

Forensic Psychology and Ethics

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Forensic psychology refers to psychological work applied to legal issues. Psychologists may be hired as experts by a solicitor, appointed by a judge to treat an individual and report periodically back to the court, or be hired by someone involved in the judicial system.

Forensic psychologists provide a valuable service by helping courts make accurate and fair decisions. Also, psychologists without forensic backgrounds may find themselves unintentionally working in the forensic area.

Forensic psychology services often rest on the ethical principles of public beneficence and justice, insofar as everyone in society benefits when the court system has access to relevant information that helps it function more fairly.

Psychologists working in forensic areas have an increased exposure to legal risks. For example, almost two thirds of psychologists who conducted child custody evaluations had a complaint filed against them at some point in their careers (Ackerman et al., 2021).

The nature of judicial processes

Psychologists often participate in the legal system as expert witnesses. Experts can testify on a wide range of situations, such as the effects of brain damage an individual has experienced after an accident, whether the testimony of an eyewitness was reliable, or whether an individual meets the legal definition of insanity (Cutler & Kovera, 2011).

Although the standards vary across countries, the general rule is that expert witnesses provide information to the courts that is outside the expertise of the average layperson.

Judges admit psychologists as experts if their education, training, and experience qualify them to provide expert opinions related to the case before the court.





Like all psychologists, forensic psychologists need to be objective in their work.

Forensic psychologists should also be aware of the role that heuristics or biases, such as the availability and representativeness heuristics, confirmation bias, or the fundamental attribution error, could influence their work (Neal et al., 2022).

Also, competent forensic psychologists guard against implicit prejudices or biases that could distort the nature of their work. For example, in the criminal justice and child welfare systems, the professionals are usually white, while people of colour or of lower-income are overrepresented among the service recipients.

Therefore, psychologists need to be especially sensitive to the role that implicit biases or a lack of cultural awareness could have on their work (Lens, 2019).

Psychologists should also guard against gender-related biases. For example, a lower threshold of culpability might apply to a mother who is accused of neglect compared to a father. Or a woman who has been the victim of domestic abuse might be accused of “alienating” her children from the father, when her behaviours are a natural reaction of an abuse survivor.

Finally, like all psychologists, forensic psychologists should be alert to the signs of burnout, vicarious trauma, or compassion fatigue in their work (Neal et al., 2022). The nature of their work may mean that they are exposed to more trauma and high conflict cases than psychologists who only deliver healthcare services.



A general rule in conducting forensic work is to accept information from secondary or collateral sources. At times, these sources may come from police reports or other government documents with a presumed degree of reliability.

At other times, neighbours or relatives may provide information whose reliability might vary. In addition, many forensic psychologists will conduct Internet searches for additional information on the persons they are evaluating.

Over the years, the demand for and the standards expected of forensic work have increased. Psychologists conduct evaluations of families to assist courts in determining child custody arrangements and termination of parental rights.

They assess for mitigating circumstances when sentencing offenders, the degree of risk for sexual offenders, and the optimal services for a child judged as delinquent.





Over the years, the number of tests used and the amount of time spent in making custody recommendations have increased (Ackerman et al., 2021).

This may reflect greater concern over liability issues on the part of psychologists. Psychologists may face demands to abandon a completely objective standard when issuing reports or opinions.

Sometimes the demands may be overt; sometimes they may be subtle. The difficulty of being objective is compounded by the fact that psychologists are often asked to testify on matters in which the state of the art does not ensure precision or a high degree of certainty. For example, although predictions of violence have improved in recent years, they are still based on probabilities and can produce false positives.

Expert witnesses attempt to educate or empower judges or juries, which may mean providing new information or debunking myths that they may have.

For example, many jurors (and judges) may hold false beliefs about rape which may influence their perceptions of culpability or the severity of the sentence given (Gemberling & Cramer, 2014).

Psychologists working with divorcing couples have seen how the processes of divorce and custody cases can harm the parties involved.

Many believe that the nature of the judicial process impedes the ability of parents to reach agreements concerning child custody, exacerbates family tensions, and harms the children.

The system often requires parents to emphasize the shortcomings of the other parent. It is difficult for divorcing parents to testify concerning the weaknesses of a spouse on one day and then try to work out transportation to rugby practice on the next.



CASE EXAMPLE: WHAT IS MY ROLE?

A psychologist was asked by his client involved in a custody dispute to “just write a short letter” describing his progress in treatment and parenting skills.

The client was generally pleased with the letter but asked the psychologist to include information about how the well-being of his children would improve if they could have regular visits with him.

The psychologist rewrote the letter according to the wishes of his client.

What are the ethical considerations here?



Multiple roles and professional boundaries

The forensic role differs considerably from the treatment role. Psychotherapists focus on the welfare of their patients, but forensic psychologists have an obligation to the courts that hired them. Their relationships with the clients are courteous but not necessarily to promote their welfare.

In fact, there are times in which a forensic psychologist's conclusions may conflict with the interests of a patient who they are evaluating.

Without intending to do so, the psychologist let himself get maneuvered into making a custody recommendation. Any time psychologists write letters recommending custody or visitation arrangements, they are making a custody recommendation.

This letter shifted the psychologist from a treating role into a forensic role. Psychologists should only make such recommendations after evaluating all the parties in the family, not based on a psychotherapeutic relationship with one parent.

Furthermore, as the father's psychotherapist, this psychologist lacked the objectivity needed to make a custody recommendation.

Court-Ordered Treatment

Sometimes courts order patients into treatment and demand access to treatment information. The disposition of a case against a patient may depend largely or in part, on the nature of the patient's participation in psychotherapy.

For example, a court may order parents into treatment before they permit them to visit with their children. The court may expect the psychologist to provide both information relevant to the disposition of the children and meaningful treatment to the parent or child.

This places the psychologist in a hybrid role of having loyalties to both the patient and the court.

What do you see as being an ethical issue here?



The issue here...

Confidentiality vs Trust

Clear outline of roles of all parties

Objectivity and neutrality

Awareness of agenda/misrepresentation

Life endangering patients

The overarching ethical principle of general beneficence compels psychologists to act to protect third parties from patients who threaten them.

Also, the principle of beneficence compels psychologists to act to protect patients who threaten themselves or identifiable third parties, under the assumption that assaulting others harms the perpetrators as well as the victims.

Finally, the principle of non-maleficence compels psychologists to protect the lives of their patients from self-harm.

Because of the high stakes involved, the principles of general beneficence, beneficence, and non-maleficence may override respect for patient autonomy.



Risk management or quality enhancement principles become especially important when dealing with life-endangering patients. Patient suicides or deaths by patient assaults are high-impact events.

Psychologists need to be competent (i.e., know how to treat patients with life-endangering features and how to document their interventions clearly) and sensitive to the welfare of both patients and third parties.

They need to keep their emotional balance to avoid impulsive decisions.

*Legal and Ethical Requirements When There Is
Imminent Danger to Third Parties (read up on the
`Tarasoff case` p156)*



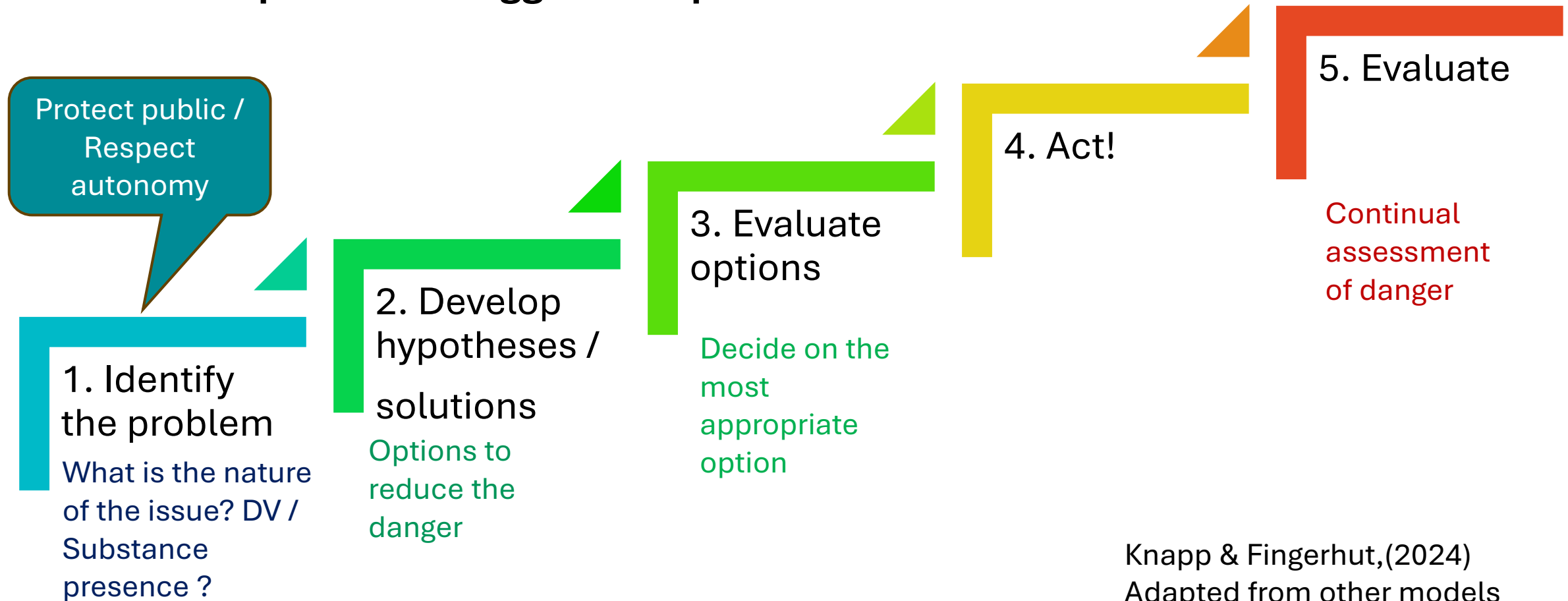
Vignette:

During a court-ordered evaluation, a defendant, Alex, calmly explains that once released, he plans to “finish the job” and kill his former partner. He insists the information “cannot be shared because this is private psychological testing.”

What does the psychologist have to consider?



The five-step model to aggressive patients



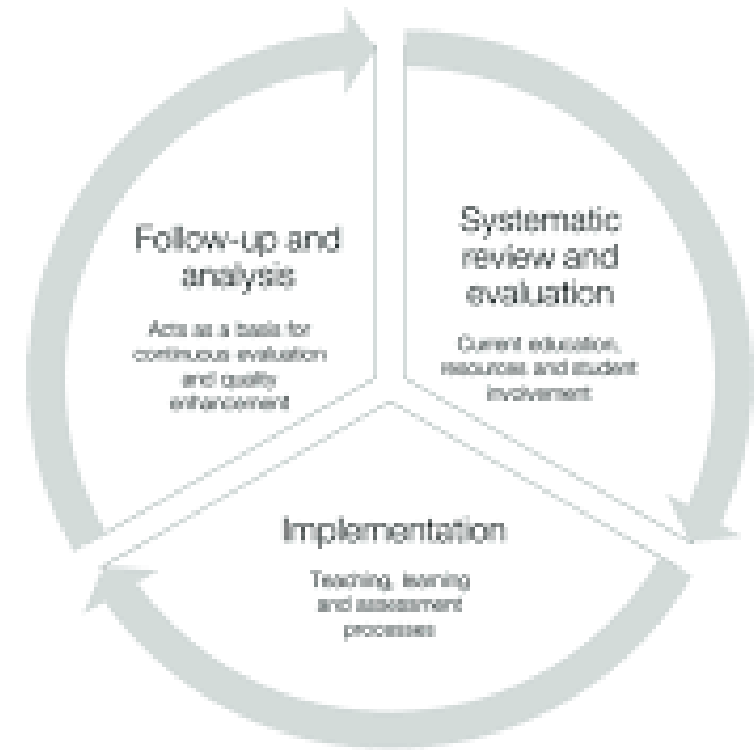
Knapp & Fingerhut,(2024)
Adapted from other models
such as IDEAL and SHAPE

Psychologists can reduce the risk of an adverse outcome or a treatment failure by using quality enhancement or risk management strategies. These are based on the premise that the best risk management strategies focus on providing and documenting good patient care (Knapp et al., 2013).

The four quality enhancement strategies are:

- (a) maximizing patient involvement (informed consent or empowered collaboration),**
- (b) expanding resources(consultation),**
- (c) creating good documentation, and**
- (d) checking one's work(redundant protection).**

Attention to these quality enhancement strategies should increase whenever the risk of harm to the patient or the public increases or a deeply held moral principle is threatened.



**Test your
ethical
understanding
in judicial
processes**



Dual Roles / Objectivity

A psychologist is asked to evaluate a former therapy client for criminal responsibility. The prosecutor insists that declining would “appear biased,” and the client gives written consent. Which factor MOST strongly justifies refusal?

- A. Consent does not eliminate risk to impartiality in forensic roles**
 - B. The psychologist may lose future opportunities to work with the court**
 - C. The defendant already has a trusting relationship with the psychologist, therefore improving rapport**
 - D. Dual roles are prohibited if the client objects**
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Informed Consent in Mandated Evaluations

A defendant with limited English proficiency signs an informed consent form translated by a court clerk, but during the interview repeatedly asks whether their answers “will help me get out sooner.” What is the MOST ethical next step?

- A. Continue; the signed form meets the legal requirements of informed consent**
 - B. Pause the evaluation and secure qualified interpretation**
 - C. Allow the barrister to explain the limits of confidentiality to the defendant later**
 - D. Proceed but exclude any responses given before comprehension improves**
-

Malingering and Assessment Integrity

A defendant shows inconsistent effort on validity tests, but their history and collateral information strongly suggest genuine cognitive impairment. Which option BEST reflects ethical practice?

- A. Diagnose malingering based solely on performance validity failures**
 - B. Integrate all data sources and consider alternative explanations before concluding malingering**
 - C. Ignore performance validity results due to potential neurocognitive deficits**
 - D. Terminate the evaluation and report it as “non-interpretable”**
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A Barrister`s Influence on Conclusions

A barrister offers to double the psychologist's fee if they can "clarify" findings in a way that reduces the defendant's apparent culpability. What is the MOST ethical response?

- A. Decline the inducement and reiterate role as an impartial evaluator**
 - B. Accept but disclose the payment arrangement in the report**
 - C. Modify interpretations only slightly to maintain your professional relationships**
 - D. Refuse the case entirely because barristers are not always trustworthy**
-

Competency Beyond Training

A psychologist with no training in immigration-related evaluations is requested to assess “psychological hardship” for a deportation case. What is the MOST defensible action?

- A. Accept if the psychologist agrees to do their research and reviews relevant literature beforehand**
 - B. Decline unless adequate training or supervision can be secured**
 - C. Accept because such evaluations require similar clinical skills to those that the psychologist already possesses**
 - D. Conduct the evaluation but add a disclaimer about limited expertise**
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Probabilistic Risk Assessment

A court asks that the psychologist classify a person as “safe” or “dangerous” for sentencing. The psychologist knows risk estimates involve confidence intervals and population-level data. What is the MOST ethical and scientifically valid response?

- A. Provide a binary answer to meet judicial expectations**
 - B. Decline to pass judgement due to the legal pressure and step away from the case**
 - C. Explain limitations and provide a structured risk formulation**
 - D. Go with the highest possible risk category based on your assessment, to avoid potential public harm**
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Cultural Competence and Diagnostic Bias

A defendant's culturally normative spirit-communication practices are interpreted by the prosecution as psychosis. What should the psychologist emphasize in testimony?

- A. That cultural norms should override diagnostic criteria**
 - B. That cultural context must be integrated with symptom evaluation**
 - C. That religious beliefs should be respected and do not apply in forensic settings**
 - D. That culturally unfamiliar beliefs are inherently risk-elevating**
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Vulnerable Defendants and Acquiescence Bias

A defendant with intellectual disability provides contradictory answers but appears eager to please. What is the MOST ethical approach?

- A. Interpret contradictions in their responses as potential evidence of malingering**
 - B. Use simplified language, adaptive measures, and collateral sources to evaluate competency**
 - C. Conclude incompetency on the basis of intellectual disability**
 - D. Proceed with standardised testing and questioning to ensure fairness and equity to the defendant**
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Expert Testimony and Certainty

During cross-examination, the psychologist is asked: “Can you state with absolute confidence that your risk estimate is correct?” Which answer BEST maintains ethical boundaries?

- A. “Yes, the tools are designed for certainty; they have been validated and have high predictive validity.”**
 - B. “No conclusion in forensic assessment is absolutely certain; risk estimates reflect probabilistic data.”**
 - C. “I cannot answer because this is a question that I am not prepared to put my reputation on the line for”**
 - D. “Yes, it is specifically designed for courtroom purposes and the assessment of aggression.”**
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Use of Unvalidated Tools

A proprietary algorithm for predicting recidivism has been mandated by the court, but its developers haven't supplied the scoring methods. Which action MOST ethically reconciles legal and scientific obligations?

- A. Use the tool because the court has ordered it – you have to abide by legal requirements**
 - B. Refuse the court order to preserve your own scientific ethics and moral beliefs**
 - C. Use the tool but supplement it and document its limitations**
 - D. Replace the tool with a different algorithm**
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Court Orders vs. Test Security

A judge demands raw test protocols be turned over directly to a prosecuting barrister. Ethical guidelines caution against releasing raw data to non-professionals. What is the MOST appropriate response?

- A. Comply to avoid being in contempt of court**
 - B. Seek consultation to propose alternatives**
 - C. Refuse and cite the BPS Code of Ethics and Conduct as overriding the judge's order**
 - D. Release heavily redacted raw data to the barrister**
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Explaining Limits of Confidentiality

Which statement MOST accurately conveys limits of confidentiality in a court-ordered forensic evaluation?

- A. “You can control who receives your evaluation results.”**
 - B. “What you share will be reported to the court and may affect your legal case.”**
 - C. “Nothing you say here can be used against you.”**
 - D. “Your information will remain confidential unless you are asked to sign a release.”**
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Objectivity and Forensic Ethics

Which situation poses the GREATEST threat to forensic neutrality?

- A. Using actuarial tools alongside clinical judgment**
 - B. Showing empathy during interviews**
 - C. Allowing the retaining barrister to review drafts and suggest changes**
 - D. Using multiple collateral sources**
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Appropriate Scope of Forensic Opinions

Which of the following conclusions MOST appropriately respects the limits of forensic psychological testimony?

- A. “The defendant committed the crime due to the presence of a mental illness.”**
 - B. “There is a chance that the defendant will not reoffend if given treatment.”**
 - C. “The defendant demonstrates risk factors associated with a moderate likelihood of future violence.”**
 - D. “The defendant should receive a specific type of sentence appropriate to their mental health needs.”**
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Using actuarial
tools/
Clinical
assessment

Vulnerable
people/
Minority groups

Unconscious
bias/
objectivity

Expert testimony/
Conflicts of
interest

Working beyond
level of
competency

Legal
knowledge and
fair application

Determining
malingering and the
insanity defence
(NGRI)

Neutrality,
respect,
integrity

