A decision-making model for pre-sentence evaluations for juveniles

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Forensic mental health assessments (FMHAs) are requested by the courts to assist in the sentencing process and can have a major impact upon the life of the person evaluated. Completing these assessments is a core competency for forensic psychologists. However, some FMHAs are undertaken by psychologists who have no forensic training. Despite this, there are no formalised Australian minimum standards to ensure reports are helpful to the courts and reflect sound evaluation methodologies. Drawing upon a critical review of the literature and recent research findings, we propose a 10-step decision-making model for pre-sentence evaluations of juveniles. Our model provides a framework for decision-making and highlights the key elements of an evaluation. The model provides a basis for developing practice guidelines and professional standards. The next step is to test the model in the field to determine its impact on the quality of psychological pre-sentence reports.

Keywords: Australia; forensic mental health assessment; juvenile; model; pre-sentence; report.

In this article we propose a model to guide psychologists tasked with preparing a pre-sentence report for juvenile justice matters. The model was derived from a synthesis of a critical review of the literature (Bycroft, Dear, & Drake, 2019a), a Delphi study of expert psychologists (Bycroft, Dear, & Drake, 2019b), consultation with judicial officers (reported here) and additional data from an expert reference group of psychologists who provided feedback on our conclusions and suggestions on how best to respond to the views expressed by judicial officers. Drawing from all this information we constructed a model for the forensic mental health assessment (FMHA) pre-sentence report that is based on 10 decision-making points.

To set the context for our model, we begin by highlighting the importance of the pre-sentence report. We then provide a summary

of the information found in our review of the literature and a summary of the findings from our research.

The psychological pre-sentence report

There are two components to an FMHA: (a) the evaluation, and (b) the written report detailing the findings, opinions and recommendations of the evaluator (Cunneen & White, 2011; White, Day, & Hackett, 2007). A range of tribunals, including both civil and criminal courts, can request a FMHA to assist the tribunal with decision-making, determination of facts or dispositions (Allnutt & Chaplow, 2000; Heilbrun, Grisso, & Goldstein, 2009). Our focus is on evaluations of young offenders requested by children's courts that require the preparation of a psychological pre-sentence report.

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Pre-sentence reports are important in children's courts as they can be the judicial officer's (i.e. judge or magistrate) main source of information about the young person, particularly when the young person facing a criminal charge enters a plea of guilty, and the judicial officer does not have the benefit of observations and evidence at trial (Carman & Harutunian, 2004). The report can provide information that can (a) assist when considering issues of culpability (e.g. mitigating or aggravating factors), (b) explain the likelihood of future reoffending, (c) clarify the young person's amenability to treatment, and (d) outline what available treatment options are likely to minimise recidivism (Melton et al., 2017). This information can assist the judicial officer to determine the most suitable sentence for the young person (Hecker & Steinberg, 2002; Marchetti & Ransley, 2014; O'Donnell & Lurigio, 2008).

The quality and helpfulness of a report can exercise a major impact upon the life of the young person being evaluated, and can affect the professional reputation of the psychologist completing the evaluation (White, Day, Hackett, & Dalby, 2015). Helpful reports are relevant to the sentencing task, are written in a way that meets the requirements of a legal document and are easy to understand by those outside the psychology profession (Allan & Grisso, 2014; Conroy, 2006).

Conducting FMHAs is a key role for the forensic psychologist (Bowen, 2017; Griffith, Stankovic, & Baranoski, 2010), and writing reports is a core forensic competency (Goodman-Delahunty & Dhami, 2013; Wettstein, 2010). Tertiary training in forensic psychology provides the psychologist with the necessary skills and knowledge in these areas (Packer, 2008). However, in Australia there are few postgraduate forensic training courses available (Australian Psychology Accreditation Council, APAC, 2018), and psychologists without forensic training are undertaking forensic work for the courts (Allan, Martin, & Allan, 2000).

Despite the importance of pre-sentence reports, the potential impact their contents can have on a young person's life and lack of forensic training opportunities, Australia has yet to establish minimum standards for these reports. At present there is no mechanism in place to ensure that the opinions and recommendations provided in the reports are derived from sound methodology and that pre-sentence reports are helpful to the court.

The literature

We went to the literature to identify what guidance was available to those preparing a pre-sentence report for juvenile criminal matters being addressed in children's courts. The terms 'expert witness, pre-sentence report, presentence report, forensic mental health assessment, FMHA, forensic assessment, methodology, forensic model and sentencing juveniles' were used to search the literature. Peer-reviewed articles published on the PsycARTICLES, PsycINFO and ProQuest databases from the year 2000 were identified. The abstracts of these articles were reviewed for relevance, and based on the information contained in the abstract we included or excluded articles from our review. After reviewing the included articles, we grouped the information provided in the literature into three areas: (a) the knowledge and skills required to conduct a pre-sentence evaluation of juveniles, (b) ethical guidelines relevant to the process, and (c) methodologies appropriate for forensic evaluators.

The literature identifies that undertaking evaluations requires specific knowledge and skills. This knowledge includes the need to understand the role of a forensic evaluator (Craig, 2005; Day & White, 2008; Freckelton, 2019; Packer, 2008), the legislation relevant to the sentencing task (Fortune, 2017; Grisso, 2013) and the psychological constructs relevant to the legal questions (DeMatteo, Keesler, & Strohmaier, 2013; Heilbrun, Marczyk, & DeMatteo, 2002; Hoge, 2012).

The literature includes other areas of knowledge and skills related to juveniles and to juvenile offending. For example, evaluators conducting FMHAs of juvenile offenders should understand theories of offending, the impact of developmental maturity on offending (Casey, Day, Vess, & Ward, 2013; Grisso, 2013; Salekin, MacDougall, & Harrison, 2016) and the impact of childhood trauma on development (Ford, Hartman, Hawke, & Chapman, 2008; Kinniburgh, Blaustein, Spinazzola, & van der Kolk, 2005). Evaluators must possess the skills necessary to identify whether a young person is suffering from a mental health disorder (Grisso, 2013), speech and language disorders (Snow & Powell, 2007) or a cognitive impairment (Koocher & Kinscherff, 2016), and how the presence of these factors impacts offence-specific behaviour, future risk and rehabilitation prospects (Freckelton, 2017; Melton et al., 2017).

The evaluator should understand the ethical considerations particular to the FMHA. Impartiality (i.e. the absence of bias), privacy, informed consent and confidentiality are some of the ethical considerations (Allan & Grisso, 2014; Australian Psychological Society, APS, 2007; Heilbrun, 2001; Hoge, 2012; Murrie & Warren, 2005; West & Kenny, 2011). Another ethical consideration is the ability to determine competency. When accepting a request for a FMHA the evaluator must have the ability to critically assess his or her competence level and the level of competence required to adequately address the legal questions to be addressed by the evaluation and the report (APS, 2007; Ondrovik & Hamilton, 1992).

Methodological rigour was the third theme we identified in the literature. The contents of a pre-sentence report can influence the sentencing process, and therefore it is critical that the methodology used in the evaluation is scientifically valid (Heilbrun & Locklair, 2016) and reflects accepted professional standards (Shuman & Zervopoulos, 2010; White et al., 2007). The methodology used must also meet the requirements for expert evidence under the

applicable rules of evidence (Weiss & Rosenfeld, 2012). In the report the connection between the data presented and the opinion expressed should be transparent to the reader (Heilbrun & Locklair, 2016). In writing the report, the evaluator should not only strive for clarity, precision, conciseness and relevance, but also ensure that the language used in the report is appropriate for the intended audience (Heilbrun & Locklair, 2016; Packer, 2008).

Improvement in the quality and consistency of FMHA requires guidelines for each type of FMHA to be developed (Heilbrun, 2001; Heilbrun, DeMatteo, Marczyk, & Goldstein, 2008; Heilbrun & Brooks, 2010; Shuman & Zervopoulos, 2010). In Australia there are no pre-sentence evaluation guidelines endorsed by the Australian Psychological Society that psychologists can refer to.

Our research – the views of psychologists

We conducted research to determine what Australian psychologists with expertise in pre-sentence reports believe is the methodology to be followed when completing a pre-sentence evaluation and report, the knowledge and skills that inform this methodology, and what the psychologists see as the content necessary in a helpful pre-sentence report (see Bycroft et al., 2019b).

We used the e-Delphi method to collect data on the knowledge and skills of 11 psychologists based in Australia that the National Executive Committee of the APS Forensic College identified as experts in the field of FMHA evaluations and pre-sentence reports. The aim of the Delphi method uses surveys and an iterative data collection, analysis and feedback process to transform the individual opinions, judgement and knowledge of experts into a group consensus (Hasson, Keeney, & McKenna, 2000).

Our data collection comprised a questionnaire (Phase 1) and a semi-structured interview (Phase 2). Phase 2 explored differences of opinion apparent from Phase 1. Participants' responses were thematically analysed

according to the thematic analysis method outlined by Braun and Clarke (2013). Patterns were identified using an inductive (data-driven, bottom-up) method. When determining areas of consensus, we examined the number of participants who articulated the theme in their response. Consensus was deemed to have been reached when nine or more of the 11 participants reflected the same view. Split consensus occurred when responses were aligned with one of two or three distinctly different views. When neither of those two conditions were met, we determined no consensus was reflected in the data.

Questions for Phase 2 were e-mailed to participants with their responses collected via individual phone interviews. Nine of the original 11 Phase 1 participants agreed to be interviewed in Phase 2. The data obtained from Phase 2 were then combined with the data from Phase 1, and a comprehensive thematic analysis was completed following the methods outlined by Braun and Clarke (2013). We found a consensus among psychologists that, in order to undertake a pre-sentence FMHA effectively, psychologists require specific knowledge in general psychology and forensic psychology, they need to understand the ethical factors associated with a FMHA, and they must use a valid methodology when obtaining information that they rely upon to form opinions. These findings were consistent with those in the literature (see Allan & Grisso, 2014; Casey et al., 2013; Freckelton, 2019; Grisso, 2013; Heilbrun & Locklair, 2016; West & Kenny, 2011).

Psychologists in our research agreed on the content required in a pre-sentence report. However, most indicated they would like to receive more feedback from the court on the helpfulness of their pre-sentence reports. The 14 content areas they considered should be addressed in a report were:

- Offence history;
- Details of the current offence;
- Family background;
- Characteristics of the young person;

- Social and relationship history;
- Substance use;
- Education history;
- Employment history;
- Mental health history;
- Physical health;
- Risk assessment;
- Risk information;
- Treatment and rehabilitation; and
- Sentencing options (i.e. opinion formulation).

Psychologists disagreed on two aspects of FMHA methodology. First, no consensus was reached on the need for every pre-sentence FMHA to include a formal risk assessment. Participants agreed that the issue of risk should be addressed in a report, but opinions differed on how this should be done and whether or not a properly conducted risk assessment is required in all cases or only as a judgement call made by the evaluator. This contrasts with the literature, where scholars agreed that a formal risk assessment forms part of a comprehensive FMHA and pre-sentence report (Heilbrun, 2001; Heilbrun et al., 2009).

The second area of difference among psychologists pertains to a link between methodology used and any existing model or set of principles. Not only was there a lack of consensus about what model to use, but most psychologists were unable to articulate any model that guided their work in this area. The professional literature (e.g. Grisso, 2013; Heilbrun et al., 2009) is clear about the need to use an assessment model to guide a forensic evaluation and report. In the remaining sections of this paper, we address these two critical areas and outline the sequential decision-making model that we have developed.

Our research – the views of judicial officers

We conducted an exploratory study to determine whether judicial officers in Australian children's courts found the content of pre-sentence reports helpful to the sentencing task.

We also asked judicial officers to suggest how pre-sentence reports could be more helpful.

We surveyed 12 judicial officers working in juvenile criminal courts in three states of Australia using a 40-item questionnaire. The questionnaire invited judicial officers to comment on the helpfulness of the report content that psychologists in our previous research had identified as important. From the survey we obtained rating data and qualitative data. Participants rated how helpful they find each information area using the ratings of: *most times helpful*, *sometimes helpful*, *rarely helpful*, and *not required*. Qualitative data were obtained from the responses to open-ended survey questions. We asked judicial officers to: (a) identify any additional information they would find helpful in each of the 14 report content areas, (b) suggest how psychologists could obtain greater feedback on the helpfulness of their reports, (c) comment on the quality of reports they receive, and (d) suggest how the overall helpfulness of reports can be improved. A focus group was then conducted with a sample of participants.

Analysis of the survey data initially indicated that judicial officers were not in agreement on the following three areas: (a) whether or not reports need to include information on the physical health of the young person, (b) whether a formal risk assessment is required for all reports, and (c) whether sentencing options should be addressed in a report. A focus group was used to clarify the areas of no consensus and also provided clarity on qualitative data obtained from the survey.

Focus group

The focus group consisted of five of the six judicial officers (one Judge and four Magistrates) in the Children's Court of Western Australia. The recommended sample size for focus groups is between three and eight participants (Braun & Clarke, 2013; Krueger, 1994). Prior to the focus group commencing, the attendees completed consent forms and were given a list of the topics for

discussion. With the consent of the attendees the session was audio-recorded. The recording was then transcribed and thematically analysed. A summary of the analyses was then provided to the members of the focus group who confirmed that it accurately reflected the discussion.

Survey participants differed in their views on the helpfulness of physical health information in the pre-sentence report. Some participants viewed health information as irrelevant; others considered health information to be useful. The views of the focus group also reflected this difference. However, the focus group clarified that the issue of relevance was the important factor. Providing information about physical health of the young offender is helpful to the sentencing officer if that information is clearly connected to the offence, risk of reoffending or treatment/rehabilitation needs. Judicial officers did not expect that information on physical health would often be relevant to those areas.

There was consensus among survey judicial officers that a risk assessment was helpful if the offence was violent, involved sexual offences, arson or terrorism, or if there was an escalation in offending. Focus group participants indicated that risk assessments are always helpful in a pre-sentence report and are absolutely essential for offences of a serious nature (e.g. violence, sexual offences, arson, etc.), or when there is a mental health condition that needs to be considered in the sentencing process. Judicial officers expressed to us a clear need for competently conducted risk assessments to be a routine aspect of psychologists' methodology for pre-sentence reports.

Judicial officers agreed it was not helpful for a report to include recommendations on sentencing options: this was viewed as transgressing into the domain of the court. Judicial officers also addressed the request by psychologists for increased feedback on helpfulness of individual pre-sentence reports: they saw the provision of individual feedback on report content as a threat to the independence of the

court. Participants felt that more appropriate avenues for feedback were available to the psychologists (e.g. from community correction officers at the sentencing hearing and court transcripts).

Finally, judicial officers want pre-sentence reports to (a) reflect sound methodology, (b) have content that is thorough in addressing the issues pertinent to the case, and (c) have content that is relevant to the sentencing process. Furthermore, they want the report to be concise yet comprehensive, and easy to understand. The judicial officers in our study indicated that psychologists do not consistently deliver this to the court.

In summary, there are four areas where there is a gap between psychologists' views and judicial officers' views on what is helpful in an evaluation and pre-sentence report. The four areas are: psychologists expressing views about sentencing options; psychologists providing information about the young offender's physical health; the availability of specific feedback from judicial officers; and the need for a formal risk assessment. Judicial officers also expressed concerns about the overall quality of psychological pre-sentence reports.

Closing the gap between the professions

The data we collected from psychologists (Bycroft et al., 2019b) and judicial officers (reported here) highlight that psychologists could improve the helpfulness of the pre-sentence reports provided to the court. There is a gap between what psychologists deliver in a pre-sentence report and what judicial officers find helpful in a pre-sentence report. This finding is consistent with professional literature in the area, which highlights ongoing problems with the quality of forensic evaluations (see Christy, Douglas, Otto, & Petrila, 2004; Combalbert, Andronikof, Armand, Robin, & Bazex, 2014; Hecker & Steinberg, 2002; Lander & Heilbrun, 2009; Morin, Cruise, Hinz, Holloway, & Chapman, 2015; Thompson & Webster, 2003).

We invited a subset of five of the original pool of expert psychologists from our previous research (Bycroft et al., 2019b) to act as a reference group and provide suggestions on how this gap could be reduced. The reference group was emailed a summary of the areas of differences between the two professions and was invited to provide suggestions on how these differences might be resolved.

The suggestions made by the reference group were analysed using thematic analysis (Braun & Clarke, 2013). Four recurring themes were identified: (a) establish guidelines, standards and templates for psychological practice in this area; (b) provide training to forensic evaluators to ensure they have the necessary skills and knowledge; (c) ensure there is critical supervision of evaluators to offset the lack of feedback from courts; (d) ensure that psychologists, lawyers and judicial officers have a shared understanding of the competencies required to undertake psychological evaluations of young offenders for pre-sentence reports.

We believe that the first step in improving the helpfulness of pre-sentence reports is to develop a model for conducting pre-sentence reports for juveniles.

FMHA models

Existing models for the pre-sentence evaluation

Forensic evaluations require a high level of methodological rigor because the evaluation must meet the requirements of expert evidence under the rules of evidence applicable to the legal jurisdiction (Weiss & Rosenfeld, 2012). Heilbrun et al. (2009) recommend that practitioners only use a model that fits with the evaluation being conducted.

We examined the literature to identify whether a model for pre-sentence evaluation of juveniles existed and whether it had been endorsed by the Australian Psychological Society. Heilbrun and Locklair (2016) identified two general models that are 'broadly

applicable' for forensic assessment. Both models could be used for civil commitment and criminal competencies but are less applicable to other types of evaluations (Heilbrun et al., 2009).

The first model was developed by Morse (1978) and focuses on evaluations addressing civil commitment issues. Morse's model is structured on three questions: 'the existence of a mental disorder, functional abilities related to the tasks that are part of the relevant legal question, and the casual connection between mental disorder and functional abilities' (Heilbrun et al., 2009, p. 106). Adoption of Morse's model requires collection of additional data on the young person's development and how the young person functions in areas of family, education and peer association (Heilbrun & Locklair, 2016).

The second model consists of five components and was developed by Grisso (1986). The five components are: functional abilities, casual inferences, interactive characteristics, judgment and disposition. The model can be applied to both civil and criminal legal competencies, such as competence to stand trial (Heilbrun et al., 2009). Grisso's (2013) more recent work in the area of juvenile risk assessments and juvenile rehabilitation assessments provides additional guidance to the evaluator when investigating risk and rehabilitation for juveniles.

There is considerable literature and guidelines available for other types of evaluations such as child protection and child custody (American Psychological Association, APA, 2010, 2013a; Budd, Clark, & Connell, 2011; Budd, Felix, Sweet, Saul, & Carleton, 2006; Martindale & Gould, 2004). For example, Martindale and Gould (2004) proposed what they termed a conceptual forensic model for custody evaluations. Their model identified seven key steps (know the purpose, know the legal question, conduct the evaluation in accordance with guidelines, ensure ethical standards inform the evaluation, select appropriate assessment instruments, create detailed

records of the evaluation and acknowledge the limitations of the evaluation).

A generic model for a FMHA proposed by Keilitz (1984) comprises three key components: delimitation (establishing what is being requested); acquisition (data gathering, assessment and opinion formulation); and provision (communicating findings). These three components are also reflected in the work by Heilbrun (Heilbrun, 2001; Heilbrun et al., 2009) who developed a set of 38 generic FMHA principles to guide evaluators, assist with research, increase the quality and uniformity of FMHAs and increase the satisfaction of judicial officers. The 38 principles are divided into six sections of knowledge, preparation, data collection, data interpretation, written communication and testimony (see Heilbrun et al., 2009; Heilbrun & Locklair, 2016). The focus of these 38 principles is on general FHMA methodology and the quality of the evaluation. Of note here is that one of the principles is to use a model appropriate to the evaluation being undertaken (Heilbrun et al., 2009).

The elements of a decision-making model

We could find no professionally endorsed model for pre-sentence evaluations of juveniles. There is no guidance on what should be addressed in an evaluation of a juvenile for the court (methodology), and there are no agreed standards for what information (content) should be provided to the court (Freckelton, 2019).

Prior to outlining our proposed decision-making model, we first need to orientate the reader to our understanding of the terms *model*, *standards* and *guidelines*. A model provides a framework that guides the data collection, how the data are interpreted and how the results are communicated (Heilbrun et al., 2009). A standard is a written statement that establishes the mandatory expectations for techniques or procedures to be used by practitioners (VandenBos, 2007). Guidelines are aspirational statements that recommend

specific professional behaviour or conduct (APA, 2010).

A model provides the framework for the development of standards and guidelines. A model can also drive training and professional development provisions and can guide the focus of psychologists who supervise forensic evaluators.

In this article, we introduce a 10-point decision-making model that we believe could be used to guide evaluators conducting a FMHA for juvenile criminal matters. In developing this model, we took into account: (a) the practice literature for general FMHA, (b) literature specific to juveniles, risk assessment and rehabilitation, (c) the findings from our own research outlined above, and (d) feedback received from the reference group.

There is a need for professional standards and guidelines to be developed for each of the decision points. Each decision point requires the evaluator to question his or her knowledge, skills and experience. Before we present the model, we provide an outline of the key factors to be considered by the evaluator at each decision point.

The forensic/legal issue

In order to deliver an accurate, relevant, effective and credible evaluation and report, the evaluator needs to understand the forensic issue the court needs addressed by the evaluation (Heilbrun, Marczyk, & DeMatteo, 2002). To identify the forensic (legal) issue the evaluator should refer to the referral, relevant sentencing legislation and professional literature on sentencing of juvenile offenders.

The referral

Requests for a forensic evaluation can be accompanied by detailed terms of reference that outline the specific questions the evaluation is required to answer. When the terms of reference are unclear, one way to determine the legal question to be addressed by the report is to review the legislation (Conroy, 2006).

Several of the psychologists who participated in our earlier research reported that referrals often lack any terms of reference.

The legislation

When working in juvenile criminal courts, the forensic evaluator needs to be familiar with the relevant juvenile justice legislation (Grisso, 2013). Young offenders in Australia are dealt with under specific state or territory legislation applicable to the various Children's Courts in each jurisdiction (Cunneen & White, 2011). For example, the Northern Territory has the Youth Justice Regulations 2005 (NT) and Youth Justice Act 2005 (NT). Western Australia has the Children's Court of Western Australia Act 1988, the Young Offenders Act 1994 (WA), Young Offenders Regulations 1995 (WA), the *Sentencing Act 1995* (WA), and, as Western Australia is a 'common law' evidence state, knowledge of the general law of evidence is also required.

However, the amount of guidance offered in legislation for pre-sentence reports can range from specific to general, depending on the jurisdiction. For example, the Young Offenders Act 1994 (WA) states that the court can request any information it requires for sentencing. The act provides the psychologist with no other guidance on what information is required in a pre-sentence report. However, the Act does include a list of factors that judicial officers should consider when sentencing. These factors include the seriousness of the offence, the offender's offence history, any relevant cultural factors, the impact of the offence on the victim, the rehabilitation opportunities provided by the offender's family and the educational and employment circumstances of the offender.

In contrast to the Western Australian legislation, Victorian legislation (Children, Youth and Families Act 2005) provides a detailed list of the content expected in a pre-sentence report. The content specified in this act can be grouped into a number of key categories: the characteristics of the individual; offence

characteristics; family and social history; education and or vocation history; recreation/leisure activities; medical and health history; and rehabilitation (e.g. rehabilitation options and the young person's history and attitude towards rehabilitation). The same broad categories are reflected in much of the practice literature on FMHA for juvenile matters.

Sentencing

When determining the most appropriate sentence the judicial officer has dual responsibilities for rehabilitation of the young person and community safety (Vincent, Terry, & Maney, 2009). Despite the different legislation within jurisdictions, all Australian jurisdictions adopt a model for sentencing juveniles based on either a justice model or a welfare model (Warner, 1997). Under the justice model sentencing focuses on ensuring that: proportionality between the punishment and the crime; due process is executed; and safety of the community is considered. Under the welfare model, sentencing focuses on the restoration of losses experienced by the victim and the rehabilitation and reintegration of the offender into society (Krasnostein & Freiberg, 2013; Warner, 1997). When determining what is the most appropriate sentence, the judicial officer must also balance the competing premises of consistency (similar sentences for similar offences) and individualised justice (consideration of individual circumstances of the offender; Krasnostein & Freiberg, 2013).

The literature

When considering the appropriate sentence, factors that are relevant to the sentencing officer are the individual characteristics of the young person, the treatment needs of the young person, maturity of the young person, how amenable he or she is to treatment and what risk he or she poses to the safety of the community (Heilbrun & Locklair, 2016; Salekin, 2015). Identifying and describing the personality and mental health of the young

person informs all elements of risk, developmental maturity and treatment amenability (Salekin, 2015). Finally, the evaluator needs to consider whether impression management strategies are being used, and how they impact on the assessment data (Salekin, 2015).

Risk. The court is interested in the likelihood that the young person will engage in criminal behaviour and how that risk can be managed. Addressing risk in a report requires the evaluator to understand risk factors, identify and use instruments that measure risk, identify protective factors that are present and determine the most appropriate intervention and risk-management strategies (Hoge & Andrews, 2010). When assessing risk there are three matters to address: (a) the risk of what outcome? (b) Risk at what level (e.g. low, medium or high)? (c) The risk factors that are relevant for the young person (Heilbrun, 2009). The areas to be considered when estimating future risk include the seriousness of the offending, history of previous antisocial conduct and concern for others (Salekin, 2015). When providing a risk estimate, the evaluator needs to be clear the length of time the risk estimate is valid (Grisso, 2013).

Developmental maturity. Informing the judicial officer about the young person's developmental maturity can help the court when determining culpability (Cruise, 2006; Luna & Wright, 2016). However, there is no one definition of maturity for adoption by psychologists (Grisso, 2003). Maturity refers to cognitive or emotional functioning (Hoge, 2012) and includes psychosocial factors (Caffman & Steinberg, 2000). There are three psychosocial factors thought to impact maturity: responsibility (e.g. self-reliance, level of autonomy); perspective (the ability to look at the short- and long-term consequences, which is impacted by cognitive ability); and temperance (the ability to manage impulsive behaviours or thoughts; Caffman & Steinberg, 2000).

It is also important to examine whether or not the young person's lifestyle and offending behaviour resemble those of an adult and, if so, to what extent (Grisso, 2013). For example, is the youth showing increasingly sophisticated criminal behaviour? Is the youth showing an ability to form the intent to offend? Is the youth able to understand and conform to social norms (i.e. social maturity)? Does the young person have the cognitive capacity to delay gratification or use strategies other than offending to meet his or her needs? The ability of the young person to consider the consequences of criminal actions and to consider alternative behaviour before they act (Salekin, 2002) is another area for evaluation.

Amenability to treatment. Amenability to treatment and rehabilitation is an important question for pre-sentence evaluations (Hoge, 2012; Melton et al., 2017). Amenability to treatment involves identifying the juvenile's level of motivation to change and the level of responsibility they take to effect this change (Grisso, 2013). Other areas to be evaluated include the degree of remorse, the stability and support provided by the family, presence of prosocial role models and the expectation by the youth that treatment would be helpful (Salekin, 2002). The response of the young person to previous treatment or rehabilitation efforts also needs to be considered (Grisso, 2013; Kinscherff, 2016).

Assessment of treatment amenability should include: an evaluation of personality functioning, cognitive functioning, identification of education or vocation needs and evaluation of previous treatment efforts (Grisso, 2013; Melton et al., 2017). Addressing the intellectual, academic and vocational skills of the young person helps identify how the outcome of the sentence or intervention could be improved (Heilbrun & Locklair, 2016; Hoge & Andrews, 2010).

Impression management. The evaluator must be able to identify when the young person or

other interviewees are using impression management strategies, what strategies they are using and how those strategies impact on opinion formulation (Salekin, 2015).

Bias

Evaluators are required to maintain a neutral and objective stance towards the examinee, as distinct from the empathic, supporting and accepting attitude that would exist in the normal clinical relationship (Freckelton, 2019; Greenberg & Shuman, 1997; Shuman & Zervopoulos, 2010). Bias is a critical problem that the evaluator must guard against (see Murrie, Boccaccini, Guarnera, & Rufino, 2013; Murrie & Warren, 2005; West & Kenny, 2011) as it may affect the evaluation process (i.e. what methods are used), how the data gathered are interpreted and the opinions formed from those data (Neal & Grisso, 2014). Judicial officers report bias as a problem and one that negatively impacts the helpfulness of reports (Freckelton, Goodman-Delahunty, Horan, & McKimmie, 2017; Freckelton, Reddy, & Selby, 1999, 2001). Factors that contribute to bias in a FMHA include a lack of clarity in the referral question (Murrie & Warren, 2005), the existence of allegiance to the prosecutor or defender (Murrie et al., 2013), personal attitudes, beliefs, and values of the evaluator (Neal, 2018; Neal & Cramer, 2017), or heuristics (rules of thumb) used to aid decision-making (Neal & Grisso, 2014). A number of suggestions on how to mitigate evaluation bias are provided in the literature (see Neal & Brodsky, 2016; Neal & Grisso, 2014; Zapf & Dror, 2017; Zapf, Kukucka, Kassin, & Dror, 2018) so forensic evaluators need to be familiar with this literature.

Competence

Evaluators need to be able to assess their competence critically and to determine whether there is a match between their level of competence and the level required to address the

legal questions (APS, 2007; Ondrovik & Hamilton, 1992). This process is made difficult when there are no professionally endorsed standards that identify the specific competencies required when completing forensic evaluations of young people.

For endorsement as a forensic psychologist in Australia it is expected that the psychologist understands the role of the psychologist in the legal system and the rules of evidence and procedure (e.g. admissibility of evidence), and is able to identify the relevant legal and justice issues so that legally relevant and useful psychological data can be generated (Psychology Board of Australia, 2011). Forensic psychologists must also have knowledge of relevant psychological theory, research and theory on interventions, measurement and assessment of risk (including the evaluation of malingering and impression management) and ethical issues relevant to the forensic setting, and be able to work with different cultural groups and different age groups (Psychology Board of Australia, 2011). Specialised forensic training equips the psychologist with the understanding of what is required of a forensic evaluator and the skills and knowledge required to work in the legal arena (Craig, 2005; Day & White, 2008; Packer, 2008). However, in Australia there is no formal certification process required before a psychologist can work in the legal arena (Gianvanni & Sharman, 2015), and psychologists who have not completed forensic training do provide forensic reports to the courts (Allan et al., 2000).

To gain registration with the Psychology Board psychologists must possess competencies in psychological assessment and measurement, intervention strategies, communication and interpersonal relationships, and working with people from diverse groups and people of diverse ages (Psychology Board of Australia, 2011). The following paragraphs focus on application of these general skills to the forensic area and on additional skills that are specific to conducting an evaluation and completing a pre-sentence report for juveniles.

Knowledge of clinical and forensic theories

Evaluators need to have knowledge in the area of forensic psychology, developmental psychology, clinical and child adolescent psychology, and children and families (Bycroft et al., 2019b; Salekin, 2015). Evaluators should be able to identify childhood mental disorders that are common in the juvenile population (e.g. conduct disorder; attention-deficit/hyperactivity disorder, ADHD; substance use; anxiety; posttraumatic stress disorder; developmental disabilities; and psychotic disorders; Grisso, 2013). Youth involved in the juvenile justice system are more likely to have mental health problems and psychosocial problems associated with negative peer associations, family instability or education problems (Morin et al., 2015), undiagnosed speech and language disorders (Snow & Powell, 2007) and cognitive impairment or communication difficulties (Koocher & Kinscherff, 2016).

Interviewing skills

Skills in forensic interviewing techniques are critical when assessing youth. In a forensic interview, adolescents (who are often mandated to attend) can present as mistrustful and defensive, and appear unwilling to cooperate, when in fact this presentation can be due to an inability of the young person to manage their feelings (Cruise, 2006; Heilbrun, Marczyk, & DeMatteo, 2002). Evaluators must therefore possess skills in identifying the response style demonstrated by the examinee, the likely cause of the response style (e.g. emerging personality trait, situational factors, cultural factors or developmental level) and the impact it has on the validity of the evaluation and on the inferences and opinions drawn from the evaluation data (Melton et al., 2017).

Test administration

Skills in the selection, administration and interpretation of assessment tools appropriate for use in forensic evaluations is an important

skill for the evaluator (Melton et al., 2017). There are three categories of assessment tools available to the evaluator: clinical assessment instruments (CAIs); forensically relevant instruments (FRIs); and forensic assessment instruments (FAIs; Grisso, 2013; Heilbrun, Rogers, & Otto, 2002). Evaluators need to understand which category of assessment instrument is most relevant for which legal question, and which tests are reliable and valid for the juvenile they are administered to (Grisso, 2013). The evaluator should ensure that whenever possible forensic assessment instruments or forensically relevant instruments are used. Instruments developed for clinical purposes should be avoided as much as possible.

The evaluator should be familiar with risk assessment tools and have an understanding of the risk factors for juvenile offending such as past offending behaviour (e.g. age of first contact with the law, history of aggression), social history (e.g. out of home placements, parenting experiences, experiences of trauma) and offender characteristics (e.g. substance use, attitudes, maturity; see Borum & Verhaagen, 2006; Cottle, Lee, & Heilbrun, 2001; Hoge & Andrews, 2010).

Data sources

Data from assessment tools can be added to information obtained from interviews with the offender and other relevant parties and data gained from collateral sources (interviews and records from third-party sources). A synthesis of these three data sources provides greater validity to the data and to the opinions expressed based on those data (Lally, 2003).

Writing skills

Report-writing skills are standard requirements for a psychologist. However, forensic reports differ from clinical reports in structure, content and style (Allan & Grisso, 2014). Forensic reports must focus on the legal issue and be clear and comprehensive and clearly

demonstrate the links between the data obtained and the conclusions or opinions expressed (Packer, 2008).

Assessment tools

Selection of appropriate assessment tools is contingent on the evaluator's understanding of (a) the legal question to be answered, (b) what data the assessment tool provides and (c) the relevance of these data to the forensic legal question (Salekin, 2015). Another important consideration is the psychometric properties (e.g. reliability, validity, etc.) of the assessment tool, which impacts how much weight can be placed on the results (DeMatteo, Wolbransky, & LaDuke, 2016; Salekin, 2015). The evaluator should also consider whether the assessment tool is fit for purpose. For example, can the results be applied to the young person being assessed or has the test been developed using a different cultural, gender or age group (DeMatteo et al., 2016; Salekin, 2015)?

Risk assessments

The high prevalence of juvenile recidivism means that an accurate assessment of risk, and management of the risk with effective interventions, is an important part of the judicial system (DeMatteo, Hunt, Batastini, & LaDuke, 2010). Despite the availability of empirically based risk assessment tools, and valid and reliable approaches to risk assessment, the interventions provided to young offenders are not always driven by accurate assessments of risk (DeMatteo et al., 2010). Unstructured professional judgement still pervades the juvenile justice system (Mulvey & Iselin, 2008). Unstructured professional judgement provides an estimate of risk based on the subjective view of the evaluator (Hoge & Andrews, 2010; White et al., 2007), provides limited value on the issue of recidivism (Vincent et al., 2009) and should be avoided.

Empirically validated approaches to risk assessment with juveniles are available. One such approach is the

risk–need–responsivity (RNR) approach. The RNR approach provides a framework for assessing risk and identifying treatment priorities for young people (Andrews & Bonta, 2010). The approach considers static and dynamic factors known to be associated with the risk of recidivism. Static factors are those historical factors that are not subject to change (e.g. age at first offence). Dynamic factors are those factors that change with time or that can change with intervention (DeMatteo, Wolbransky, & LaDuke, 2016; Hoge, 2016).

The RNR approach provides a method of identifying factors that contribute to the offending and a guide to reduce recidivism (Hoge, 2016). This approach is applicable to a variety of criminal behaviour and offender types (Andrews & Bonta, 2010), including younger offenders (Dowden & Andrews, 1999) and minorities (Andrews, Bonta, & Wormith, 2006). The Youth Level of Service/Case Management Inventory (YLS/CMI; Hoge & Andrews, 2011) and the Structured Assessment for Violence Risk in Youth (SAVRY; Borum, Bartel, & Forth, 2006) are both examples of structured professional judgement tools available when assessing risk with juveniles.

A formal risk assessment using standardised instruments with sound psychometric properties provides an estimate of the likelihood of future recidivism (DeMatteo et al., 2010; Grisso, 2013; Schwalbe, 2007). This estimate can help the judicial officer's decision-making process (Hoge, 2002) and represents good practice (Casey et al., 2013; Grisso, 2013). Accurate and thorough risk assessments inform risk management strategies and case-specific recommendations for rehabilitation (DeMatteo et al., 2010; Grisso, 2013; Schwalbe, 2007). The literature supports the inclusion of a formal risk assessment in every pre-sentence report. Judicial officers who expressed views in our survey and focus group agreed that risk assessments were always helpful, but were essential when the offence was of a violent or sexual nature (including arson).

Given that psychologists who undertake forensic evaluations are obliged to assist the court, it is concerning that psychologists in our previous research were not unanimous in their understanding of this aspect of the Court's needs. If the court needs something particular from a category of expert witnesses, then those experts are obliged to provide it. Consequently, there is no question that psychologists evaluating young offenders for sentencing purposes must undertake a competent and comprehensive risk assessment. Psychologists who are not properly trained and competent in conducting such risk assessments are consequently unfit to practise in this area.

Data sources

Sources of data fall into three broad categories: self-report, assessment tools and third-party records or interviews (Heilbrun & Locklair, 2016). The evaluator needs to be clear on what information is required, why it is required, how that information relates to the legal question and how reliable and valid the data sources are (Heilbrun & Locklair, 2016). Interviews with the young person, documents from government departments, school records, police records and interviews with third parties (e.g. teachers, family members, counsellor, juvenile justice staff, etc.) are all sources of information (Grisso, 2013).

Ethics

Conducting forensic evaluations of young people can present a number of ethical challenges, for example: obtaining informed consent, respecting the young person's privacy, maintaining a non-partisan (i.e. unbiased) approach to the evaluation process and final report (Salekin, 2015), and ensuring the evaluator's competence aligns with the skills required to answer the legal question (APA, 2013b; Grisso, 2013).

Informed consent can be a challenging issue when working with young offenders

(Heilbrun & Locklair, 2016; Hoge, 2012). Working in the forensic area increases the chance of having clients who are vulnerable due to having a learning difficulty or cognitive impairment, or having culturally diverse backgrounds (APS, 2013). Despite this vulnerability under General Principle A (respect for the rights and dignity of people and peoples) in the Australian Psychological Society's (2007) Code of Ethics, informed consent should be obtained before a service is provided.

The ethical guidelines for psychological practice in forensic contexts (APS, 2013) outline the information that must be provided to the young person when gaining consent. Elements of informed consent include ensuring that the young person, and if relevant their responsible adult, is informed of the purpose of the evaluation, the procedures to be used, the time required, the potential use of the information obtained and the importance of honesty when answering (Salekin, 2015). Even when the evaluation is ordered by the court and can proceed without consent the evaluator should still explain the purpose of the evaluation and limits to confidentiality (APS, 2013). Documenting how the evaluator informed the young person and then confirmed the young person's understanding of confidentiality should be included in the pre-sentence report (Heilbrun et al., 2009; Salekin, 2015).

Relevance

Ensuring that the data collected and reported are relevant to the legal question is an ethical issue because including irrelevant data can be prejudicial (Allan & Grisso, 2014; Heilbrun, 2001; Hoge, 2012). This highlights the importance of the evaluator understanding the terms of reference for the evaluation. When the terms of reference are vague or non-existent the evaluator must draw upon their knowledge of FMHAs, youth offending behaviour, and so on to ensure that the information provided to the court is relevant to the sentencing task.

Opinion formulation

The evaluator's formulation or opinion is a key part of the pre-sentence report and requires the evaluator to synthesise all the data gathered into a coherent picture of the young person, the offence, future risk, and rehabilitation and treatment options (Salekin, 2015). Opinion formulation must be written in such a way as to provide transparency between the data gathered and the opinions and recommendations made by the evaluator (Heilbrun, 2001). The importance of transparency was identified both by the psychologists in our previous research (Bycroft et al., 2019b) and by the judicial officers surveyed for this paper.

The formulation provides a coherent picture of the young person, providing a picture of the onset, development and maintenance of their offending behaviour. A formulation draws from factors such as the young person's values, attitudes and core beliefs, the factors that contributed to the development of these core beliefs, criminogenic needs, environmental triggers, mental health issues, personal strengths and risk of recidivism (Casey et al., 2013). The formulation should (a) provide a logical basis for the specific detailed rehabilitation/treatment recommendations made, (b) identify responsivity issues that need to be considered in the delivery of rehabilitation, and (c) identify the likelihood that treatment or other rehabilitation will be effective (Grisso, 2013).

Report content and structure

While there are no Australian standards for the structure or content of a pre-sentence report, practice literature suggests what information should be provided in a report (see Ackerman, 2006; Fortune, 2017; Grisso, 2013; Hecker & Steinberg, 2002; Salekin, 2015; Tufnell, Cottrell, & Georgiades, 1996). Suggestions for the general report structure for FMHA reports vary and can differ in the level of detail they provide. For example, Griffith et al. (2010) identified three sections to a report: the introduction, the data considered, and the

interpretations and conclusions drawn. Buchanan and Norko (2013) identified five sections for a forensic psychiatric report: the introduction, description of the evaluation, background information, interview findings and conclusion. White et al. (2007) suggested a report structure comprising nine sections; referral details, information sources, statement of evaluator qualifications, background, current legal matter, behaviour during assessment, test results, assessment of mental disorder and opinion. Irrespective of how the evaluator chooses to structure the pre-sentence report, the report must be easily understood by lawyers, judicial officers and others involved in legal proceedings (Conroy, 2006). We have divided the literature we found on report content under the three report sections proposed by Griffith et al. (2010).

Introduction

The introduction of a report should include: the name and date of birth of the youth being evaluated (Fortune, 2017); the referral source and the legal question being addressed by the report; and the methods of data collection and the data sources used in the report (Allan & Grisso, 2014; Heilbrun et al., 2009; Salekin, 2015). The steps taken to obtain informed consent, and how the evaluator determined the young person's understanding of the purpose of the evaluation, the limits to confidentiality and the use of the data collected, are also usually included in the introduction section (Cruise, 2006; Heilbrun, 2001).

Data collected

As multiple sources of data are obtained, these must be synthesised in a coherent story for the reader (Fortune, 2017). Some of the sub-headings found in this section include characteristics of the young person, family background, education/vocational history, health of the young person (e.g. substance use history, mental health history, general physical health), offence history and risk (Fortune, 2017).

Details of tests administered, the purpose of the tests and the results of the tests are also provided in the data section of the report (Fortune, 2017).

Offender characteristics

Details of the young person's personality traits and behavioural predispositions (Grisso, 2013; O'Donnell & Lurigio, 2008; Salekin, 2015), and beliefs, values and attitudes (Hoge & Andrews, 2010) relevant to the forensic legal issue are provided. Behavioural and emotional disorders experienced and or demonstrated by the young person (e.g. internalising or externalising behaviours, conduct disorders, oppositional-deficient, attention-deficit and hyperactivity disorders; Cruise, 2006; O'Donnell & Lurigio, 2008) and developmental maturity (Heilbrun & Locklair, 2016; Salekin, 2015) are also addressed in this section.

Psycho-social history

Information on family and social history of the young person includes details of the parent-child relationship (Heilbrun & Locklair, 2016; Salekin, 2015); the extent of parental supervision provided (Heilbrun & Locklair, 2016); family stability and family losses (Grisso, 2013); the young person's experience of family violence or other trauma (Heilbrun & Locklair, 2016; O'Donnell & Lurigio, 2008); and details of any out-of-home placements (Heilbrun, 2001). The young person's academic and intellectual functioning (general intelligence and aptitude, school attendance and performance, suspensions, learning problems, academic interventions, etc.) relevant to the legal question are also provided (Grisso, 2013; Hecker & Steinberg, 2002; O'Donnell & Lurigio, 2008).

Physical and mental health

The report should include information on the young person's physical health (e.g. conditions and medications; Grisso 2013) relevant to the

forensic legal issue being addressed by the evaluation (Bycroft et al., 2019b). The mental health history and current status, previous psychiatric treatment, intellectual disability diagnoses, psychological treatment (Grisso, 2013; Salekin, 2015) and history of substance use (O'Donnell & Lurigio, 2008) are also addressed. Those factors should be discussed in terms of their relevance and impact on offending behaviour, risk level or risk management, and rehabilitation and intervention options (Grisso, 2013).

Offence history

Offence history includes delinquent behaviours and interactions with the law (Grisso, 2013; Hoge & Andrews, 2010; Salekin, 2015), history of aggression (Heilbrun & Locklair, 2016) and patterns of offending (Grisso, 2013; Heilbrun & Locklair, 2016).

Risk

The judicial officer has dual responsibilities for rehabilitation of the young person and community safety (Vincent et al., 2009). A risk assessment that indicates the likelihood of recidivism (i.e. repeat offending) assists the judicial officer when determining the most appropriate sentence. When addressing risk of reoffending, three questions need to be answered: (a) What is the level of risk? (b) What is the outcome being assessed (i.e. risk of what)? (c) What are the factors that increase or reduce the risk (Heilbrun, 2009)? A comprehensive risk assessment also considers maturity and amenability to treatment and informs the recommendations for treatment (Hoge & Andrews, 2010; Melton et al., 2017; Salekin, 2015).

Sentencing options

The suitability of different sentencing options may also be addressed (O'Donnell & Lurigio, 2008; Tata, Burns, Halliday, Hutton, & McNeill, 2008). There are two views reflected in the literature on addressing sentencing

options. One view is that it is a required part of a pre-sentence report (O'Donnell & Lurigio, 2008; Tata et al., 2008); the other view is that this is the ultimate issue, and it is the responsibility of the judicial officer to determine the sentence (Heilbrun, 2001). More recently, Heilbrun et al. (2009) has indicated that the decision to address sentencing options 'should be in the context of a thorough evaluation clearly describing data and reasoning, with the clear recognition that this question is the domain of the legal decision maker' (p. 137). This is consistent with the view expressed by the judicial officers we consulted (see earlier).

Opinion formulation and recommendations

In this section, the evaluator pulls all the data together. This is often referred to as case formulation. The formulation provides a coherent picture of the young person (Salekin, 2015). The young person's values, attitudes and core beliefs, the factors that contributed to the development of these core beliefs, criminogenic needs, environmental triggers, mental health issues and personal strengths, as well as risk of recidivism, are addressed (Casey et al., 2013). In writing the conclusions, the evaluator should keep in mind the relevance of the data to the legal question. The reader should be able to easily identify the links between the opinion expressed, recommendations made and the data gathered in the evaluation (Grisso, 2010; Heilbrun, 2001; Salekin, 2015).

Rehabilitation recommendations

The formulation should provide a logical basis for the specific detailed rehabilitation/treatment recommendations made, identify responsibility issues that need to be considered in the delivery of the treatment and identify the likelihood that treatment would result in the desired change (Grisso, 2013). The judicial officers we consulted indicated that

rehabilitation recommendations with a high level of specificity and detail were the most helpful.

Comprehensiveness and succinctness

The importance of a report's contents being relevant and comprehensive yet succinct is reflected in the practice literature (see Allan & Grisso, 2014; APA, 2013a; APS, 2013; Grisso, 2010; Heilbrun, 2001; Heilbrun et al., 2009). The judicial officers we consulted stated that they value receiving a comprehensive report that is presented as succinctly as possible. However, they indicated that psychologists writing the reports do not always get the balance right.

Summary

The pre-sentence report has the potential to impact the future of the young offender

Despite this, minimum standards have not been established to ensure that pre-sentence reports submitted to the courts meet the needs and expectations of judicial officers. The psychologist undertaking the pre-sentencing evaluation must understand his or her role as well as the legislation that impacts the FMHA. He or she must also be aware of and make use of appropriate and scientifically valid methodology when conducting the evaluation.

Unfortunately, there has been a gradual decline in the number of teaching institutions able to provide the type of specialist forensic training that psychologists need to effectively carry out pre-sentence evaluations (and associated report writing). This has limited the pool of experienced forensic psychologists with the requisite level of forensic training that the courts can utilise.

Judicial officers find reports helpful when the psychologists demonstrate that appropriate methodology was used in the evaluation, and the report provides relevant and comprehensive data in a concise and easy to understand format. Courts require the evaluation report to be free of bias and to adhere to the rules of

expert evidence (Freckelton, 2019; Freckelton et al., 2017). Judicial officers in our research indicated that sometimes the psychological pre-sentence reports submitted to the courts do not meet these criteria. Establishing a decision-making model is the first step in addressing this issue.

The model

The decision-making model that we propose for pre-sentence reports for juvenile offenders in Australia consists of 10 decision points. Each decision point relates to one or more of the essential elements of the evaluation and reporting tasks as identified from our research.

Each decision point comprises of one or more questions and serves a two-fold purpose. Firstly, the decision point is intended to prompt the psychologist's awareness and appreciation of one or more of the elements of the evaluation and reporting task at hand. Secondly, the questions raised in each decision point invite the psychologist to identify any shortfall in knowledge, skills or training that might limit that psychologist's capacity to adequately address the applicable elements of the evaluation and reporting tasks. Where necessary, the model instructs the psychologist to seek input and guidance from experienced forensic psychologists able to assist in bridging the apparent shortfalls in knowledge, skills and training. It is critical that the supervision is provided by psychologists with endorsement in forensic psychology, who have experience in the preparation and review of court reports and experience in defending their opinions (i.e. expert evidence) in court. Until professional standards and guidelines are developed for pre-sentence evaluations and pre-sentence reports, increased reliance on supervisory guidance (as reflected in our model) should enable less experienced psychologists to deliver helpful pre-sentence reports that meet judicial officer expectations in juvenile courts.

The 10-point decision-making model is presented below. As can be seen from the

model, all 10 steps incorporate the need to have the requisite knowledge and skills and to understand the ethics associated with each decision point. Decision Points 4 through to 9 predominantly focus on methodology. Decision Point 10 focuses on the content and presentation of the pre-sentence report.

Decision Point 1

Do I properly understand the legal issue to be addressed in this evaluation and associated report, and the psychological constructs that will enable the legal issue to be addressed?

- 1a If the answer is yes, go to Decision Point 2.
- 1b If the answer is no, then stop. Decline the referral or seek supervision (from a suitably qualified or experienced forensic mental health practitioner).

Decision Point 2

Is it appropriate for me to undertake this evaluation given the offender characteristics and offence type? Am I confident that I have no personal attitudes, values or beliefs that might impact my ability to be impartial in the evaluation process or in the written report.

- 2a If the answer is yes, go to Decision Point 3.
- 2b If the answer is no, then stop and decline the referral.

Decision Point 3

Do I have the necessary competency to complete this particular evaluation?

- 3a If the answer is yes, go to Decision Point 4.
- 3b If the answer to the above question is no, then stop. Decline the referral or seek supervision (from a suitably qualified or experienced forensic mental health practitioner), and document the process used to arrive at your decision to proceed, as well as the steps

you will implement to address the points you answered no to.

Decision Point 4

Do I know what assessment tools are appropriate for this evaluation? Do I have the required access to the necessary tools, have experience in administering the tools, understand the tools' psychometric properties and limitations, and have the skills to score and interpret the results?

- 4a If the answer to the above question is yes, go to Decision Point 5.
- 4b If the answer to the above question is no, then stop. Decline the referral or seek supervision (from a suitably qualified or experienced forensic mental health practitioner), and document the process used to arrive at your decision to proceed, as well as the steps you will implement to address the point/s you answered no to.

Decision Point 5

Have I identified my risk assessment approach and the risk assessment tools I will use?

- 5a If the answer to the above question is yes, go to Decision Point 6.
- 5b If the answer to the above question is no, then stop. Decline the referral or seek supervision (from a suitably qualified or experienced forensic mental health practitioner), and document the process used to arrive at your decision to proceed, as well as the steps you will implement to address the points you answered no to. Do not proceed if the assessment requires the use of risk-assessment tools that you have not been trained to use.

Decision Point 6

Do I know what data I need to gather to complete a comprehensive evaluation, have I

obtained the necessary consent to access the data, where and how will I access the data I need, and am I confident I could justify or defend my choices if called upon to do so by the court?

- 6a If the answer to these questions is yes, go to Decision Point 7.
- 6b If the answer is no, then stop. Decline the referral or seek supervision (from a suitably qualified or experienced forensic mental health practitioner) and document the decision-making process.

Decision Point 7

Do I understand the issues regarding informed consent in a FMHA context and how, in this specific forensic context, I need to demonstrate that informed consent has been obtained?

- 7a If the answer is yes, go to Decision Point 8.
- 7b If the answer is no, then stop. Decline the referral or seek supervision (from a suitably qualified or experienced forensic mental health practitioner). If you decide to proceed then document the process you used to arrive at that decision.

Decision Point 8

Have I obtained the data necessary to answer the forensic (legal) issue? Have I triangulated my data? Based on the data I have gathered can I produce an independent comprehensive report?

- 8a If the answer is yes, go to Decision Point 9.
- 8b If the answer is no to any of these questions, then stop. Seek supervision from a suitably qualified or experienced forensic mental health practitioner. If some aspects of the necessary data are not able to be obtained in this instance, explain that

limitation in the report, and include an outline of how that limitation impacts on the opinion expressed in the report.

Decision Point 9

Have I formulated an opinion from a critical analysis of the data that allows me to address the legal issue in a probative (not prejudicial) manner? Are recommendations supported by the data presented in the report? Are the recommendations specific and detailed enough to be informative to the reader?

- 9a If the answer is yes, go to Decision Point 10.
- 9b If the answer is no, or unsure, to any of these questions, then stop. Seek supervision from a suitably qualified or experienced forensic mental health practitioner.

Decision Point 10

Have I included all relevant data in the report? Have I presented the data clearly and succinctly? Is the logic between the data and my opinions and recommendations transparent? Have I clearly addressed the forensic (legal) issue? Have I explained why the issues have not been fully addressed? Have I clearly identified and explained the limitations of the report?

- 10a If the answer is yes, check the report again to ensure accuracy, completeness and succinctness.
- 10b If the answer is no, then stop. Seek supervision (from a suitably qualified or experienced forensic mental health practitioner) and make the corrections before submitting the report to the court.

Conclusion

Children's courts finalise many cases each year and have finite resources. As most young people in Australia enter a plea of guilty (or

are found guilty), a key role for judicial officers is to determine the most suitable sentence given the circumstances of the young offender, the offence and the safety of the community. The pre-sentence report can play an important role in this process by (a) providing information on the young person's family circumstances and individual life experiences, (b) providing explanations for the offending behaviour, (c) identifying the nature and level of risk of reoffending, and (d) suggesting where the rehabilitation efforts are best directed to reduce and/or manage risk.

The helpfulness of a pre-sentence report is determined by the judicial officer and is influenced by the skills of the evaluator, the methodology used in the evaluation process and how well the results of the evaluation are communicated in the pre-sentence report. Research evidence suggests that reports are not always seen as helpful and that in a number of reports, faults continue to reoccur. To help with issues of quality and consistency, there is a need for guidelines to be established for each type of FMHA (Heilbrun, 2001; Heilbrun & Brooks, 2010; Heilbrun et al., 2008; Shuman & Zervopoulos, 2010). To date Australia has not acted on these recommendations. There are no professionally endorsed Australian guidelines for the FMHA for juveniles.

Training in forensic psychology provides the psychologist with the required skills and knowledge. However, there are few forensic psychologists available to undertake the work (Malsch & Freckelton, 2005) and limited post-graduate training courses available within Australia, and psychologists without forensic training are undertaking forensic work (Allan et al., 2000). Our research has identified what knowledge and skills psychologists believe are necessary to undertake forensic evaluations, what methodology they follow and what content should be included in a pre-sentence report for juvenile matters (Bycroft et al., 2019b). We found that judicial officers view the content of pre-sentence reports helpful but believe that reports could be more helpful (see

earlier). Drawing upon the data from practice literature, our research and feedback from a reference group of psychologists, we developed a decision-making model for pre-sentence evaluations and reports for juvenile matters.

The model provides a framework for completing a psychological pre-sentence report, and highlights what we have identified as the key elements of an evaluation. Our model also provides a basis for the development of practice guidelines and professional standards specific to the pre-sentence evaluation of juveniles, and provides a framework for the development of training and supervision standards relevant to juvenile evaluations.

The next step is to test our model in the field, to determine whether (a) applying the model has a positive impact on the helpfulness of reports, (b) the model provides a useful framework for those new to preparing forensic pre-sentence reports and for judicial officers in courts that deal with young offenders, and (c) the model can be used in other countries to improve the helpfulness of the psychological pre-sentence report for juvenile matters.

Ethical standards

Declaration of conflicts of interest

Debra Bycroft has declared no conflicts of interest

Greg 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 Human Research Ethics Committee of Edith Cowan University 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 this study

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