator or the report, and the evaluator must, therefore, write the report as though every word is meaningful. It is necessary for written findings to be presented in a manner that “anticipates critical analysis, disagreement, or even verbal confrontation on cross-examination.”

Hence, make the analysis simple to understand and easy for legal professionals to follow the logic, which leads to the conclusion [8].

Conclusion and recommendation

Make this section the most important part of the report, even though it may be the shortest section. The conclusion and recommendation should be stated directly and unequivocally [8]. The recommendation should reference pertinent facts and test results discussed earlier in the assessment. The conclusion should evolve from solid evidence upon which the forensic professional relied. It should also address only the question presented to the assessor. One of the most frequent faults in forensic assessments are opinions without sufficient explanations. These explanations should also be in terms that a legal professional can reasonably understand [12].

Adjudications and Dispositions

Competency hearings

In *Dusky v. United States*, 362 US 402 [14], the US Supreme Court considered what happened before and during trial. Dusky had been charged with kidnapping and rape. After his arrest, he claimed that he did not remember what had happened. He was taken to a mental hospital, where one psychiatrist opined that Dusky was faking and that he remembered everything. A second psychiatrist found that Dusky “was mentally ill with a diagnosis of schizophrenia, and that because of this illness, he was unable to properly understand the proceedings against him and to adequately assist counsel in his defense.” (U. Va., 2018). Even though Dusky had a history of schizophrenia, at trial, he was found guilty and sentenced to prison time. However, the US Supreme Court eventually granted a petition to hear the case. The Supreme Court held that the facts in the case did not support the trial court’s finding that Dusky was competent to stand trial. Thus, Dusky stands for the rule that a defendant must have the mental capacity to be understand the proceedings and be able to consult with and aid her lawyer in her defense. Otherwise, the defendant is not competent to stand trial [15].

In order to determine competency, forensic assessments are necessary. Competency to stand trial is the most common type

of criminal forensic evaluation, with approximately 60,000 evaluations conducted annually in the United States. That is, between 2% and 8% of all felony defendants are referred for evaluations of competency to stand trial each year.

Due to the high number of competency assessments, it is paramount that evaluators are clear in their analyses and conclusions, especially since approximately twenty percent of defendants referred for an assessment are found to be incompetent. If a defendant is deemed incompetent, then s/he must be referred to treatment in order to have competency restored [15].

Therefore, it is important for assessors to conclude clearly and directly: (1) whether the defendant is competent to stand trial; and if not (2) what type of treatment the defendant will need to restore competency. Thus, competency assessments are two-fold. Furthermore, (a) competency to confess (waive Miranda rights); (b) competency to plead guilty; and (c) competency to waive the right to counsel are all included in competency assessments. The defendant must understand the criminal charges, the implications of being a defendant, the adversarial nature of the proceedings, and the role of the judge, jury, prosecutor, and defense counsel. She must show an ability to work with her attorney, relate pertinent information, and strategize with counsel [16].

Forensic professionals should understand that “a mental disease or defect serves as a prerequisite for a determination of incompetency, and any deficits in the relevant psycholegal abilities must be linked to this mental disease or defect.” Moreover, the assessor must incorporate mental deficiencies with the specific defendant and her criminal case [15].

Most competency assessments are submitted to the court and no testimony from the forensic professional is needed. Studies show that up to ninety-five percent of judges rule on competency based on the forensic assessment [15].

Juvenile offenders

Juvenile crime is rising, requiring more forensic professionals to provide assessments to the court. Most forensic assessments done for juveniles are to determine the best interests of the child, and whether she will eventually be successful in society. The role of the assessor is to act as an objective expert, not as a therapist with a duty to the juvenile. The duty is to the court; thus, the assessor should be sure to explain this to the juvenile at their first meeting, taking into account that juveniles can be less able to understand the distinction [17].

The forensic professional should assess risk for dangerousness, whether the minor can/should testify in court, and credibility.

Assessors should use clear language when describing the juvenile’s maturity level, emotional and developmental level, attitude, environment, educational history, medical history, past criminal history, mental health, and physical health. Additionally, the assessor will need to write about the potential for rehabilitation of a juvenile offender by being specific about essential treatments available [18].

Child custody proceedings

Unlike most forensic assessments, child custody assessments are frequently sought by parents in civil child custody battles. In this case, the forensic professional is to assess what living and visitation arrangement would be in the child’s best interests. Even if the assessor is contracted by a parent, the forensic assessment will be admissible and used in court to aid in making the decision [19].

Most importantly, this type of assessment usually means more evaluations, as both parents will need to be evaluated, as well as each child in the family. The child(ren) will also need to be evaluated in a custody and/or visitation environment. In addition to evaluating the arrangements, the forensic professional will also need to determine whether the child(ren) need therapy to adjust to the post-separation of their parents [19].

The American Psychological Association has specific guidelines for child custody evaluations. They are:

- I. Orienting Guideline: Purpose of the Child Custody Evaluation
 1. The purpose of the evaluation is to assist in determining the psychological best interests of the child.
 2. The child’s welfare is paramount.
 3. The evaluation focuses upon parenting attributes, the child’s psychological needs, and the resulting fit.
- II. General Guidelines: Preparing for the Child Custody Evaluation
 4. Psychologists strive to gain and maintain specialized competence.
 5. Psychologists strive to function as impartial evaluators.
 6. Psychologists strive to engage in culturally informed, nondiscriminatory evaluation practices.
 7. Psychologists strive to avoid conflicts of interest and multiple relationships in conducting evaluations.
- III. Procedural Guidelines: Conducting the Child Custody Evaluation
 8. Psychologists strive to establish the scope of the evaluation in a timely fashion, consistent with the nature of the referral question.
 9. Psychologists strive to obtain appropriately informed consent.

10. Psychologists strive to employ multiple methods of data gathering.
11. Psychologists strive to interpret assessment data in a manner consistent with the context of the evaluation.
12. Psychologists strive to complement the evaluation with the appropriate combination of examinations.
13. Psychologists strive to base their recommendations, if any, upon the psychological best interests of the child.
14. Psychologists create and maintain professional records in accordance with ethical and legal obligations [20].

In addition, forensic professionals should realize that, depending on the jurisdiction, they are prohibited from making an express recommendation as to which parent should be awarded legal and/or physical custody. The recommendation should be couched in language of guidance [21].

Insanity defenses

Contrary to popular opinion, very few defendants are able to successfully use insanity as a defense. About one percent of defendants charged with a felony claim insanity. Of those, only twenty percent are found to actually be insane. The Federal Insanity Defense Reform Act of 1984 made the M’Naghten Rule the legal standard for claiming insanity. Under the M’Naghten Rule, a defendant is insane if, at the time of the alleged criminal act, the defendant did not know the nature or quality of her actions, or did not know what she was doing was wrong. States use different versions of this rule for insanity [22].

An important difference between insanity and competency assessments is that competency looks solely at the defendant’s state of mind at the time of trial. In contrast, insanity refers to the defendant’s state of mind at the time of the offense. Because of this difference, forensic professionals need as much information that was gathered in the aftermath of the offense as possible (such as interrogations, hospital records, victim and witness statements, etc.). These may show bizarre behaviors that are useful in the assessment [22].

During the assessment, forensic professionals should strive to answer three queries: (1) did the defendant suffer from a mental disease or defect at the time of the offense; (2) did the defendant know the wrongfulness of the offense; and (3) what is the causal relationship between the defendant’s mental disease and criminal behavior? [22].

Conclusion

As aforementioned, forensic professionals provide an extremely important role in the legal environment. As experts, they are able to aid the court in making decisions when taking the defendant’s state of mind into account. Legal professionals

are not trained to do this on their own. To make forensic assessments more efficient and relevant to the defendant’s case, it is strongly suggested that forensic reports be submitted using a legal format and keeping the legal question foremost in mind. This should cure any confusion legal professionals may encounter when arguing on their parties’ behalf. It should also help the court in making a just decision for the betterment of the community.

References

1. Forensic Assessment (2018) Retrieved from <https://www.omicsonline.org/scholarly/forensic-assessment-journals-articles-ppts-list.php>
2. Greenfield DP, Gottschalk JA (2009) Writing forensic reports: A guide for mental health professionals. Springer, New York, USA.
3. Goodman-Delahunty J, Dhimi MK (2013) A forensic examination of court reports. *Australian Psychologist* 48: 32-40.
4. Kim R (2018) Benefits of Forensic Psychological Evaluations.
5. Merriam-Webster (2011) Merriam-Webster’s dictionary of law. Merriam-Webster, Springfield, USA.
6. From Words to Deeds: Translation and the Law (2013) Monday Smiles - Jack and Jill [Blog post].
7. Witt PH (2010) Forensic report checklist. *OAJFP* 2: 233-240.
8. Brannick ME (2015) Guidelines for forensic report writing: Helping trainees understand common pitfalls to improve reports. *University of Denver Doctoral Papers and Masters Projects*, 63.
9. US National Archives and Records Administration (2016) Drafting legal documents: Principles of clear writing. National Archives, USA.
10. Newell P, Peterkin TJ (2011) The journey to excellence in legal writing. Cognella, Durham, NC, USA.
11. Berger SH (2008) Template for quickly creating forensic psychiatry reports. *J Am Acad Psychiatry Law* 36: 388-392.
12. Grisso T (2010) Guidance for improving forensic reports: a review of common errors. *OAJFP* 2: 102-115.
13. Encyclopedia of mental disorders. (n.d.). Re: Bender Gestalt Test [online forum content].
14. Dusky v. United States, 362, US 402 (1960) Juvenile competency attainment research & development center.
15. iResearchNet (2018) Competency to stand trial.
16. Hoge SK (2016) Competence to stand trial: An overview. *Indian J Psychiatry* 58: 187-190.
17. Buratto S, Dinwiddie SH (2013) Health Law: Juvenile forensics psychiatric evaluations. *American Medical Association Journal*

-
- of Ethics 15: 860-865.
18. Juvenile offender (n.d.). Issues in Forensic Psychology.
19. Franklin DJ (2011) Child custody evaluations. Psychology Information Online.
20. American Psychological Association (2010) Guidelines for child custody evaluations in family law proceedings. Am Psychol 65: 863-867.
21. Merry SJ (2018) Forensic evaluation: the child custody report. Dads Divorce.
22. Knoll JL, Resnick PJ (2008) Insanity defense evaluations: basic procedure and best practices. Psychiatric Times 25.