Psychological reports for sentencing juveniles in Australian courts

Debra Bycroft*, Greg E. Dear and Deirdre Drake

Psychology and Criminology, Edith Cowan University, Joondalup, Australia

Psychological reports for use in court must be relevant to the legal issues in dispute, meet professional standards, and reflect evidence-based practice. Using the Delphi method, a high degree of consensus was found among Australian experts in the methodology and knowledge required for conducting forensic mental health assessment (FMHAs) and the content needed in pre-sentence reports. Consensus was absent in two areas, if a pre-sentence report should always include a risk-assessment; and the need for a model to guide the FMHA. Without a model it is difficult for practitioners to justify their decision-making process, and judicial officers have no mechanism to determine if the work provided to the court is of an acceptable standard. Future research should focus on developing a model for presentence reports that includes a decision-making process and minimum standards. Researchers also need to determine judicial officers' views on the helpfulness of presentence reports.

Keywords: pre-sentence; FMHA; juvenile; psychologist; Australia; report; expert witness

The aim of conducting a forensic mental health assessment (FMHA) is to 'assist legal decision-makers to make decisions about the application of laws requiring consideration of the individuals' mental conditions, abilities, and behaviours' (Heilbrun, Grisso, & Goldstein, 2009, p. 15).

An FMHA comprises two components: the evaluation and the report. The evaluation involves the collection and analysis of data that address the referral question. The report presents the practitioner's opinions and recommendations, detailing the data that these opinions and recommendations are based upon. The current study focuses on one specific type of FMHA: pre-sentence reports on Australian juvenile offenders.

In Australia the majority of juvenile offenders are dealt with through specialist

children's or youth courts within each jurisdiction. Most children plead guilty to their offences (Cunneen, White, & Richards, 2015), which results in the children's courts having a minimal role in testing evidence and determining guilt. A major role of the courts is to determine the most appropriate sentence for young people. To assist them in this task, legal decision-makers (i.e. judicial officers responsible for the sentencing task) may call upon psychologists to conduct an FMHA of the young person and provide the result of this assessment in a psychological pre-sentence report for the court.

In some jurisdictions (e.g. Northern Territory, Queensland) a pre-sentence report is required before sentencing or when a sentence involving detention is being considered. In jurisdictions where the need for a pre-sentence

*Correspondence: Debra Bycroft, Psychology and Criminology, Edith Cowan University, 270 Joondalup Drive, Joondalup, WA 6027, Australia. Email: dbycroft@our.ecu.edu.au

report before sentencing is optional (e.g. Tasmania, Australian Capital Territory) a pre-sentence report can be requested if the court requires an expert opinion on the most appropriate way of dealing with the young person in question. Regardless of why it is requested, the aim of the pre-sentence report is to help the court to determine the most appropriate sentence or disposition for the young person (Cunneen & White, 2007; White, Day, & Hackett, 2007).

For a pre-sentence report to be helpful to the court it needs to contain information that is relevant to the legal proceedings and it needs to reflect a methodology that is scientifically rigorous and meets the relevant professional standards (Shuman & Zervopoulos, 2010; White et al., 2007). Typically, courts focus more on the helpfulness of the opinions expressed by mental health professionals than on the scientific rigour of their methods (Melton, Pettila, Poythress, & Slobogin, 2007). This focus places the onus on the practitioner to ensure that the FMHA is a quality product based on sound methodology.

Pre-sentence reports have an influence on sentencing decisions (Freiberg, Fox, & Hogan, 1988). The FMHA evaluation and report can have an impact on both the young person's future and the professional credibility of the practitioner who has conducted the evaluation and written the report (White, Day, Hackett, & Dalby, 2015). However, the current understanding of what information is helpful to the court and what the mental health practitioner should be doing in a FMHA in order to maximise the helpfulness of the assessment for the court is limited.

Case law and rules of evidence require that expert opinions are based on empirical methods that are rigorously conducted, so the onus is on the practitioner to ensure that she or he uses an appropriate (scientifically rigorous) and effective (of assistance to the court) evaluation methodology (Freckelton & Selby, 2018).

The court has rules for expert evidence, practice standards and codes of conduct that

help to guide the evaluator regarding what information is required. The acts, rules and guidelines differ among the states and territories in Australia. For example, in some jurisdictions (e.g. New South Wales and Victoria) the Uniform Evidence Act applies, whereas for other jurisdictions such as Queensland, South Australia and Western Australia the Uniform Evidence Act is not applicable and the common law of evidence applies (Freckelton and Selby, 2018; Kumar, Odgers, & Peden, 2012).

Guidance on the content required in pre-sentence reports can be obtained from reviewing the legislation and practice directions applicable to the jurisdictions (e.g. in New South Wales the Young Offenders Act, 1997; in the Australian Capital Territory the Children and Young People Act, 2008 and the Crimes (Sentencing) Act, 2005; and in Western Australia the Young Offenders Act, 1994). The guidance provided in these acts varies between jurisdictions and can be limited, and the issue of methodology is not addressed.

The published literature does not provide adequate guidance on the standards that should be adopted by Australian practitioners tasked with preparing a pre-sentence report. There are no professionally endorsed practice standards that clearly articulate which evaluation methodologies to use or what content to include in a pre-sentence report submitted to an Australian juvenile court. The absence of such standards gives rise to two problems. First, practitioners have no mechanism that they can use to ensure that their work is of acceptable quality. Second, it is difficult for judicial officers to determine if a report reflects an adequate evaluation methodology. A report might be well written and seemingly cogent but based on flawed evaluation methods (incorrect use of psychological tests, inappropriate interviewing techniques, etc.). Such flaws might not be apparent without a cross-examination of the report writer, which rarely occurs in sentencing matters within Australian juvenile courts.

Upon carrying out a search of the literature, four broad categories of information were identified that practitioners can draw upon when undertaking a pre-sentence FMHA: ethics, broad practice principles (which provide an approach to the whole FMHA process), forensic assessment methods (which focus on one or more elements of the FMHA process) and legislation. Each category of information has a different focus and different shortcomings, and none on its own provides sufficient guidance to forensic practitioners. Each category is discussed below.

Ethics

The Australian Psychological Society (APS) has published the *Code of Ethics*, which enunciates the ethical principles and standards for professional conduct (Australian Psychological Society, 2007). It has also published *Ethical Guidelines for Psychological Practice in Forensic Contexts*, which clarifies how to apply the *Code* when psychologists work in forensic contexts (Australian Psychological Society, 2013). The *Code* and the *Ethical Guidelines* provide limited guidance on the required standard for a forensic evaluation because they focus on ethical conduct rather than on appropriate forensic methodology. For example, *Code* standards A.7.4 and A.7.5 outline the need to obtain consent when collecting information from associated parties.

The *Code* provides guidance on data collection, and the information that psychologists should provide to their clients and associated parties in order to ensure that informed consent is obtained before the data are collected. It requires that the client understand the purpose of collecting the data, how it will be collected and how long and where it will be stored. The *Ethical Guidelines* expands on this part of the *Code* to emphasise that psychologists should only access the information that is pertinent to their role in the matter – although how practitioners determine what information is pertinent

is not articulated in the *Code* or the *Ethical Guidelines*. Whilst adhering to codes of ethical conduct can impact on the quality of what psychologists do (see Allan & Grisso, 2014), these codes do not inform practitioners on the methodology that should be followed (i.e. what they should do) when completing a pre-sentence FMHA. These ethical codes and guidelines are further limited in that they apply only to practitioners who are psychologists – but not all pre-sentence reports are completed by psychologists.

A model would provide a decision-making process that can guide practitioners on how to determine what is pertinent information and the factors to consider when determining what methods should be used to obtain this information. In this context, the term ‘model’ is used to describe a decision-making process that guides practitioners on what should be considered when making the decisions inherent in an evaluation (e.g. what data sources to use, what questions to ask, etc.) in a way that is non-prescriptive and therefore equally applicable to all referral questions, all offence types and all offender characteristics.

Broad practice principles

Heilbrun’s work provides a broad set of general practice principles for conducting FMHAs (Heilbrun, 2001; Heilbrun et al., 2009; Heilbrun, Marczyk, & DeMatteo, 2002). Heilbrun (2001) draws upon professional standards in the areas of psychology, psychiatry and law to identify 29 principles that are applicable when conducting an FMHA. These principles encompass all the facets of an FMHA, from pre-assessment preparation through to the collection and interpretation of the data and the communication of the findings. These principles provide an approach to conducting FMHAs that could be used to train forensic psychologists, encourage further research in the area and improve policy and practice standards in forensic assessment (Heilbrun, DeMatteo, & Marczyk, 2004).

The principles are yet to be endorsed as best practice by the American Psychological Association (Heilbrun & Brooks, 2010). The impact of applying Heilbrun's principles to FMHAs is still being evaluated (Heilbrun et al., 2009).

One such evaluation found a positive relationship between ratings of report quality and helpfulness and the number of Heilbrun's principles reflected in the FMHA report. Lander and Heilbrun (2009) examined the association between 20 of the 29 principles (9 principles cannot be assessed from reports) and experts' ratings on the relevance, helpfulness and overall quality of 125 reports addressing issues of competence to stand trial and hospitalisation for adult criminal offenders. Significant relationships between the number of principles present in the reports and experts' ratings on the relevance, helpfulness and overall quality of the report were found. The size of the relationships range from $r = .27$ to $r = .46$. The greater the number of Heilbrun's principles present in the report, the higher the rating of quality ($r = .27$), helpfulness ($r = .27$) and relevance ($r = .33$). There is also a positive relationship between report length and quality, with longer reports rating higher on overall report quality ($r = .46$). The results of this research suggest that having and adhering to FMHA standards can improve the quality and helpfulness of FMHAs (Lander & Heilbrun, 2009).

Heilbrun et al. (2009) incorporated other work that has appeared in the literature into Heilbrun's original principles: Brodsky's (1999) work on best practice in expert testimony, Melton et al.'s (2007) work on the nature and method of forensic assessment and Simon and Gold's (2004) work on the practice of forensic psychiatry were all reviewed and integrated into an updated set of principles for conducting general FMHAs. Heilbrun et al. (2009) retained 28 of Heilbrun's (2001) original 29 principles and added 10 new one, 7 of which are general principles and 3 of which relate specifically to expert testimony. They

also modified and extended 2 original principles relating to collecting data and addressing the ultimate issue. These principles are described by Heilbrun et al. (2009) as best practice and inspirational in nature.

The revised set of 38 principles is grouped into six categories. The general category identifies factors to be aware of before undertaking forensic work, such as having the appropriate training, remaining impartial, understanding the difference between the forensic and the clinical domains and knowing the literature that applies to the specific case. The preparation category covers the need for evaluators to be clear on the scope of their role and the purpose of the evaluation, and to select a model to guide the FMHA which is appropriate for the assessment. The data collection category emphasises the need for the ethical collection of relevant and reliable information from multiple sources, and the data interpretation category provides broad principles on analysing assessment data to form opinions relevant to the ultimate issue. The written communication category includes such principles as the need for data to be attributed to sources and for the report to be written clearly and presented in sections according to the model used. The final category relates to the effective provision of testimony.

For the present study, the six categories of principles of Heilbrun et al. (2009) were divided into three distinct domains of expertise: the knowledge required to complete an evaluation and report (i.e. the general and preparation categories); the methodology used (i.e. the data collection and data interpretation categories); and the report content (i.e. the written communication category). Because there is rarely a need for the expert witness to testify in court, the sixth category (i.e. testimony) is not addressed in the present research.

Heilbrun and Locklair (2016) recently reviewed the foundation principles of FMHAs (Heilbrun et al., 2009) to determine their applicability to juvenile evaluations. They believe that 30 of the 38 principles can be

directly applied to juvenile evaluations, with the remaining 8 only requiring minor adjustments before being applicable. The difference in age and maturity among juveniles, as well as the emphasis placed on rehabilitation and community safety within juvenile justice jurisdictions, all need to be considered (Heilbrun & Locklair, 2016). Despite the applicability of the general FMHA principles, Heilbrun and Locklair assert the need for the development of specific practice standards regarding a methodology to use for assessing juveniles. They state that practice standards would help to reflect the science and improve the quality of juvenile FMHAs, and ensure relevance to the courts (Heilbrun & Locklair, 2016).

Guidelines for conducting FMHAs specifically with juveniles are provided by Grisso (2013), who describes methods for the evaluation of juveniles for delinquency cases within the United States (US). Although the book does not directly address pre-sentence reports, it does cover two key elements of them: rehabilitation and risk.

Forensic assessment methods

In addition to the broad principles discussed above, the literature also provides information on: the general methods to use in forensic evaluations (e.g. Hecker & Steinberg, 2002; Heilbrun et al., 2004; Hoge & Andrews, 2010); factors to consider when writing the forensic report (e.g. Ackerman, 2006; Allnutt & Chaplow, 2000; Harvey, 2006); how to reduce practitioner bias (e.g. Mossman, 2013; Neal & Grisso, 2014); how to address cultural diversity (e.g. Weiss & Rosenfeld, 2012); how to prevent making common mistakes (e.g. Grisso, 2010; Martindale & Gould, 2004; Witt, 2010); and the impact of pre-sentence evaluations for juveniles (e.g. Campbell & Schmidt, 2000; Hecker & Steinberg, 2002; Morin, Cruise, Hinz, Holloway, & Chapman, 2015; O'Donnell & Lurigio, 2008).

Grisso (2013) provides specific guidance for conducting FMHAs of juveniles in what he

describes as a simple structure for rehabilitation evaluations. This structure involves asking questions in four areas: the characteristics of the youth that are relevant to the offending; the objectives of rehabilitation (i.e. what needs to change?); the most appropriate intervention methods to achieve these objectives; and the likely outcome of the intervention. Grisso (2013) also makes suggestions as to what should be addressed in a risk evaluation, including: using known risk factors; using structured and validated tools; focusing on risk estimates not predictions; addressing risk management; and taking into account legal, social and developmental contexts. The book is not meant as a standalone guide for practitioners. Grisso (1998) recommends supplementing the contents of his book with information, rules and procedures relevant to the specific jurisdiction applicable to the evaluation, as well as seeking experiential training and supervised practice.

Other examples of literature in the area of FMHAs include instructions on forensic report writing (Brown, Bowen, & Prescott, 2017; Greenfield & Gottschalk, 2009) and report writing for juveniles (Salekin, 2015).

Legislation

Information on the report content that is relevant to the legal arena can be obtained from reviewing the legislation applicable to the specific juvenile court system (e.g. in New South Wales the Young Offenders Act, 1997; in the Australian Capital Territory the Children and Young People Act, 2008; in Western Australia the Young Offenders Act, 1994). Practice directions within each state, and codes of conduct relevant to the jurisdiction, also provide guidance on what the court expects from the report. Practice directions generally clarify the issues or information that the court can consider for sentencing, but matters pertaining to assessment methodology are not addressed.

Sentencing legislation (e.g. Sentencing Act, 1991, Vic; Criminal Law (Sentencing) Act 1988, SA) is another source of guidance for practitioners, as it outlines the factors the court can consider when making sentencing decisions. Information contained in the legislation can be used by practitioners to ensure that their evaluation methodologies and subsequent reports result in information relevant to the sentencing process. The guidance that can be obtained from legislation relies on practitioners understanding what the legislation means and the implications it holds for evaluation methodology and report content.

Guidance can also be found in the rules of evidence applicable to each jurisdiction (e.g. Evidence Act, 1995, Cth) and the common-law evidentiary rules applicable to expert evidence (Freckelton & Selby, 2018). More recently, uniform evidence legislation has been introduced with the hope that it would be adopted across all jurisdictions within Australia. Some jurisdictions (e.g. New South Wales, Victoria and Tasmania) have enacted uniform evidence legislation, while others (e.g. Western Australia, Queensland and South Australia) continue to rely on common law. Understanding the rules around evidence will inform practitioners on what the court requires in terms of methodological rigour in FMHAs, and how to present data so that their reports are helpful to the court.

Helpfulness of the FMHA

It is the judicial officer who determines what is helpful to the court. In Australia, the judicial officer is the magistrate or judge who receives the report. It is up to the judicial officer to determine whether or not the evaluation methods followed by the practitioner and the conclusions drawn from these methods and presented in the report reflect acceptable standard practice. Based on this assessment, the judicial officer determines the probative value of the report, which is not only based on the reliability, relevance and helpfulness of the

information it contains but also on how well the reader understands the report's quality and helpfulness (Gould, 2004; Gould & Lehrmann, 2002).

Australian research examining judicial officers' perceptions of the helpfulness of court reports has found that reports submitted to the court do not always deliver the level of helpfulness that the court requires (Freckelton, Reddy, & Selby, 1999, 2001; Malsch & Freckelton, 2005; Swain, 2005). None of these studies pertain to the sentencing of juvenile offenders; however, consistent findings across forensic contexts suggests that these problems would apply to the sentencing of juvenile offenders as well.

The problem of FMHA report quality is not restricted to Australia. Similar concerns on the quality and helpfulness of FMHA reports have been expressed in countries such as France (Combalbert, Andronikof, Armand, Robin, & Bazex, 2014), the Netherlands (Duits, Van Der Hoorn, Wiznitzer, Wettstein, & de Beurs, 2012), Portugal (Guerreiro, Casoni, & Santos, 2014) and the US (Hecker & Steinberg, 2002; Morin et al., 2015).

Forensic evaluation requires knowledge of evaluation methodologies, legal concepts and professional standards (Melton et al., 2007). This knowledge is provided through specialised training in forensic psychology, which teaches practitioners how to apply psychological knowledge to the legal process and which assessment methodologies are best suited to use in the legal arena (Packer, 2008). Despite specialised forensic training being available through postgraduate courses across Australia, the pool of qualified forensic psychologists who undertake forensic work for the courts is shallow (Malsch & Freckelton, 2005). Over the past few years the number of postgraduate courses across Australia that offer forensic training has been reduced, with the Australian Psychology Accreditation Council (APAC) website listing only two universities that currently offer postgraduate courses in forensic psychology.

Allan, Martin, and Allan (2000) in their survey of 79 Australian psychologists found that 76% reported that they prepared at least one court report per month, but only 9.8% reported having specialised forensic training. This results in FMHAs being completed by practitioners without specialised forensic training who might not therefore have the knowledge recommended in the literature.

The current state is that practitioners without specialised forensic training are completing forensic reports (Allan et al., 2000). The pool of evaluators with specialised forensic skills who are available to conduct FMHAs is limited (Malsch & Freckelton, 2005). The availability of postgraduate training courses within Australia is limited, and likely to diminish further in the future (Australian Psychology Accreditation Council, 2018). It is also known that the reports provided to the court are not always considered helpful by the court, reflecting a wider international trend that is not just restricted to Australia.

The quality of the evaluation and the final FMHA forensic report impacts the professional credibility of the report writer, and has the potential to greatly impact the future of the young person who is the subject of the report – yet there is limited guidance on what the courts deem helpful to include in a report. To date, the problem of reports not being seen as helpful has not been addressed by the profession.

The ability of practitioners to provide the court with useful reports would be enhanced if there were greater clarity and detailed guidelines on the methods applicable to formulating assessment reports (Heilbrun & Brooks, 2010; Heilbrun, DeMatteo, Marczyk, & Goldstein, 2008; Shuman & Zervopoulos, 2010). Heilbrun et al. (2008) suggest that comprehensive practice guidelines in forensic psychology would help to resolve the problem of inconsistency and poor-quality FMHAs while also improving the satisfaction levels of the judicial officers who receive the reports. They suggest that the development of these guidelines

should be based on a strong consensus within the profession.

Based on the review of the literature conducted herein, for the profession to consider developing a practice standard and or guidelines it is first necessary to determine whether or not there is a shared understanding among practitioners on what should be provided in FMHA reports.

This research takes the first step to address the lack of a practice standard for FMHA pre-sentence reports for juvenile courts in Australia by investigating the degree of consensus among Australian psychologists with expertise in conducting pre-sentence FMHAs.

Heilbrun et al. (2009) provide an integrated and contemporary set of FMHA principles, grouping the principles into six categories: general, preparation, data collection, data interpretation, written communication and testimony. Based on these six categories, three areas that impact the quality of FMHAs were identified: the knowledge of the practitioner undertaking the assessment (the general and preparation categories); the methodology followed by the practitioner (the data collection and data interpretation categories); and the information or content of the pre-sentence report (the written communication category). The final category, which is related to giving testimony in courts, is not included, as verbal testimony is not common in cases regarding juveniles.

Research questions

This research addresses three questions:

1. What is the consensus among experts on the methodology that should be used when undertaking pre-sentence FMHAs for juveniles?
2. What is the consensus among experts on the knowledge required to inform this methodology?
3. What is the consensus among experts on the content of pre-sentence reports for juveniles?

Method

Participants

This research is exploratory. It is considered a starting point and a source of information that is needed in order to develop effective professional standards and guidelines for conducting FMHAs of juveniles. This research required psychologists who have expertise in conducting pre-sentence evaluations of juvenile offenders and writing pre-sentence reports for juvenile courts.

Participants were needed who could provide input on the domains of interest identified through the literature review. They needed to have the knowledge and skills required to undertake an FMHA, understanding of the methodology to be followed when undertaking an FMHA and knowledge of what information is required to be presented in the FMHA report.

An impartial selection process was needed in order to identify suitable participants. To this end, the National Executive Committee of the APS College of Forensic Psychologists was contacted and asked to identify suitable participants (i.e. experts) within each state. To assist the college in their decision-making process, they were informed that for inclusion in this study the experts would need to meet a minimum of four of the following six criteria:

1. Has knowledge of the literature that is applicable to forensic assessments;
2. Has qualifications and experience in conducting forensic assessment;
3. Is eligible for full membership in the APS College of Forensic Psychologists;
4. Is recognised by peers as highly competent in forensic assessment methodology;
5. Is experienced in completing forensic assessments in criminal proceedings;
6. Has published articles on assessment, assessment methodologies or a related area in peer-reviewed journals.

The College Executive identified 28 experts who met the inclusion criteria. Those experts were sent an information sheet outlining the purpose of the research, the commitment required of them and an assurance of anonymity. Of the 28 experts identified, 11 (40%) agreed to participate: 5 men and 6 women from 5 of the 6 states and 1 of the 2 territories within Australia.

Reporting of the demographic data is limited to state and gender due to a concern that participants would be known to each other or could easily be identified from more detailed demographic data. Two females and one male were from New South Wales, one male and one female were from South Australia, one male was from the Australian Capital Territory, one female was from Tasmania, two males were from Queensland and two females were from Western Australia.

Sample size

Qualitative research of this nature often has only six to ten participants (Braun & Clarke, 2013; Malterud, Siersma, & Guassora, 2016). Research like this (i.e. with a narrow scope, high sample specificity, a clear and obvious topic and clear communication methods between participants and research) requires fewer participants (Malterud et al., 2016; Morse 2000). While six participants would have sufficed, as is typical in this type of research data were collected from all eleven participants to ensure a comprehensive range of opinions.

Procedure

The e-Delphi method was chosen for this study because it provides an efficient way of identifying consensus points and enables participation when geographical distance might otherwise prevent it (Hasson, Keeney, & McKenna, 2000). The method allows for the identification of the knowledge and abilities of the experts both as individuals and as a collective. There were two phases to the data

collection: Phase One used a questionnaire, and Phase Two used a semi-structured interview to follow up on areas from Phase One where consensus was not evident.

In Phase One the participants were asked to respond to nine open-ended questions relating to the evaluation and report components of the pre-sentence FMHA. The nine questions relate to the three domains of interest: the knowledge required to undertake an FMHA evaluation; the methodology used in conducting the FMHA evaluation; and the content of the FMHA report. A list of the questions is provided in Appendix 1.

The participants' responses were analysed using the thematic analysis method outlined by Braun and Clarke (2013). This method involves a seven-stage analysis: transcription of the data; reading of and familiarisation with responses; coding across the whole data set; searching for themes; reviewing themes; defining and naming the themes; and writing. An inductive (data-driven, bottom-up) method was used to review the data and identify patterns. The focus was on looking for areas where there is consensus as well as where there is not consensus in the themes reflected in the responses within the three domains of interest. The themes were reviewed, modified and refined numerous times throughout the analysis phase.

There is no specific rule that defines what level of agreement reflects consensus in a Delphi study (Aylott, 2000; Boulkedid, Abdoul, Loustau, Sibony, & Alberti, 2011; Powell, 2003). It is left to the researchers to define the parameters of consensus. To determine the level of consensus among the participants on each of the identified themes, the number of participants who had articulated the theme anywhere in their response data was examined. Consensus is defined as being reached when the responses from nine or more of the eleven participants reflect the same view. When all the participants' responses were aligned with one of two or three distinctly different views then the term 'split

consensus' was used. If neither of those two conditions were met, the theme was coded as 'no consensus'.

Phase Two used a semi-structured interview to determine whether or not the participants were any closer to agreement on the few areas of difference identified in Phase One. The questions for Phase Two were sent to the participants by email and the responses were collected via individual telephone interviews. This method allows the response time to be shortened, reduces the effort required from the participants and allows for clarity to be sought on answers if needed.

Nine of the eleven participants responded to the structured interview in Phase Two, representing four of the six states and one of the two territories within Australia. Two female participants (one from New South Wales and one from Tasmania) did not respond to the structured interview in Phase Two.

In addition to Phase Two allowing for a more in-depth exploration of the differences in the participants' views identified in Phase One, it also provided additional depth to some of the areas in Phase One where consensus was already evident. A comprehensive thematic analysis was undertaken at the end of Phase Two; the data from both phases were combined and then analysed using the methods outlined by Braun and Clarke (2013).

Findings

A thematic analysis was conducted within each of the three domains pertaining to the research questions.

During data analysis a fourth domain of interest was identified. This domain relates to the helpfulness of the FMHA report. There is consensus among the participants on the purpose of the report, and there is also agreement that they would like to receive feedback on the helpfulness of the reports that they submit to the court.

A brief summary of each domain is provided in this section, with a focus on the areas where there was no consensus.

Practitioner knowledge

The practitioner knowledge domain refers to the knowledge that is required to successfully undertake a pre-sentence FMHA of a juvenile. This includes the ability of the practitioner to effectively apply her or his knowledge. There is consensus among the participants that completing an evaluation and writing a psychological pre-sentence report requires knowledge in both general as well as forensic areas of psychology. Table 1 provides a summary of the themes and sub-themes within this domain.

Areas of general psychology knowledge identified by the participants include: developmental psychology and family systems; the impact of trauma on development; theories of personality development; and the behavioural indications of mental ill health. According to the participants, practitioners also need to know how to integrate the psychometric and other assessment data into an informative case formulation, and have knowledge of interview techniques (e.g. how to interview without colluding or leading the interviewee, and asking questions in a way that does not provoke a defensive response).

The forensic psychology knowledge identified by the participants includes: knowledge of the relevant legislation and court procedures; knowledge of theories applicable to the area of juvenile justice (e.g. theories of offending, understanding criminogenic needs); knowledge of risk assessment tools and how to interpret them correctly; knowledge of the theoretical aspects of risk reduction and intervention options, the efficacy of these options and how they might reduce risk; knowledge of the role of the expert witness; and an appreciation of the difference between writing as a clinician for the general community and writing as a forensic clinician for the court.

Evaluation methodology

The evaluation methodology refers to the way in which the evaluation is performed and what information is covered in the evaluation, both of which impact on what information is available for inclusion in the report. The data in this domain are categorised into four themes: forensic mindset, forensic issues, sources of information and factors that influence methodology.

The forensic mindset is the need for the evaluator to take a forensic approach (e.g. be

Table 1. Level of consensus for the thematic categories within the practitioner knowledge domain.

Thematic category	Level of consensus
<i>General psychology</i>	
Theories of human development and human behaviour	Consensus (11/11)
Psychometrics and assessment tools	Consensus (11/11)
Interview techniques	Consensus (11/11)
<i>Forensic psychology</i>	
Relevant legislation and court procedures	Consensus (9/11)
Theories relevant to the area of juvenile justice	Consensus (11/11)
Risk assessment tools	Consensus (11/11)
Interventions	Consensus (11/11)
Role of the expert witness	Consensus (11/11)

non-partisan and maintain a healthy scepticism towards the information obtained during the assessment) rather than a clinical approach when undertaking the evaluation and producing the report. Forensic issues refers to the need for the evaluation to address matters of direct relevance to the legislation and the sentencing officer's task (e.g. addressing intervention, mitigating and aggravating factors and risk).

Sources of information refers to where the evaluator obtains the data from that informs his or her opinion. Factors that influence methodology refers to the elements of a specific evaluation that impact on the methodology used by the evaluator. Table 2 provides a summary of the themes and sub-themes within this domain.

There are two areas in the evaluation methodology domain where there is no consensus among the participants: the evaluation model to follow and the type of risk assessment to use. There is consensus that risk and risk management should be addressed; however, there is no consensus on whether or not

doing so should involve formal risk assessment methods or structured risk assessment tools. Further information on each of these areas is provided below.

Area of difference: risk

There is a lack of consensus on how to assess risk, and whether or not risk assessment requires the use of structured risk assessment tools.

At the end of Phase One there was consensus on the need for risk and risk management to be addressed in pre-sentence FMHAs. However, it was not clear if addressing the issue of risk meant that a formal risk assessment was required. Greater clarity on the need for a risk assessment was obtained from Phase Two but the consensus is still split. There are three different views: a formal risk assessment (using structured risk assessment tools) is required, is optional or is not required.

The view that a risk assessment is required as a necessary part of the 'right' methodology

Table 2. Level of consensus for the thematic categories within the evaluation methodology domain.

Thematic category	Level of consensus
<i>Forensic mindset</i>	
Non-partisan approach	Consensus (9/11)
Healthy scepticism	Consensus (10/11)
Transparency in process and opinions expressed	Consensus (9/11)
<i>Forensic issues</i>	
Interventions	Consensus (11/11)
Mitigating and aggravating factors	Consensus (11/11)
Risk and risk management	Consensus (11/11)
Use of risk assessment tools	Split consensus
<i>Sources of information</i>	
Review collateral documentation	Consensus (10/11)
Interviews	Consensus (11/11)
Psychometrics assessments	Consensus (11/11)
<i>Factors that influence methodology</i>	
A model for the pre-sentence FMHA	No consensus
Referral questions	Consensus (9/9)
Offence characteristics	Consensus (9/9)
Offender characteristics	Consensus (9/9)
Collateral documentation	Consensus (10/11)

for pre-sentence FMHAs is a view that was initially expressed by four participants:

In my personal opinion, any forensic report should have a risk assessment.

[Using risk assessment tools] is essential to inform the court, to do our job properly, it's part of the right methodology.

Another two participants originally indicated that the need for a risk assessment depends on the referral, the offence or the offender, but during the interview they reflected on their practice and the process, and confirmed that for pre-sentence reports risk assessment is required. At the end of Phase Two, six of the nine participants viewed risk assessment as a required part of pre-sentence FMHAs.

Two participants retained the view that the completion of a risk assessment is optional and depends upon the referral specifically requesting one, the need for one becoming apparent during the evaluation or upon the nature of the offence (e.g. violent or of a sexual nature) indicating that it is necessary:

It depends on if it is requested or not, combined with the offending history ... if lots of history, or if previous history had violence or sexual violence, then I would do one even if not requested.

During the interview, both participants indicated that in the majority of – but not all – cases a risk assessment is completed. Both participants were firm in their view.

The third view is that a risk assessment is not required as a matter of course. One participant expressed this view, stating that in their workplace there is not a requirement for a risk assessment to be completed but that the criminogenic needs of the young offender are discussed, including:

The young person's attitudes toward and motivation for offending. The young person's leisure time activities and peer relationships, and if they are related to the

offending behaviours. The level of family support and the existence of pro-criminal attitudes, and dynamic factors that influence the offending behaviour for this young person.

Overall, the participants identified a number of factors that influence their decision on whether or not a risk assessment is required in the FMHAs they conduct. Further details of these factors are provided in the theme 'Factors that influence methodology'.

Area of difference: using a model for conducting the pre-sentence FMHA

The participants were asked to identify the decision-making process they use to determine what capacities and behaviours to address in an evaluation. None were able to do so. Some participants did not view what they do in an evaluation as involving a decision-making process:

I don't know. It's a good question.

I have never really thought about that as being a decision-making process.

I don't really know how to answer this.

Oh, that's a difficult one.

The detailed responses obtained from participants, although descriptive, outline what they do rather than providing an overview of the decision-making process that influences what they do and why they do it. When the data were analysed, it became clear that no one had articulated how what they do in an evaluation adheres or is related to a model for conducting FMHAs.

Report content

This domain refers to the information included in the pre-sentence report provided to the courts. The participants are in agreement on the purpose of the report, and that offence characteristics, offender characteristics, risk of recidivism and opinion formulation are the

key sections of the report. Table 3 summarises the themes and sub-themes in this domain.

Inclusion of the offence characteristics (e.g. pattern of offending, frequency of offending) in a report provides deeper and broader insights into the young person's offending behaviour in ways that the participants perceive as being helpful to sentencing officers. The offence characteristics are also relevant to future risk, as they assist the reader of the report in understanding the young offender and his or her offending behaviour.

There is consensus that risk of recidivism should be addressed in the report. However, based on the participants' responses as outlined in the methodology domain, they differ with regard to the method they employ to determine this risk. For example, some participants use an actuarial tool to complete the risk assessment whereas others do not. The content of the report provided to the court reflects these methodological differences.

The participants agree that the opinion formulation section of the report should bring together all the elements of the methodology and articulate what the findings mean in terms of the legal question being answered and the sentencing decision that is to be made. Opinion formulation should also provide recommendations which are relevant to the treatment and rehabilitation options that are both available and suitable. The likelihood of the young person engaging with the recommended intervention should also be addressed.

There is consensus among the participants that providing their opinions and recommendations is a key part of the report content, and one that impacts on its perceived quality:

The report is not just a regurgitation of information obtained but rather a considered analysis of that information into a criminogenic formulation.

Articulate the link between how what I'm telling you about the young person's life and the young person's history is related to the offending behaviour.

How do you know if your reports are helpful?

There is consensus among the participants that the purpose of a pre-sentence report is to assist the court. However, the participants are also in agreement that they do not know whether or not their reports are helpful to the court. They vary in the degree of effort they expend trying to determine how helpful their reports are found by the court.

All the participants operate from the same shared understanding that the aim of a pre-sentence report is to assist the court:

The purpose of a report is to assist the court in determining the best sentence for the individual, mindful of the community and overall philosophical goals of sentencing.

Although all the participants are in agreement that pre-sentence reports should assist the court,

Table 3. Level of consensus for the thematic categories within the report content domain.

Thematic category	Level of consensus
<i>Purpose of the report</i>	Consensus (11/11)
<i>Offence characteristics</i>	Consensus (11/11)
<i>Offender characteristics</i>	
Personal history	Consensus (11/11)
Education and vocational history	Consensus (10/11)
Medical history	Consensus (10/11)
<i>Recidivism risk</i>	Consensus (11/11)
<i>Opinion formulation</i>	Consensus (11/11)

they expressed different views on how this is best achieved. The assistance provided to the court is categorised into three themes: assisting the court in understanding the offender; assisting the court in understanding the offence; and assisting the court in understanding and managing the risk of recidivism. All the participants included at least two of these three categories in their responses, with a small number of participants reflecting all three.

When the participants were asked how they know whether or not their pre-sentence reports are seen as useful by the court, they all agreed that they do not know – in fact, they have no idea whether or not their reports are found to be helpful:

You have no idea because we never get feedback; I have almost given up trying to work it out.

Just writing reports that are disappearing off into the void. I am not sure that is entirely helpful for the individual as a professional and obviously not the for the profession itself.

The participants also differ in how much effort they expend trying to determine whether or not their pre-sentence reports are helpful to the court and attempting to ensure that the helpfulness of their reports is maximised. Some of the participants are active in trying to obtain feedback by contacting referral sources or checking court transcripts for comments about the reports they have written, while others believe that not being called to court is evidence of the helpfulness of their reports. Some of the participants focus on the quality of the presentation and the readability of their reports (e.g. spelling, grammar, structure, narrative flow, etc.), while others mention both the methodology followed and the presentation of the report as factors that potentially make it more helpful.

Discussion

This study has sought to identify the level of consensus that exists among experts as to: the

methodology that should be used when undertaking a pre-sentence FMHA for a juvenile offender; the knowledge that is required to inform this methodology; and the content that should be provided in the pre-sentence report in order to maximise its helpfulness to the court.

A consensus was found among the participants that undertaking a pre-sentence FMHA requires particular knowledge in both general and forensic psychology. In the methodology domain there are only two aspects on which the participants disagreed: the need for pre-sentence FMHAs to include a risk assessment and the assessment model that should be used to guide decision-making when undertaking an FMHA. There is consensus that the specifics of the referral, the characteristics of the offender, the characteristics of the offence and the collateral information available to the practitioner also impact the methodology used.

Consensus was found among the participants on the content of the pre-sentence report, and that the aim of the report is to assist the court. However, the participants rarely know whether or not their reports achieve this aim of assisting the court, and they have difficulty gaining feedback. It is clear that practitioners who provide FMHAs and pre-sentence reports would like to receive more explicit feedback on what information in their pre-sentence reports the court finds helpful, what information is not helpful and what omitted information would be helpful if included.

The following discussion focuses on the two areas where consensus is lacking: using a model to guide the FMHA decision-making process and the need for pre-sentence FMHAs to include a risk assessment. The helpfulness of the FMHA report is also briefly discussed.

A model for conducting the pre-sentence FMHA

The participants did not articulate a link between the methodology they use and any existing model or principles for conducting FMHAs. The lack of reference to a model is not unexpected, as there do not seem to be any

models that are specifically designed for writing pre-sentence reports for juveniles. However, what is surprising is the lack of reference to FMHA principles and the general models of FMHA that are available in the literature. The difficulty that the participants had in identifying the process they use to guide their decisions about methodology is also surprising; indeed, some participants do not see what they do when conducting an evaluation as even involving a decision-making process.

The participants' difficulty in articulating their decision-making processes could be partly explained by examining how they learnt the methodologies they currently use. The participants reported learning evaluation methodology through trial and error, by following templates created in the workplace or through supervision and mentoring. It seems that none of these avenues of skill acquisition provided an explicit methodological model. Practitioners need to explain the rationale for the decisions they make when conducting an evaluation, and to present the decision-making process in their pre-sentence reports. Doing so is part of providing transparency, an aspect that the participants agreed should permeate all reports. A model for conducting pre-sentence FMHAs would provide the basis for this transparency.

The lack of a model makes it difficult for practitioners to justify, if called upon to do so, the decision-making processes they have applied when conducting their evaluations. It is possible that because it is rare for pre-sentence reports for juveniles to be subject to cross-examination, practitioners have not been required to reflect on their individual practices or those of their peers, and as a result the profession has not been pressed into developing either a model or the associated minimum practice standards for producing pre-sentence reports. However, this also means that these psychologists do not receive the benefits of feedback and learning that are part of being regularly cross-examined.

Without a model and standards which specify that the model is to be followed, how can

stakeholders know whether or not the work being provided to the court is of an acceptable standard? Without an endorsed model for conducting pre-sentence FMHAs there is no benchmark for what is standard practice. How can the decision-makers assess the quality of the reports they receive without the profession providing guidance on what constitutes an acceptable standard? If these reports are not identified as being of an acceptable standard then both the court and the young persons they are assessing may end up being short-changed.

Although the participants did not articulate a model, the level of consensus amongst those senior experts suggests that they are conducting FMHAs according to an implicit model. They might not recognise that they are using an implicit model that has been developed through experience. The foundations for a practice model can be extracted from the areas of consensus found in the data collected for this study.

Risk

There is agreement on the need to address risk and risk management in pre-sentence FMHAs, but the participants' views differ on how this should be done. The need for a properly conducted risk assessment is viewed by some as a judgement call – an optional part of a forensic psychological examination to assist in the sentencing decision. This judgement on whether or not to conduct a risk assessment is influenced by elements of the offence, the offender and the referral.

The literature indicates a consensus among scholars that a formal risk assessment should be included in every pre-sentence report. Heilbrun's (2001) principles require that legally relevant behaviour be assessed (Principle 14). According to Grisso (2013), forensic risk evaluations are typically conducted with juveniles who have offended, but the type of risk evaluation conducted and the methods used will depend upon the legal context and the purpose of the assessment.

It is argued by the present authors that risk is a legally relevant construct in Australian legislation, and that addressing risk is a requirement of pre-sentence reports. To be of assistance, the pre-sentence report needs to assist the judicial officer with understanding the young person being evaluated, the level of risk that he or she poses to the community and how this the risk might be reduced or managed. The completion of a formal risk assessment is required to ensure that all the relevant factors are considered and that the interventions suggested are relevant to both the level of risk identified and the particular circumstances and characteristics of the young offender.

Further evidence of the need for formal risk assessment can be found in the principles of sentencing in Australia. One of the principles is consideration of the need for the community to be protected. The opinions relevant to the protection of the community rely upon the measurement and management of risk. These opinions cannot be properly formulated for the court without completing a risk assessment and then effectively communicating its results to the court. Rehabilitation prospects and targets for treatment are also relevant to the sentencing of juveniles, and a formal risk assessment is the most defensible and reliable method for identifying treatment needs.

Are pre-sentence reports helpful to the court?

Despite agreeing that the purpose of producing pre-sentence reports is to assist the court, and agreeing on the factors that impact on the helpfulness of these reports, the participants indicated that they do not know whether or not the reports they provide to the courts are actually helpful. It is difficult to improve the quality of pre-sentence reports without understanding specifically what is and is not helpful to the court.

The methodology of this study is limited by the fact that the data come from what senior experts currently do in order to be helpful to the court. However, only a small percentage of

Australian professionals who write court reports have specific forensic training (Allan et al., 2000). Currently in Australia there are only two university postgraduate courses that provide forensic training. Therefore, it is likely that reports will continue to be written by those without comprehensive training in how to do this work.

It is proposed that the best way to ensure that the methodology followed and the information included in the reports meets the needs of the court is to establish a model and a minimum practice standard, and to involve the legal decision-makers in the development of that model.

Conclusions

There is an urgent need to develop a model for conducting pre-sentence FMHAs of juveniles. This model should provide a decision-making process and identify minimum standards for both conducting the evaluation and producing the report. The term 'model' is used in this context to describe a process that guides the evaluator on what should be considered when making decisions on what is required in an evaluation, rather than as a prescriptive outline of what must be done.

This decision-making model would assist those who are new to conducting FMHAs with developing the skills they need to apply their expertise in a flexible way, accommodating a range of offence and offender characteristics across all the jurisdictions in Australia. For more experienced evaluators, a decision-making model would provide a framework for articulating their thought processes, making them more transparent and able to be explained and defended in court when needed. A decision-making model also provides a framework for training evaluators who do not have specific forensic training.

It is suggested that a good way to start this process would be to engage experts in a deeper discussion on why having no model is a significant problem and the different aspects that

an effective model would need to have. The experts would then be asked to reflect on the decision points that they have in their own processes of conducting pre-sentence FMHAs. These decision points would then need to be mapped to the evidence that drives or supports the requirement for the decision to be made at each point. The consequences of not having each decision point should also be documented.

These experts could be brought together to reflect on the similarities of their decision points and explore any differences; then, through a process of collaboration, they could combine their collective wisdom to formulate both a model and a minimum practice standard for conducting pre-sentence FMHAs for juveniles in Australia. Furthermore, it is suggested that membership of the expert group be extended beyond forensic mental health practitioners to include participants from all stakeholder groups, including judicial officers and other legal practitioners.

The psychologists who participated in this study were identified as experts by their professional association. There is therefore an expectation, irrespective of the decision-making processes that they use to guide their evaluation methodologies, that the information they provide to judicial officers is helpful to the sentencing process. Testing the veracity of this assumption is recommended; researchers need to determine whether or not judicial officers do indeed perceive forensic psychologists' work in this area to be helpful.

Ethical standards

Declaration of conflicts of interest

Debra Bycroft has declared no conflicts of interest.

Greg E. Dear has declared no conflicts of interest.

Deirdre Drake has declared no conflicts of interest.

Ethical approval

All procedures performed in studies involving human participants were in accordance with the ethical standards of the institutional and/or national research committee and with the 1964 Helsinki declaration and its later amendments or comparable ethical standards.

Informed consent

Informed consent was obtained from all individual participants included in the study

References

- Ackerman, M. J. (2006). Forensic report writing. *Journal of Clinical Psychology*, 62(1), 59–72. doi:10.1002/jclp.20200
- Allan, A., & Grisso, T. (2014). Ethical principles and the communication of forensic mental health assessments. *Ethics & Behaviour*, 24(6), 467–477. doi: 10.1080/10508422.2014.880346
- Allan, A., Martin, M., & Allan, M. M. (2000). Assessment for the courts: A survey of Australian psychologists. *Psychiatry, Psychology, and Law*, 7(2), 150–158. doi: 10.1080/13218710009524981
- Allnutt, S. H., & Chaplow, D. (2000). General principles of forensic report writing. *Australian and New Zealand Journal of Psychiatry*, 34, 980–987. doi:10.1046/j.1440-1614.2000.00834.x
- Australian Psychology Accreditation Council. (2018). Retrieved from http://www.psychology-council.org.au/APAC_accredited_psychology_programs_australasia.
- Australian Psychological Society. (2007). *Code of ethics*. Melbourne: Australian Psychological Society.
- Australian Psychological Society. (2013). *Ethical guidelines for psychology practice in forensic contexts*. Melbourne: Australian Psychological Society.
- Aylott, M. (2000). Research priorities: A Delphi survey. *Paediatric Nursing*, 12(10), 16–20. doi:10.7748/paed.2000.12.12.10.16.c679
- Boukdedid, R., Abdoul, H., Loustau, M., Sibony, O., & Alberti, C. (2011). Using and reporting the Delphi method for selecting health-care quality indicators: A systematic review. *PLoS ONE*, 6(6), e20476, 1–9. doi: 10.1371/journal.phone.0020476
- Braun, V., & Clarke, V. (2013). *Successful qualitative research*. London: Sage.

- Brodsky, S. (1999). *The expert witness: More maxims and guidelines for testifying in court*. Washington, DC: American Psychological Association.
- Brown, S., Bowen, E., & Prescott, D. (2017). *The forensic psychologist's report writing guide*. New York: Routledge.
- Campbell, M. A., & Schmidt, F. (2000). Comparison of mental health and legal factors in the disposition outcome of young offenders. *Criminal Justice and Behavior*, 27, 688–715. doi: 10.1177/0093854800027006002
- Children and Young People Act. 2008. (ACT) (Austl.).
- Combalbert, N., Andronikof, A., Armand, M., Robin, C., & Bazex, H. (2014). Forensic mental health assessment in France: Recommendations for quality improvement. *International Journal of Law and Psychiatry*, 37, 628–634. doi: 10.1016/j.jljp.2014.02.037
- Criminal Law (Sentencing) Act. 1988. (SA) (Austl.).
- Cunneen, C., & White, R. (2007). *Juvenile Justice: youth and crime in Australia* (3rd ed.). Oxford: Oxford University Press.
- Cunneen, C., White, R., & Richards, K. (2015). *Juvenile Justice: youth and crime in Australia* (5th ed.). Oxford: Oxford University Press.
- Duits, N., Van Der Hoorn, S., Wiznitzer, M., Wettstein, R. M., & de Beurs, E. (2012). Quality improvement of forensic mental health evaluations and reports of youth in the Netherlands. *International Journal of Law and Psychiatry*, 35, 440–444. doi: 10.1016/j.jljp.2012.09.018
- Evidence Act. 1995. (Cth) (Austl.).
- Freckelton, I., Reddy, P., & Selby, H. (1999). *Australian judicial perspectives on expert evidence: An empirical study*. Melbourne: Australian Institute of Judicial Administration. Retrieved from <http://www.aija.org.au/online/Pub%20no54.pdf>
- Freckelton, I., Reddy, P., & Selby, H. (2001). *Australian magistrates and judicial perspectives on expert evidence: A comparative empirical study*. Melbourne: Australian Institute of Judicial Administration. Retrieved from www.aija.org.au/online/magexp.pdf
- Freckelton, I., & Selby, H. (2018). *Expert evidence: Law, practice, procedure, and advocacy* (6th ed.). Sydney: Thomson Reuters.
- Freiberg, A., Fox, R., & Hogan, M. (1988). Sentencing young offenders: Australian Law Reform Commission., - Sentencing Research Paper 11, Sydney: Australia.
- Greenfield, D. P., & Gottschalk, J. A. (2009). *Writing forensic reports: A guide for mental health professionals*. New York: Springer.
- Gould, J. W. (2004). Evaluating the probative value of child custody evaluations. *Journal of Child Custody*, 1(1), 77–96. doi: 10.1300/J190v01n01_06
- Gould, J. W., & Lehrmann, J. D. H. (2002). Evaluating the probative value of child custody evaluations. *Juvenile and Family Court Journal*, 53(2), 17–29. doi: 10.1111/j.1755-6988.2002.tb00059.x
- Grisso, T. (1998). *Forensic evaluation of juveniles*. Sarasota, FL: Professional Resource Press.
- Grisso, T. (2010). Guidance for Improving Forensic Reports: A review of Common errors. *Open Access Journal of Forensic Psychology*, 2, 102–115. Retrieved from <http://www.forensicpsychologyunbound.ws/-2012>
- Grisso, T. (2013). *Forensic evaluation of juveniles*. 2nd ed. Sarasota, FL: Professional Resource Press.
- Guerreiro, J. D., Casoni, D., & Santos, J. C. (2014). Relevance and coherence as measures of quality in forensic psychological reports. *Psychiatry, Psychology and Law*, 21(6), 890–902. doi: 10.1080/13218719.2014.918077
- Harvey, V. S. (2006). Variables affecting the clarity of psychological reports. *Journal of Clinical Psychology*, 82(1), 5–18. doi: 10.1002/jclp.20196
- Hasson, F., Keeney, S., & McKenna, H. (2000). Research guidelines for the Delphi survey technique. *Journal of Advanced Nursing*, 32(4), 1008–1015. doi: 10.1046/j.1365-2647.2000.t01-1-01567.x
- Hecker, T., & Steinberg, L. (2002). Psychological evaluation at juvenile court disposition. *Professional Psychology: Research and Practice*, 33(3), 300–306. doi: 10.1037//0735-7028.33.3.300
- Heilbrun, K. (2001). *Principles of forensic mental health assessment*. New York: Kluwer Academic Press.
- Heilbrun, K., & Brooks, S. (2010). Forensic psychology and forensic science: A proposal agenda for the next decade. *Psychology, Public Policy, and Law*, 16(3), 219–253. doi: 10.1037/a0019138
- Heilbrun, K., DeMatteo, D., & Marczyk, G. (2004). Pragmatic psychology, forensic mental health assessment, and the case of Thomas Johnson: Applying principles to promote quality. *Psychology, Public Policy &*

- Law, 10, 31–70. doi:[10.1037/1076.8971.10.1-2.31](https://doi.org/10.1037/1076.8971.10.1-2.31)
- Heilbrun, K., DeMatteo, D., Marczyk, G., & Goldstein, A. M. (2008). Standards of practice and care in forensic mental health assessment: Legal, professional, and principles-based considerations. *Psychology, Public Policy & Law*, 14(1), 1–26. doi: [10.1037/1076-8971.14.1.1](https://doi.org/10.1037/1076-8971.14.1.1)
- Heilbrun, K., Grisso, T., & Goldstein, A. (2009). *Foundations of forensic mental health assessment*. New York, NY: Oxford University Press.
- Heilbrun, K., & Locklair, B. (2016). Forensic Assessment of Juveniles. In K. Heilbrun (Editor in Chief), *APA handbook of psychology and juvenile justice* (pp. 345–363). Washington, DC: American Psychological Association. doi: [10.1037/14643-016](https://doi.org/10.1037/14643-016)
- Heilbrun, K., Marczyk, G. R., & DeMatteo, D. (2002). *Forensic mental health assessment: A casebook*. Oxford: Oxford University Press.
- Hoge, R., & Andrews, D. A. (2010). *Forensic mental health assessments: Evaluation for risk of violence in juveniles*. Oxford: Oxford University Press.
- Kumar, M., Odgers, S., & Peden, E. (2012). *Uniform Evidence Law: commentary and materials* (4th ed.). Sydney: Thomson Reuters.
- Lander, T. D., & Heilbrun, K. (2009). The content and quality of Forensic Mental Health Assessments: Validation of a principles-based approach. *International Journal of Forensic Mental Health*, 8, 115–121. doi: [10.1080/14999010913199324](https://doi.org/10.1080/14999010913199324)
- Malsch, M., & Freckelton, I. (2005). Expert bias and partisanship: A comparison between Australia and the Netherlands. *Psychology, Public Policy & Law*, 11(1), 42–61. doi: [10.1037/1076-8971.11.1.42](https://doi.org/10.1037/1076-8971.11.1.42)
- Malterud, K., Siersma, V. D., & Guassora, A. D. (2016). Sample size in qualitative interview studies: Guided by information power. *Qualitative Health Research*, 26, 1753–1760. doi: [10.1177/1049732315617444](https://doi.org/10.1177/1049732315617444)
- Martindale, D. A., & Gould, J. W. (2004). The forensic model. *Journal of Child Custody*, 1(2), 1–22. doi: [10.1300/J190v01n02_01](https://doi.org/10.1300/J190v01n02_01)
- Melton, G. B., Petrila, J., Poythress, N. G., & Slobogin, C. (2007). *Psychological evaluations for the courts: A handbook for mental health professionals and lawyers* (3rd ed.). New York: Guilford.
- Morin, S. L., Cruise, K. R., Hinz, H., Holloway, E. D., & Chapman, J. F. (2015). Content, structure, and usefulness of juvenile predisposition psychological evaluations. *Child Youth Care Forum*, 44, 893–917. doi: [10.1007/s10566-015-9312-3](https://doi.org/10.1007/s10566-015-9312-3)
- Morse, J. M. (2000). Determining sample size. *Qualitative Health Research*, 10, 3–5. doi: [10.1177/104973200129778183](https://doi.org/10.1177/104973200129778183)
- Mossman, D. (2013). When forensic examiners disagree: Bias, or just inaccuracy? *Psychology, Public Policy, and Law*, 19(1), 40–55. doi: [10.1037/a0029242](https://doi.org/10.1037/a0029242)
- Neal, T. M. S., & Grisso, T. (2014). The cognitive underpinnings of bias in forensic mental health evaluations. *Psychology, Public Policy, and Law*, 20(2), 200–211. doi: [10.1037/a0035824](https://doi.org/10.1037/a0035824)
- O'Donnell, P. C., & Lurigio, A. J. (2008). Psychosocial predictors of clinicians' recommendations and judges' placement orders in a juvenile court. *Criminal Justice and Behavior*, 35, 1429–1448. doi: [10.1177/0093854808324061](https://doi.org/10.1177/0093854808324061)
- Packer, I. K. (2008). Specialized practice in forensic psychology: Opportunities and obstacles. *Professional Psychology: Research and Practice*, 39(2), 245–249. doi: [10.1037/0735-7028.39.2.245](https://doi.org/10.1037/0735-7028.39.2.245)
- Powell, C. (2003). The Delphi technique: Myths and realities. *Journal of Advanced Nursing*, 41(4), 376–382. doi: [10.1046/j.1365-2648.2003.02537.x](https://doi.org/10.1046/j.1365-2648.2003.02537.x)
- Salekin, R. T. (2015). *Forensic evaluation and treatment of juveniles: Innovation and best practice*. Washington, DC: American Psychological Association.
- Sentencing Act. 1991. (Vic) (Austl.).
- Shuman, D. W., & Zervopoulos, J. A. (2010). Empathy or objectivity: The forensic examiner's dilemma? *Behavioural Sciences & the Law*, 28(5), 585–602. doi: [10.1002/bsl.953](https://doi.org/10.1002/bsl.953)
- Simon, R. I., & Gold, L. H. (2004). *Textbook of forensic psychiatry*. Washington, DC: American Psychiatric.
- Swain, P. A. (2005). 'No expert should cavil at any questioning': Reports and assessments for court and tribunals. *Australian Social Work*, 58(1), 44–57. doi: [10.1111/j.0312-407X.2005.00183.x](https://doi.org/10.1111/j.0312-407X.2005.00183.x)
- Weiss, R. A., & Rosenfeld, B. (2012). Navigating cross-cultural issues in forensic assessment: Recommendations for practice. *Professional psychology: Research and Practice*, 43(3), 234–240. doi: [10.1037/a0025850](https://doi.org/10.1037/a0025850)
- Witt, P. H. (2010). Forensic report checklist. *Open Access Journal of Forensic Psychology*,

- 2, 233–240. Retrieved from <http://forensicpsychologyunbound.ws/-2010>.
- White, J., Day, A., & Hackett, L. (2007). *Writing reports for court: A practical guide for psychologists working in forensic contexts*. Bowen Hills: Australian Academic Press.
- White, J., Day, A., Hackett, L., & Dalby, J. T. (2015). *Writing reports for the court: An international guide for psychologists who work in the criminal jurisdiction*. Brisbane: Australian Academic Press.
- Young Offenders Act. 1994. (WA) (Austl.).
- Young Offenders Act. 1997. (NSW) (Austl.).

Appendix 1: List of Questions Asked of the Participants

-
- Q1: What do you understand to be the purpose of a psychological pre-sentence report?
- Q2: Please list the areas that you believe need to be covered in a psychological pre-sentence assessment and outline why each area is important.
- Q3: In the psychological pre-sentence report document what are the forensic issues that need to be addressed? Please list the issues and outline why you believe they are important.
-

(Continued)

- Q4: When conducting a pre-sentence assessment which assessment methods do you believe are the most helpful? Please list these methods and outline why you believe they are the most helpful.
- Q5: When completing a psychological pre-sentence report what information sources would you use? Please list these information sources and explain why you would obtain information from these sources.
- Q6: What knowledge is required to complete a psychological pre-sentence report? Please list the knowledge you believe is important and outline why it is important to possess this knowledge.
- Q7: In your opinion what skills are required to complete a psychological pre-sentence report?
- Q8: Based on your personal experience what do you believe are the most common mistakes that are made when undertaking a psychological pre-sentence assessment and completing a psychological pre-sentence report?
- Q9: How would a reader be able to differentiate between a psychological pre-sentence report that is useful to the court and one that is not sufficiently useful to the court? Outline what would be the differences between the two reports.
-