



# forensic industrial psychology

only study guide for IOP203S

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## About this module

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Welcome to this learning experience in Forensic Industrial Psychology (IOP203S). We trust that you will find the module interesting, meaningful and personally enriching, and that it will be of practical value to you in your personal life and work situation. Please note that although the module is called Forensic Industrial Psychology, the content in fact covers the field of forensic psychology. To avoid confusion, reference is made in the text to forensic psychology only, and forensic industrial psychology is discussed as a subsection.

### **WHY STUDY FORENSIC PSYCHOLOGY?**

Forensic psychology concerns itself with the application of psychological knowledge to the legal field. It is a highly specialised field, which places a huge demand on the psychologist in terms of relevant knowledge, experience and the ability to communicate accurately and scientifically in a legal context.

As an expert in the field of human behaviour, the psychologist has a major role to play in the legal context. As an expert witness, the trained forensic psychologist can assist the court in an objective and professional manner to solve legal cases. Through a combination of expert knowledge, skill and integrity, the forensic psychologist can contribute to the efficient and optimal functioning of the legal system in both criminal and civil proceedings.

### **PURPOSE OF THE FORENSIC PSYCHOLOGY MODULE**

This module has a dual purpose. As lecturers, our aim is that you will be able to do the following once you have completed this module:

- (1) demonstrate basic competencies (knowledge, skills and value orientations) in the theory and practice of forensic psychology that will enable you to make a positive contribution to your organisation, your team and the broader community
- (2) explore forensic psychology as a potential career by providing you with opportunities to assess your mastery of desirable competencies as a forensic psychologist and to plan your personal development accordingly

Specific learning activities and assignments are provided to assist you in developing your personal competence in the practice of forensic psychology. We suggest that you keep a personal development file to keep track of your progress in the specified forensic psychologist competencies.

## PRINCIPLES UNDERLYING THE STUDY GUIDE

This study guide was developed according to the principles of *outcomes-based education*.

The first step was to create a desire to know more about this specific field of learning. We have therefore given the reasons **why** it is necessary for you to learn about the field of forensic psychology.

The second step is to put the field of study into a *real-life context* by means of case studies, with a view to affording you the opportunity to do a *social analysis* of situations.

To make this approach more practical, we challenge you to become involved in analysing relevant problems and issues. These challenges are contained in the activities and assignments that form part of the performance tasks of this module.

In the third step, a solid *foundational theoretical knowledge base* is provided to substantiate your analysis of the context.

Fourthly, we want you to ask yourself the question: *What can I do* with what I have learnt in these three steps in order to better myself, others, my organisation, my community and the environment? Finding answers to this question entails continuous reflection on your part.

The last step involves *academic assessment* and *self-assessment*

The *assessment strategy* is based on *four outcomes*. This means that in answering questions, be they in the activities, the self-assessment tasks, the assignments or the examination, you must prove that you

- can explain why (knowledge)
- can do something (skills)
- want to make a positive difference (values)
- want to do it well (attitude)

Applied competence entails applying your knowledge, skills, values and attitudes in three ways:

- **foundational competence** — demonstrated understanding of what we are doing and why
- **practical competence** — demonstrated ability to consider a range of options/possibilities and make decisions about practice
- **reflexive competence** — demonstrated ability to link our understanding to our performance so that we learn from our actions and are able to adapt to changes and unforeseen circumstances

Throughout the various study units and in the tutorial letters you will encounter a number of activities and assignments. The purpose of these is to afford you the opportunity to apply the above competencies on all levels.

The activities and assignments will also give you a good idea of what you can

expect in the *examination*. It should be clear that we are not only interested in the reproduction of the given theory. We are also interested in your ability to create your own theory, based on the meaning that you attribute to concepts, as well as their application in a given situation — be it in a personal or organisational context.

## THE PURPOSE OF ASSESSMENT IN HIGHER EDUCATION

### What is assessment?

Assessment in outcomes-based education focuses on the achievement of clearly defined outcomes, making it possible to credit learners' achievements at every level, whatever pathway they may have followed and at whatever rate they may have acquired the necessary competence.

Assessment is the process of identifying, gathering and interpreting information about a learner's achievement, as measured against specified learning outcomes for a particular learning module. It involves four steps: generating and collecting evidence of achievement; evaluating this evidence against the outcomes; recording the findings of this evaluation; and using this information to assist the learner's development and to improve learning and teaching processes.

In distance education on a higher education level, the following types of assessment are used to collect evidence of learners' achievements:

- (1) **Formative assessment** consists of a wide range of learner performance tasks such as assignments; case study analyses and applications; and assignments. Formative assessment is primarily the learner's responsibility. The lecturers provide guidance in the form of structured learning tasks as described in the study guides and tutorial letters.
- (2) **Summative assessment** is the final assessment of the learner's achievement of the specified learning outcomes. In distance education on a higher education level, the examination is the primary method of measuring whether the learner has achieved the learning outcomes specified for the learning module.

In short, the learning outcomes described in the study guide serve as the basis for assessment (the examination). Learners who work through the study guide activities and the assignments systematically, and who continually measure their progress against the specified learning outcomes, will be able to achieve the learning outcomes assessed in the examination.

### Preparing for your assessment (the examination)

It is primarily your responsibility to demonstrate that you have achieved the learning outcomes for this module. Your preparation for the assessment (ie the examination) should consist of a number of steps. These are the following:

- Study and analyse the learning outcomes specified for this module carefully.

Make sure that you know what you have to demonstrate to convince the examiner that you have achieved the outcomes of this module.

- Work systematically through the study guide and assignments. Try to do the learning activities, tasks and assignments provided to help you measure your progress.
- Contact the lecturers immediately should you experience any difficulty with the learning material and tasks.

## HOW TO USE THE TUTORIAL MATTER IN YOUR LEARNING PACKAGE

Your learning package consists of the following items:

- the study guide
- the prescribed book
- tutorial letters

### The study guide

The study guide and the textbook are your main tools for studying this module. The study guide is divided into three main parts, each containing various study units. At the beginning of each study unit, the study unit is summarised by means of a study unit chart that illustrates the learning units that make up the study unit. In the study units you will be referred to the prescribed book. The study guide is really only a guide to the prescribed book. We have clearly indicated which sections in the prescribed book you have to study. The learning outcomes on which you will be assessed in the examination are also clearly specified at the beginning of each study unit.

### The prescribed book

The prescribed book for this module is:

Roos, V. & Vorster, C. (2009). *An introduction to forensic psychology*. Pretoria: Verbum.

The relevant chapters are specifically indicated for each study unit.

Part I of the study guide provides an overview of the field of forensic psychology (study unit 1); and the context of forensic psychology (study unit 2).

Part II of the study guide explores the practice of forensic psychology. Study unit 3 examines forensic assessment, whilst study unit 4 discusses ethical practices in the field of forensic psychology. Study unit 5 reviews criminal cases in forensic psychology and study unit 6 personal injury claims and the role of the forensic psychologist in this regard. Study units 7 and 8 further explore the topic of assessment in the context of forensic psychology, particularly assessment for competency (study unit 7) and assessment for compensation (study unit 8).

Part III of the study guide briefly reviews key aspects that need to be considered in the practice of forensic psychology. Study unit 9 examines human development and abnormal psychology, whilst study unit 10 explores the

biological functioning of the brain. Finally, study unit 11 gives a brief overview of personnel psychology practices that the forensic psychologist needs to consider.

The components of the module are graphically illustrated in figure 1.

### **Tutorial Letter IOP203S**

This tutorial letter is extremely important — it contains general information on academic and administrative matters, the assignments and their due dates. In this tutorial letter we have included a timetable and a study plan as guidelines.

### **Additional tutorial letters**

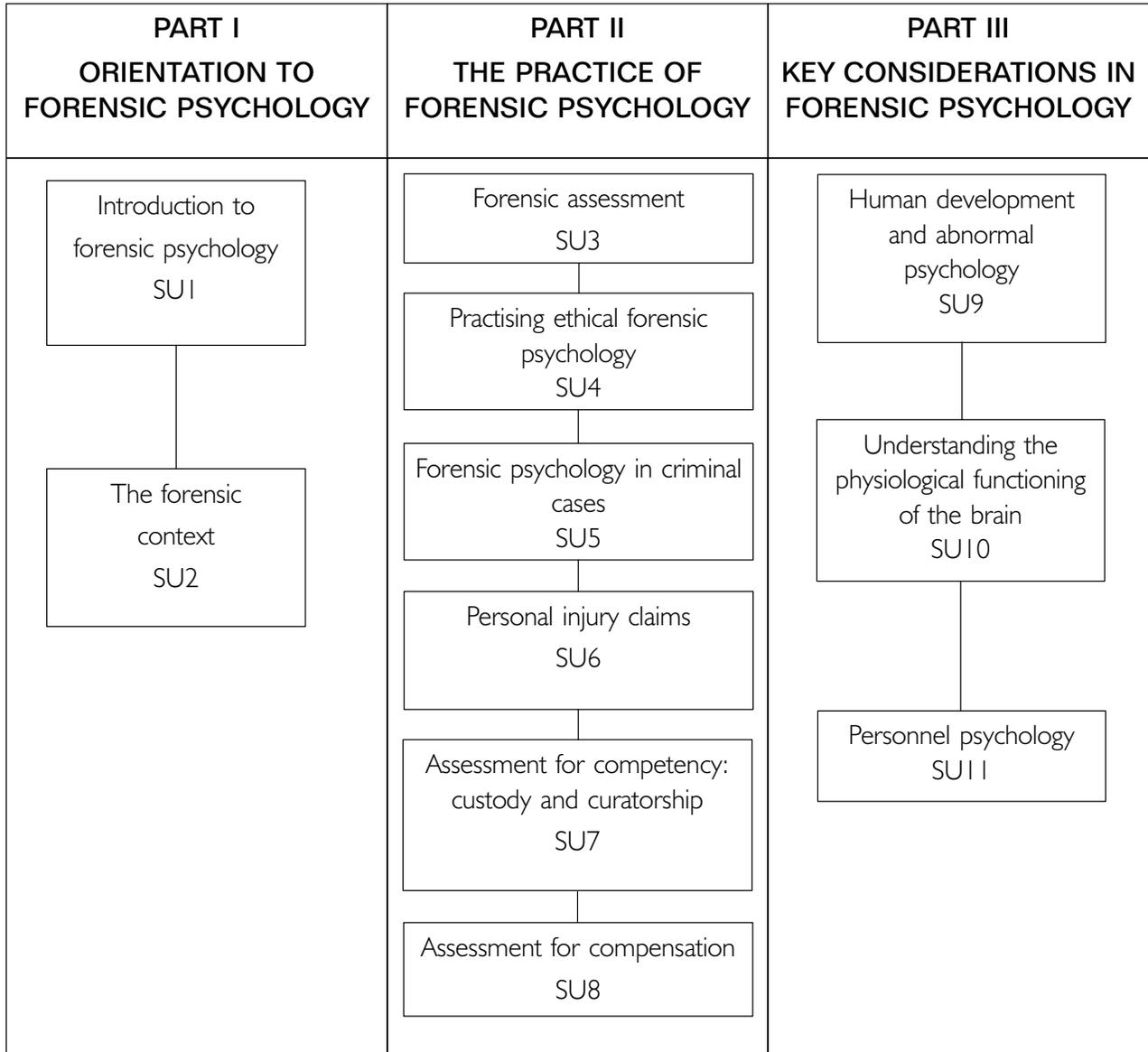
Tutorial letters are the main source of information on events and issues that arise during the year. You should read these tutorial letters immediately and not file them away to peruse later. The purpose of the tutorial letters is to supply feedback on assignments, to give information on examinations and to discuss anything of importance that may come up during the learning period.

Your lecturers for this module (IOP203S) are sure that you will enjoy the learning experience and that you will be eager to learn more about forensic industrial psychology.

We trust that you will find this module in forensic psychology meaningful and personally enriching, and that it will also be of practical value to you in your personal life and work situation.

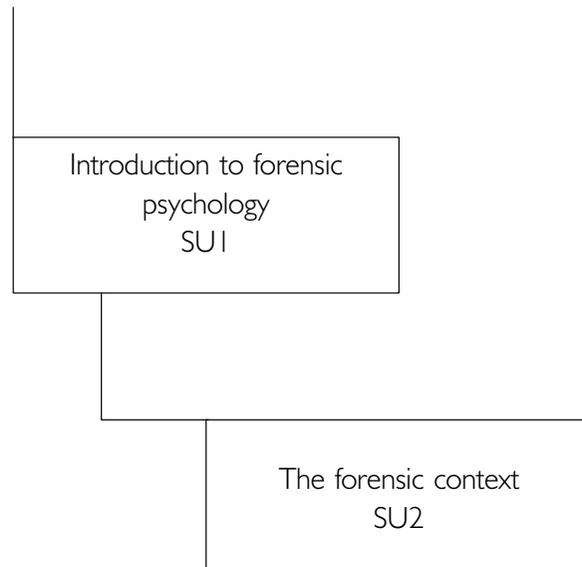
Good luck, and may you take up the challenge to make the most of this learning experience!

FIGURE I  
*Overview of learning topics*



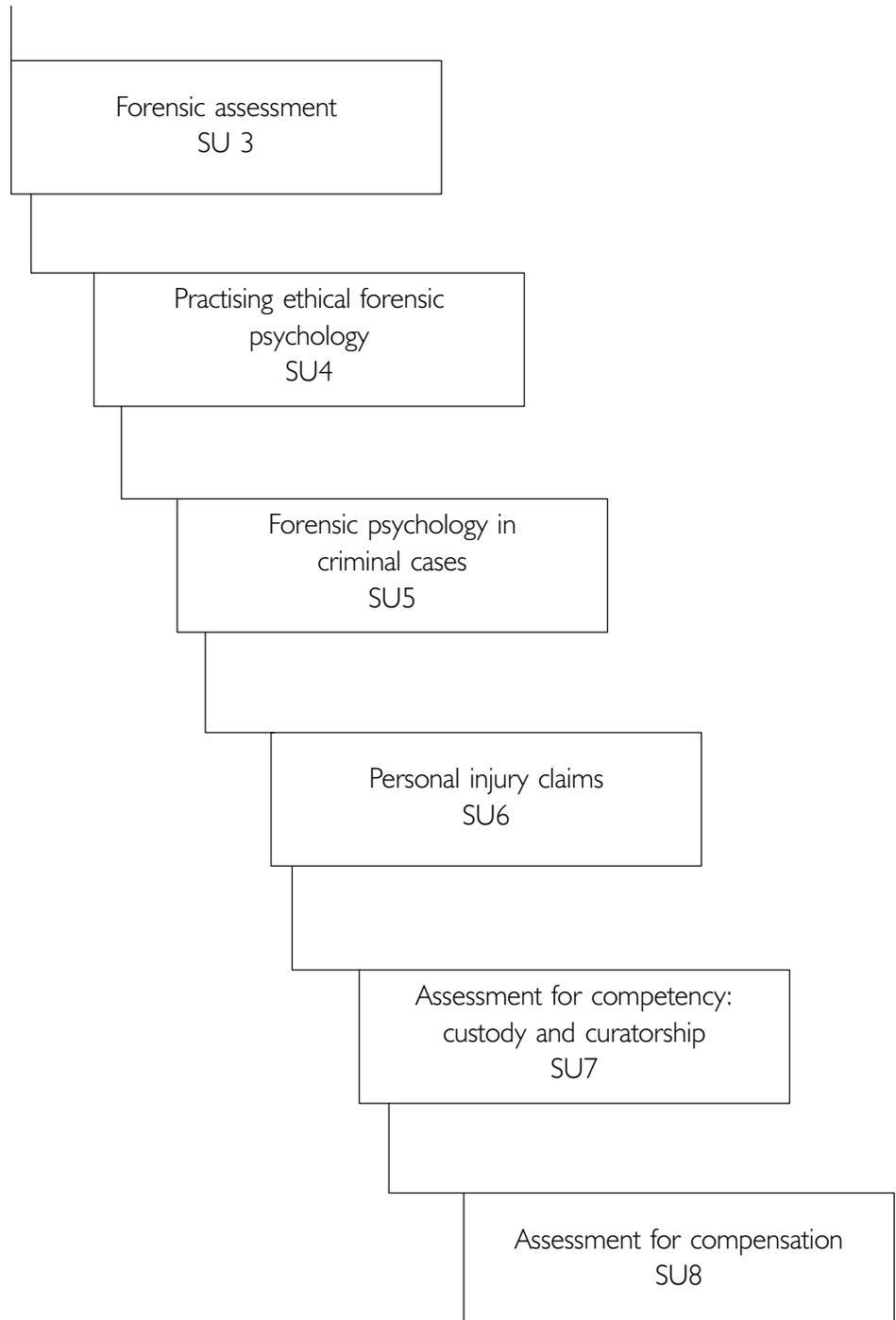
PART I

ORIENTATION TO FORENSIC PSYCHOLOGY



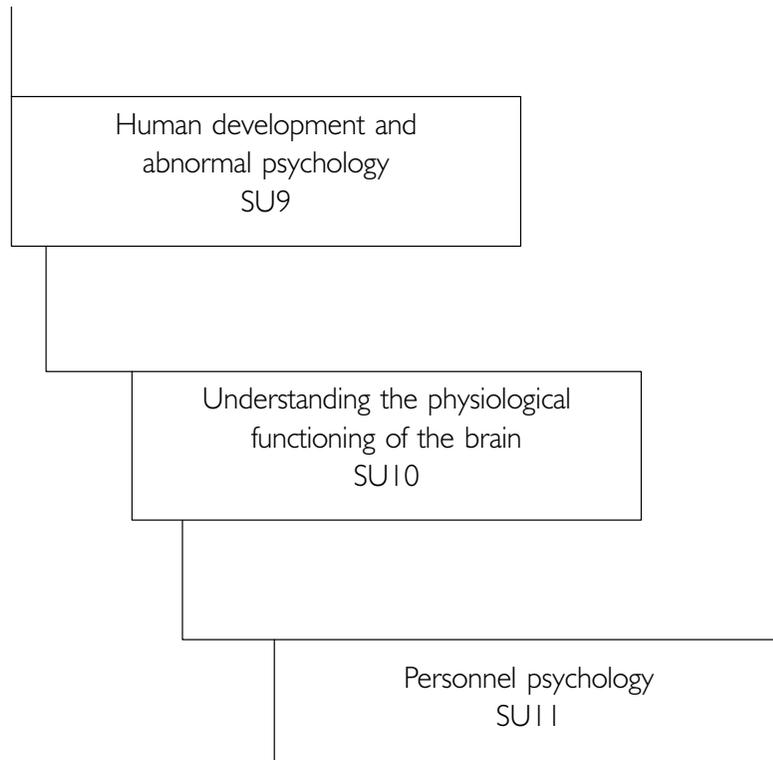
PART II

THE PRACTICE OF FORENSIC PSYCHOLOGY



PART III

KEY CONSIDERATIONS IN FORENSIC PSYCHOLOGY





P A R T |

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*Orientation to forensic psychology*

## *Introduction to forensic psychology*

### OVERVIEW

In this study unit we will introduce you to the field of forensic psychology. You will develop an understanding of the different specialisation areas involved in the application of psychology in the forensic context in South Africa, with the specific focus on industrial psychology.

### LEARNING OUTCOMES

After completing this study unit, you should be able to

- explain the role of the psychologist in the forensic context in South Africa
- differentiate between the various specialisation areas in psychology

### KEY CONCEPTS

Psychology	Psychologist
Forensic psychology	Forensic psychologist
Therapist	Criminal cases
Therapeutic role	Court
Professional Board of Psychology	Civil cases
Research psychologist	Industrial and organisational psychologist
Educational psychologist	Clinical psychologist
Counselling psychologist	

You will know that you understand this study unit when you can answer the following questions:

- What is the role of the psychologist in the forensic context in South Africa?
- What are the different specialisation areas in psychology?

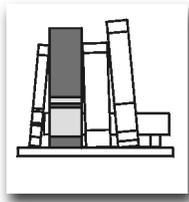
### PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Roos and Vorster (2009, Introduction)

### 1.1 INTRODUCTION

The application of psychological knowledge to the legal field can be referred to as forensic psychology. The main objective of the forensic psychologist is to assist professionals in the legal field to make decisions that will help them to create an orderly society, and also to take decisions that will change human behaviour. This requires the management of extremely complex scenarios, since the legal

expert and the psychologist do not always base their knowledge and decisions on hard facts. Much depends on the judgment of the professional and the probability of facts. Psychological principles sometimes contradict the legal context, which relies on specific rules and exact procedures. Psychologists sometimes apply their knowledge of the theories on the human psyche to predict and explain human behaviour, while at other times, they use specific diagnostic techniques to assess certain aspects of people. There are different ways in which psychology as a science can be explained, which allows for different views of humankind. This creates various possibilities for explaining and understanding human behaviour and functioning.



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Read the brief overview of the history of forensic psychology in South Africa. This information could help you to understand the role of psychologists in the forensic context.

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## 1.2 THE ROLE OF THE PSYCHOLOGIST IN THE FORENSIC CONTEXT

There should be a clear distinction between the role of the psychologist as a therapist and as a forensic expert. Your previous studies of psychology or industrial psychology should have familiarised you with the function of the psychologist as a therapist. The following case study illustrates the therapeutic role of the psychologist:



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### 1.1

**Read through the following case study:**

Mary is 34 and has been a housewife since marrying her husband, who is a medical doctor. After the birth of their second child, she became severely depressed and was referred by a medical practitioner to a psychologist. The therapist guided Mary in the therapeutic process and she discovered that she could not make any decisions on her own. She felt that her husband had to take sole responsibility for her life and their relationship. The therapist created an atmosphere of trust and she was able to discover that she did not have the confidence to go shopping on her own or to discipline the children without consulting her husband, because she was extremely sensitive to criticism from others. After she had spent two years in therapy, her husband filed for a divorce and a custody dispute arose. The family was referred to a psychologist for an evaluation to determine the custody and control of the children.

After reading the case study delete the words that are not applicable to the role of the psychologist as a therapist: *The therapist in the case study dealt with friendship/emotional difficulties and should have been able to do a once-off intervention/continually assess changes in the patient and their relationship.* The

therapist followed a *directive/nondirective* approach in the therapeutic relationship with Mary. Therapists *do not impose/force themselves* on the therapeutic relationship and *follow the pace of the patient/give specific guidelines to impose change*.

---

## FEEDBACK

Briefly explain which sections should be deleted and give reasons for your answer.

The therapist assisted Mary with emotional difficulties in a nondirective manner. The therapeutic process develops from a trusting relationship between the therapist and the person (Mary) seeking help. The relationship is continually adjusted on the basis of issues or themes, in this case introduced by Mary, and not imposed by the therapist.

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Hopefully this activity helped you to understand the role of the psychologist as a therapist. It is different from the psychologist's role in a legal context. Forensic psychologists can be involved in both criminal and civil areas of the law. They may even be involved in a case that is both criminal and civil. Since each of these two fields functions differently, the psychologist needs to approach them differently.

In *criminal* cases, the psychologist contributes to the assessment of criminal capacity and/or assists the court in deciding on the most appropriate sentence.

In *civil* cases, the psychologist can assist the court by determining

- (1) the degree of damage sustained or making recommendations with regard to awarding compensation for damages
- (2) custody and control of children or helping with decisions relating to a person's competency to handle his or her own affairs

The processes in which the psychologist is involved in both criminal and civil areas are similar. These processes involve assessment, obtaining and analysing information, formulating and testing possibilities, compiling a report and giving an expert opinion. All these actions are based on the psychologist's specialised knowledge of human behaviour and functioning.




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### 1.2

Study *The role of the psychologist in the forensic context* in Roos and Vorster (2009) and then complete the following table:

	Functions of psychologist
<b>Civil cases</b>	
<b>Criminal cases</b>	

### FEEDBACK

Your summary might look something like this:

	Functions of psychologist
<b>Civil cases</b>	Determine the degree of damage sustained in third-party claims or other cases.
	Assist in divorce proceedings where the court has to award custody and control over children.
	Advise on decisions about an individual's competency to handle his or her own affairs.
<b>Criminal cases</b>	Assess the criminal capacity of the accused.
	Assist the court in deciding on mitigation of sentence.

Remember that this is merely an introduction and you will be guided through the process of understanding these concepts and processes in greater detail in the rest of the study guide.

### 1.3 SPECIALISATION CATEGORIES IN PSYCHOLOGY

Different schools of thought about the human make-up inform different assumptions about human behaviour and functioning. For example, the view

that humans are beings driven by their biological nature could provide explanations that human behaviour is a result of biological processes. According to this view, the suicide of a woman suffering from severe postnatal depression could be explained in terms of hormonal imbalances.

Another way of understanding human functioning is from the perspective that humans are related to one another and the world, and constantly in dynamic interaction. This view assumes that changes in the world or environment may adversely affect the emotions and functioning of individuals and their relationships with other people and the world. For example, an employee who was disciplined at work after she had had an argument with another employee will probably take the feelings she experienced during those events at work, home with her. These feelings could be manifested in different ways. She might be angry about what happened and find fault with her children and her partner, or she could become sad and withdraw from company. Her inner feelings will thus have an effect on her behaviour and the manner in which she engages with people and the world, and people's reactions to her will, in turn, influence her perceptions and experiences.

The different ways in which human behaviour can be explained have developed into different specialisation areas or categories in psychology. The underlying assumptions of human functioning and behaviour are thus applied to different contexts. The formal registration categories in psychology, which are recognised by the Professional Board of Psychology, are the categories of counselling, clinical psychology, industrial psychology, and research. It is interesting to note that two other specialisation fields are emerging, although they are not formally acknowledged as special registration categories. These specialisation fields are neuropsychology and forensic psychology.

The different categories share the same generic principles of psychology, a few of which are the following:

- respect for human diversity and potential
- assistance with adjustments in the applicable context, for example, the person's personal, family or work environment
- acceptance of and compassion for others
- the ability to share with empathy in people's life-worlds without becoming overly involved
- understanding human behaviour and functioning

The application of psychological principles to different contexts has created challenging alternatives in the development of psychology as a science. For example, the application of knowledge about the development and functioning of human perception to the field of consumer behaviour is an important area of involvement for a research psychologist. Psychologists who specialise in the field of organisational development apply their knowledge of human behaviour in a work context. They also apply their understanding of favourable work conditions to promote employee wellbeing and optimal functioning. Training in a specific category does not mean that the psychologist has no other field of expertise.

Many people do not realise the applicability of psychology in everyday life. The following activity will illustrate the different fields of psychology and their application in different areas.



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### 1.3

Study *The different speciality categories within psychology* in Roos and Vorster (2009) and then work through the following case study.

The Botha family has lived in Durban for the past 12 years. The parents, Piet and Elsa, were both born in Durban and went to school together. They married at the age of 21 and soon thereafter, their son Karel was born. Two years later their daughter Yvonne was born.

Piet inherited a thriving business from his father-in-law, who passed away the year after Piet completed his MBA studies. He had already spent a lot of time working for the business during holidays, including a full year, after he finished his BCom degree, before starting his MBA degree. Although he had felt confident that one day he would take over the reins of the family business, the untimely death of his father-in-law took him by surprise. Nevertheless, he responded to the challenge and within a year after taking over as CEO, he could see that his new approach to business was showing an improved profit margin. However, for the last nine months he has been struggling with two very pertinent problems, both of which are having a negative impact on the profitability of the business. He has noticed unhappiness among his employees. A growing number of complaints and misconduct reports have been brought to his attention. He also feels that staff productivity is not as high as before. In addition, the marketing side of the business is suffering as it has become increasingly difficult to obtain the same number of orders from clients. He cannot determine what is causing the change in his clients' behaviour. Have their needs changed, or perhaps their perception of the business's product?

Elsa is also struggling with issues of her own. She is finding it extremely difficult to come to terms with the death of her father. She feels guilty for not having spent enough time with him when she had the opportunity and for always disagreeing with him. This guilt makes her feel inadequate and she and Piet have developed marital problems because of their inability to communicate with each other about the profound issues influencing their lives and behaviour.

Their son Karel who has already spent one year at the University of KZN, has changed his subjects mid-year. He only has credit for two semester courses. Although he initially registered for a BSc degree, he is considering changing his field of study to law. He is uncertain about job opportunities and which career would suit his aptitude and personality best. He now has to make a decision about the direction his studies should take within the next four months.

Their daughter Yvonne is currently in grade 10. During her primary school years she did well academically and her parents always expected high marks from her. However, since starting high school her academic results have gradually

deteriorated from an average of 80% to an average of 60%. She seems to be having trouble managing large volumes of learning content. Yvonne and her parents feel that she is capable of obtaining the same high marks as before but they are uncertain about how to address the problem.

Now answer the following questions:

- (1) Link the specialisation category (or categories) in psychology that corresponds (or correspond) best to Piet, Elsa, Karel and Yvonne's need for psychological assistance. Keep in mind that all the categories that have been discussed in your textbook are included in this exercise.

SPECIALISATION CATEGORY	EXAMPLE
Research psychologist	Piet
Clinical psychologist	
Counselling psychologist	
Industrial organisational psychologist	
Educational psychologist	

- (2) Do you think the different specialisation categories are meaningful distinctions in the field of psychology?

## FEEDBACK

(1)

SPECIALISATION CATEGORY	EXAMPLE
Research psychologist	Piet — market research for his business
Clinical psychologist	Elsa — emotional and marital problems All the Bothas — family counselling
Counselling psychologist	Elsa — emotional and marital problems Karel — career counselling All the Bothas — family counselling
Industrial organisational psychologist	Piet — work-related problems
Educational psychologist	Karel — career counselling Yvonne — study methods

- (2) The table above makes it clear that the specific specialisation areas are not clear-cut about specific types of intervention. Specialisation categories sometimes give the wrong impression of the skills and expertise of a professional person. Categorisation may also exclude people by not

acknowledging their specific field of knowledge and other expertise. Professional people may attend further training courses that equip them to render services that do not necessarily fall within their original training and category of registration.

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#### **1.4 CONCLUSION**

Forensic psychology is a specialised field and any psychologist who becomes involved in legal cases should be aware of his or her ethical responsibility towards all the people involved in the process. Psychologists should apply their understanding of human behaviour responsibly, with full awareness that they are being called upon to give expert advice. Psychologists have a responsibility to the clients they serve, and should provide objective input to assist the court in making meaningful decisions. Although certain suggestions regarding a format for assessment will help the psychologist in the legal field, his or her expertise and experience in a specific area are more important than standardised methods of assessment in the field of forensic psychology.

# STUDY UNIT 2

## *The forensic context*

### 2.1 INTRODUCTION

The field of law consists of many specialised areas. It has developed over many years and has its roots in ancient societies. The concise summary in the prescribed book provides only a broad overview of the development and divisions of the law and should not be regarded as a comprehensive account of its many different areas and applications. It is also important to realise that people who engage in the forensic field are not regarded as experts in legal matters. However, they should have a basic knowledge of the law in relation to other professional experts as well as the processes involved in forensic psychology. It is important for people who do not work in the field of law to know how to find information on legal matters so that they may determine which legal rules are applicable to them. They should also bear in mind that the law changes continually to adapt to changing circumstances.

### LEARNING OUTCOMES

After completing this study unit, you should be able to

- differentiate between civil and criminal cases
- identify noncompliance with the functions of the law
- differentiate between civil and criminal action
- discuss various sources of the law
- explain who the officials of the court are
- explain forensic concepts
- discuss legal processes
- discuss the role and functions of the psychologist in the courtroom

### KEY CONCEPTS

Law	Case law
Social contract	Common law
State	Customary law
Criminal cases	Attorney
Civil cases	Advocate
Legal processes	Negotiation/litigation
Pretrial consultation	Witness
Testifying	

### PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Roos and Vorster (2009, chapter 2).

## 2.2 WHAT IS THE LAW?

The law can be regarded as a social contract between members of a society and the state. This social contract enables the state to promulgate legislation and to enforce it if it is contravened. The contract comprises the relationship between the state and individual citizens, on the one hand (criminal cases), and the mutual relationship between citizens, on the other (civil cases).



### 2.1

Read the functions of the law and identify which of them are not being adhered to in the following example:

Mr Simon Naledi, the father of a Grade 8 pupil who wanted to register his child at the Premier High School for Girls, took four people hostage after he was told that there was no place for his child. The headmaster convinced him to drop his weapon. After doing so, he fell to the ground and wept. Mr Naledi said that he had completed the registration forms during March the previous year and that the administrative personnel had not treated him with dignity. Instead people mocked him, which made him feel like a second-grade human being.

### FEEDBACK

The following functions of the law were not adhered to:

- To maintain peace and order in society. Although Mr Naledi claimed that he had not been treated well by the administrative personnel and by bystanders, he did not have the right to take matters into his own hands and force people to accede to his demands.
- To protect the individual rights of the members of the society. The state has a responsibility towards Mr Naledi to ensure that his rights and the rights of his school-going child are protected and that they are not discriminated against. The state also has a responsibility towards all the citizens of the country to ensure their safety and to ensure that their rights are not endangered.
- To prescribe the sanctions for contravention of the law. In Mr Naledi's case, an official investigation will be launched and he might be charged with various offences. If people were hurt during the hostage taking, they would be able to claim damages (eg medical expenses) from Mr Naledi. Because Mr Naledi infringed upon the hostages' personal safety (personal rights) they could claim compensation from him for physical shock, endangering their lives, and so on.

## 2.3 THE DISTINCTION BETWEEN CIVIL AND CRIMINAL CASES

Court cases are either criminal or civil cases.

Civil cases are instituted when the mutual relationship between citizens has been infringed upon. Civil process law is applied for the following three reasons:

- *To obtain a pronouncement on someone's status in terms of private law.* During the tsunami disaster, for example, many people were reported missing. In such cases the court may be requested to pronounce an individual dead, so that legal grounds exist for the termination of marriage, administration of an estate and payment of any insurance claims.
- *To prevent damage or prejudice.* This would apply where any breach of law might occur. A man may, for example, abuse his wife, tie a rope around her neck and drag her around, after which she could obtain an interdict against him to prevent him from physically harming her again. Various claims are at issue here: damage to a motor vehicle, medical and future medical costs, loss of earnings and future loss of earnings.
- *To provide compensation for damage or prejudice.* For example, the damage suffered by someone who was paralysed after being in a car accident.

In civil cases the person who institutes the action is known as either the plaintiff or the applicant, and the person against whom the case is made is called the defendant or the respondent.

Criminal cases are instituted by the state against citizens when the relationship between the state and citizens is violated. Criminal cases are initiated when a crime is reported to the police. The police investigate the case until they have obtained enough evidence to prosecute the subject of their investigation. A charge sheet is drawn up detailing the criminal action and stating where and when it occurred. The accused may then be arrested or served. When the state institutes an action, it is called a criminal case, and the person against whom the case is made is called the accused. If the court finds an accused person guilty in a criminal case, punishment is imposed in the form of a fine, community service or a prison sentence.



## 2.2

Read through the following case study and indicate whether the action can be regarded as civil or criminal:

Mr X decided to file for a divorce (1) (civil/criminal) after he discovered that Mrs X had been having an affair for several months. He decided to apply for custody (2) (civil/criminal) of their two children, aged nine and ten. When he arrived home one evening he discovered that his wife had set the house on fire (3) (civil/criminal) and then left with their two children. He phoned her uncle and threatened to kill her (4) (civil/criminal) if he found her. The next day he went to her place of work, where she was employed as an administrative assistant, and shot her at close range (5) (civil/criminal). She died instantly.

## FEEDBACK

Cases (1) to (4) are civil cases and case (5) a criminal case.

- (1) The plaintiff, Mr X, is the aggrieved party who instituted a civil case against Mrs X, the defendant.
  - (2) Mr X applied for custody of his children and instituted a civil case against Mrs X.
  - (3) Mrs X infringed on the subjective rights of Mr X when she caused damage to his property. Mr X could have instituted a civil case against Mrs X for the recovery of damages, or he could have laid a charge of arson (criminal) against Mrs X.
  - (4) Mr X threatened to harm Mrs X and she could have applied for an interdict against Mr X, which is also regarded as a civil case.
  - (5) In the last example the murder of Mrs X by Mr X (the accused) is regarded as a criminal case since the state will prosecute Mr X for the crime he committed.
- 

## 2.4 SOURCES OF THE LAW

South African law is based on various authoritative sources, including legislation, case law (court decisions), common law and customary law. Anyone practising law should be aware of the various sources of the law, which determine the authority of any legal argument.

### 2.4.1 Legislation

In South Africa, Parliament is the highest institution that draws up legislation. Acts should comply with the Constitution of the Republic of South Africa 108 of 1996 in particular chapter 2 (the Bill of Rights). Acts that do not comply with the values and freedoms protected by the Constitution are declared null and void by the Constitutional Court.

Legislation is the fastest way of amending or repealing Acts of parliament. Examples of Acts that were repealed are the Prohibition of Mixed Marriages Act 72 of 1985 and the Immorality Act 23 of 1957. These Acts were repealed because they did not meet the needs of modern society, and were inherently discriminatory. Acts come into being when the government draws up a Green Paper, which is published. Interested parties may then comment on the Green Paper. Thereafter a White Paper is drawn up stating the proposed policy. Members of the public are also allowed to comment on it. Thereafter it is published in the *Government Gazette* in the form of a bill so that the general public can comment on it, after which the minister of the particular state department submits it to the National Assembly. The bill is then referred to a portfolio committee, which makes amendments based on proposals and investigations. A report is submitted once more to the National Assembly, where it is debated. The debate is published in Hansard. It is then referred to the National Provincial Council, which follows the same process. If both these

bodies support the bill, it is submitted to the President to be signed, and thereafter promulgated as an Act.

Legislation and case law were largely responsible for entrenching apartheid as policy in the legal system of South Africa. After the promulgation of the South African Constitution 108 of 1996, legislation and case law were used to dismantle apartheid and other forms of discrimination.

### 2.4.2 Case law (court decisions)

Residing officers such as judges and magistrates have to interpret the law on a daily basis. The interpretation of legal rules takes place at all levels of the judiciary. Magistrates' courts are bound by the judgment of the high court in a specific jurisdiction, and ultimately by the judgments of the supreme court of appeal. In some cases court decisions can lead to the creation of a new legal rule, as in the following example:

It is a legal principle that you may not repossess your property against the will of the possessor without a court order. Many businesspeople attempt to evade this principle by inducing their clients to sign a contract in terms of which the client agrees that the business may repossess merchandise sold on credit without legal procedure (a court order) should the client fail to pay on time. In court decisions, it was stated clearly that these contracts are against public policy and therefore void.

The legal professional should thus be familiar with the different Acts as well as the rulings of judges and magistrates that could become new legal rules.

### 2.4.3 Common law

The owner of immovable property (such as a farm or erf) also owns everything that is permanently attached to that property (such as a house, a satellite dish, wall-to-wall carpets). This rule is not derived from legislation but from Roman-Dutch common law.

### 2.4.4 Custom

A black man and woman living in a rural area in South Africa may conclude a customary marriage, which will be governed by customary family law. Such a marriage may be polygamous and need not be performed by a recognised marriage officer.

## 2.5 OFFICIALS OF THE COURT AND FORENSIC CONCEPTS

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### 2.3

Read through 2.7 *Officials of the court* and 2.8 *Forensic concepts* in the textbook and complete the following sentences:

- (1) Presiding officers of a lower court are called ..... and should be addressed as ....., while a presiding officer in a high

- court is known as a ..... and should be addressed as .....
- (2) ..... are responsible for the administrative functions of the courts, including preparing the court roll. The chief administrative official of the magistrate's court is known as a ..... and that of the high court as a .....
  - (3) The difference between an attorney and an advocate is the following: An ..... represents the client in all courts. Clients are referred by an ..... . An advocate is sometimes referred to as "counsel for the defence/plaintiff".
  - (4) Before a person can be charged, he/she should know his/her ..... . A legal subject is either a natural human being or .....
  - (5) A person who is in a coma will not have the ability to perform juristic acts, which is called .....
  - (6) Minors under the age of seven as well as people who are mentally challenged do not have the capacity to take part in legal proceedings and should be represented by ..... or .....
  - (7) When a witness does not want to attend the trial he/she could be .....
  - (8) A court case can either be ruled ..... or .....
- 

### FEEDBACK

- (1) magistrate; "your worship"; judge; "Your honour" or "My Lord".
  - (2) Administrative officials; clerk of the court; the registrar
  - (3) advocate; attorney
  - (4) rights; or juristic persons (companies, etc)
  - (5) acting capacity
  - (6) their parents; guardians
  - (7) subpoenaed
  - (8) settled or withdrawn
- 

## 2.6 LEGAL PROCESSES

The main legal processes involved in court proceedings are negotiation/litigation, pretrial consultation and the compilation of expert minutes.

### 2.6.1 Negotiation and/or litigation

The legal process encompasses both negotiation and litigation. Negotiation always precedes litigation. If all parties involved can agree, the case can be settled. However, if there are disputes that cannot be resolved, the case goes to trial. Both negotiation (arbitration, mediation) and litigation have their advantages and disadvantages.



**2.4**

Researchers have identified three hypotheses that describe the assumptions underlying most attorneys' theories of negotiation. Research has also shown that there are three negotiation tactics that come into play during negotiation. Read Roos and Vorster (2009) and complete the following:

Negotiation strategies	Description
<i>Fair and reasonable hypothesis</i>	
<i>Reciprocity hypothesis</i>	
<i>Aspiration-level hypothesis</i>	

Negotiation tactics	Description
<i>Distributive tactics</i>	
<i>Heuristic tactics</i>	
<i>Information exchange tactics</i>	

There are two common errors that prevent successful negotiation, namely, the *zero-sum game* and *unreasonably high initial expectations*. Explain what is meant by these terms and how such situations might be prevented.



**2.6.2 Pretrial consultation**

A pretrial consultation takes place before you actually go to court. Its purpose is to establish the strength of the presumption on which you base your opinion, as well as the validity and reliability of that opinion. During the pretrial consultation the legal team could subject you to a variety of tactics.



**2.5**

Read 2.9.2 *Pre-trial consultation* in Roos and Vorster (2009) and identify the different pressures and temptations you might have to face.



**FEEDBACK**

The legal team is not there to trick you, but to find out how credible you are.

This will give you an indication of what you might be asked during the trial. You should at all times conduct yourself in a professional and ethical manner.

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### 2.6.3 Compiling expert minutes

Often, opposing legal teams contract experts to help them shed light on a particular case. The experts' reports generally show similar findings, but there might be certain issues where they contradict one another. A meeting can be called to address these contradictions. The minutes of this meeting are extremely important, and should reflect as concisely and clearly as possible the points of agreement and areas of dispute between the experts concerned.

Consult Roos and Vorster (2009) for guidelines on expert meetings.

### FEEDBACK

The purpose of such meetings is generally to decide which issues you agree on and which issues are still in dispute. As in the pretrial consultation, you should conduct yourself in a professional and ethical manner. Be open to what the other expert has to say as he/she might have information that you did not have when compiling your report. When the point of dispute has been addressed, draw up the minutes of the meeting and sign it immediately. The minutes can then be made available to both legal teams.

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## 2.7 THE COURTROOM AND THE PSYCHOLOGIST

The courtroom setting is extremely formal, but do not let it intimidate you! It is similar to what you may have seen in movies or on television, except that in South Africa there is no jury.

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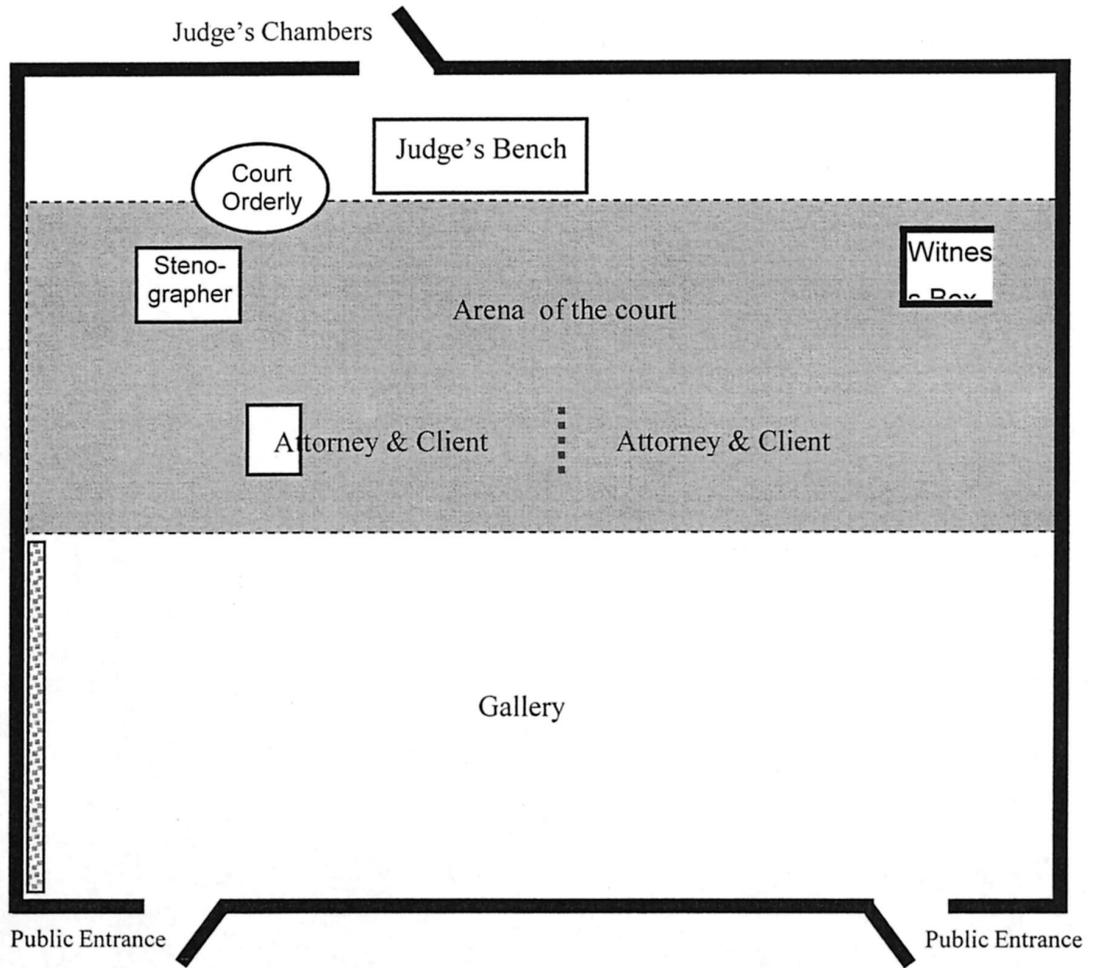
### 2.6

Draw a picture of a courtroom based on the description provided in this section.

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### FEEDBACK

It is always advisable to familiarise yourself with your surroundings. Going to court to give expert testimony is stressful enough. If you have the opportunity, go to court beforehand and watch the proceedings. If you can find a case in which an expert will be testifying, even better. Listen to the way the counsel address one another and the magistrate or judge. Remember to bow before you leave!



### 2.7.1 Procedure

When you are called as an expert witness, you should familiarise yourself with the courtroom set-up as well as the procedure. Roos and Vorster (2009), 2.10.1 *Procedure*, indicate what would be expected of you and how you would be sworn in.

Once you have been sworn in, the legal representative who retained you will start with the evidence in chief, which will be followed by cross-examination by the opposing attorney. Both attorneys will then have a chance to re-examine the testimony presented by you.



### 2.7

Complete the following:

PROCEDURE	PERFORMED BY ...	BRIEF DESCRIPTION
Evidence in chief	Legal counsel who retained you	
Cross-examination		Additional material is drawn out. Purpose: Three goals
Re-examination		

## FEEDBACK

It is important to understand the procedure followed in court. This will help you to focus on what is being said, instead of worrying about what is going to happen. The procedure can be summarised as follows:

Retaining attorney leads evidence in chief — opposing attorney (cross-examines witness).

Retaining attorney clears up ambiguities — presiding officer (may also ask questions).

Retaining attorney re-examines — opposing attorney (re-examination) — may cross-examine again.

Presiding officer may ask more questions.

### 2.7.2 Witness of fact or expert witness

When testifying, you should know in what capacity you are doing so. It is important to clarify the psychologist's role as a witness, because he or she can either be a "witness of fact" or an "expert witness".



#### 2.8

Read through the following two scenarios and indicate what type of witness you would be in each scenario (Roos & Vorster, 2009, 2.10.2 *Witness of fact or expert witness*).

##### Scenario I

You have just qualified as a psychologist. Your friends decide to take you to a restaurant to celebrate. Halfway through your meal a man with a gun storms into the restaurant and demands that everybody lies on the floor. You can see

that he is very agitated and aggressive. He starts making demands and screams that everybody should hand over their purses, cellphones and jewellery. Before he can do anything more, two men overpower him. The police are called and the man is arrested. The police take your statement and ask if you will be a witness when the case goes to court. What type of witness will you be?

### **Scenario 2**

You are a qualified psychologist. You and Susan have known each other for years. You have witnessed numerous incidents where her husband has abused her and their children. You have also noted the effect this has had on the children. You would classify her husband as a person with a paranoid personality disorder. Susan decides to divorce her husband and asks you to be a “character witness” for her and to verify the abuse you observed. What type of witness will you be?

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### **FEEDBACK**

A psychologist can be a witness of fact or an expert witness. When called as a witness of fact you may only relate to the court what you heard or saw. Your knowledge of psychology and human behaviour might help you to recognise certain disorders in people, as is the case in scenario 2. Therefore you may rely on your knowledge as a psychologist to testify as an expert witness that the husband has a psychological disorder.

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### **2.7.3 Principles to keep in mind when testifying**

Testifying as an expert takes training and experience. Read the principles that a psychologist should keep in mind when testifying.

## **2.8 CONCLUSION**

This study unit provided a brief background on the forensic field in which psychologists have to provide their expert knowledge to assess behaviour, personality and interactions and to make recommendations to assist the court in making meaningful decisions. Law, like Psychology, is a diverse field, but psychologists engaging in the forensic field should be knowledgeable about the workings of the legal system so that they can conduct themselves professionally. Legal experts should also familiarise themselves with the specific disciplines in psychology to be able to determine whether they are obtaining quality professional input from specific specialisation areas.



PART II

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*The Practice of Forensic Psychology*

# STUDY UNIT 3

## *Forensic assessment*

### OVERVIEW

Forensic assessment is a vital part of client evaluation. This is often referred to as the scientific part of the investigation. It is generally assumed that assessment refers to psychometric testing only. After reading this study unit you will see that assessment of a client entails much more than just psychometric tests. You should have a thorough understanding of the assessment process and what the whole process entails.

### LEARNING OUTCOMES

After completing this study unit you should be able to

- explain how the referral question determines the nature of the assessment
- discuss the types of information that should be obtained in an interview for forensic assessment purposes
- describe the role of psychometric tests in a forensic evaluation
- indicate the importance of comprehensive and supportive collateral information
- differentiate between the various ways of assessing mental status during an interview
- explain the importance of the forensic report in a forensic assessment
- give an exposition of how the industrial psychologist's report differs from the other professionals' reports
- describe how psychologists should adhere to the different ethical codes that apply to psychometric evaluation, test validity, record keeping and report writing
- explain the importance of clarifying test procedures, fees, consent and confidentiality
- critically explain how the recommendations made might affect people's lives and futures

### KEY CONCEPTS

Forensic assessment	Forensic evaluation
Psychometric tests	Mental status
Forensic reports	Professional reports
Ethical codes	Test procedures

### PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Roos and Vorster (2009, chapter 3)

### 3.1 INTRODUCTION

Forensic assessment and an “ordinary” psychological assessment differ in a number of important respects. When undertaking forensic psychological assessments for the court, you should maintain an objective stance throughout the whole process and focus on the questions you are supposed to answer, while adhering to basic good psychological and ethical principles. The ensuing report should be prepared in a scientific and balanced way and should help the court to make an informed decision. The client should be treated with dignity and respect during the assessment process.

***For further interest***

*In other modules, such as IOP301–T, Industrial Psychological Testing and Assessment, the field of psychological assessment (psychometrics) is dealt with in greater detail.*

### 3.2 THE PURPOSE OF ASSESSMENT

Although lawyers should explain to their clients why they are sending them for psychometric testing, many clients arrive for their appointment without having been told why they need to be psychologically assessed. The psychologist must assess the client and answer the referral questions in a psychological report. Bear in mind that the legal team may have its own strategic ideas on how to utilise the psychological report, over which the psychologist may have no control.

Rules of confidentiality should be explained during the first consultation. It is generally accepted that the client has the right to an explanation with regard to the purpose of the assessment and the way in which it will be conducted. The client should also be informed that a psychological report will be written and given to the party who has requested it.

### 3.3 METHODS OF ASSESSMENT

#### 3.3.1 The interview

The interview remains the main tool in the forensic assessment of an individual. The goal of the interview is to gather information from a client and to form clinical impressions of him or her. There are some similarities as well as major differences between the therapeutic interview and the forensic assessment interview. During the forensic assessment interview, biographical information, developmental history, information about the client’s social circumstances and relationships, occupational history and other relevant information can be obtained. Read *3.3 Methods of assessment* in Roos and Vorster (2009) for more information on this.

##### 3.3.1.1 Structure of the interview

The method you use to extract information during an interview is entirely up to

you. Using the person-centred approach of Carl Rogers is helpful because it allows the client to express himself/herself freely without being led by your questions. You can follow this initial interview with either a structured biographical interview or a comprehensive biographical questionnaire. This allows you to fill in the gaps of the initial interview. The following activity indicates which concepts to include in your structured interview:



### 3.1

Study *The structure of the forensic interview* in Roos and Vorster (2009) and complete the following summary.

#### 3.3.1.2 Content of interview

Criteria	Description
Biographical information	
Developmental history	
Social circumstances and relationships	
Occupational history	
Other relevant information	Medical information Reason for referral Clinical history Complaints and complications related to the reason for the referral

### 3.3.2 Psychometric assessment

When doing a psychometric assessment of a client, be clear about the tests you are using. Familiarise yourself with the requirements laid down by the Medical, Dental and Supplementary Health Services Profession Act 56 of 1974 in this regard. Read *3.3.2 Psychometric assessment* in Roos and Vorster (2009) for more information on this. You may also visit the website of the Health Professions Council of South Africa (HPCSA) at [www.hpcs.co.za](http://www.hpcs.co.za). You will be able to download forms 207 and 208, which deal with psychometric testing.

#### 3.3.2.1 The role of psychometric tests in a forensic setting

Psychological tests help the forensic psychologist to measure an individual's

characteristics objectively. The tests provide a sample of behaviour, which allows for generalisation. The appropriate psychological tests should be used properly to be of any value. Read Roos and Vorster (2009) for more information on this.

3.3.2.2 *Selecting a battery of tests*

It is often difficult to decide which psychological tests to include in your assessment of an individual. The tests included in the battery should support and validate one another.



**3.2**

Study *Selecting a battery of tests* in Roos and Vorster (2009) and then complete the summary in the table below. It is suggested that you also use the Internet and other textbooks that refer to psychometric tests to fill in the gaps with regard to which tests are classified as neurological tests, intelligence tests, and so on.

CATEGORY OF TEST	EXAMPLES	BRIEF DESCRIPTION
<b>Intelligence tests</b>	SSAIS-R Weschler	
<b>Neuropsychological tests</b>	(Read Roos & Vorster, chapter 6, intellectual assessment, scholastic evaluation, and emotional assessment and personality assessment)	
<b>Objective personality tests</b>		
<b>Projective personality tests</b>		
<b>Specific clinical tests</b>		
<b>Aptitude and achievement tests</b>		

Different psychological tests make up a battery of tests. Make sure you use appropriate tests relevant to the situation and the referral questions being asked.

3.3.2.3 *Important aspects of psychological testing*

The validity and reliability of psychological tests are crucial in forensic assessment.

Tests should be able to measure what they are supposed to measure (validity) and should give consistent results (reliability). Other important facets of psychometric assessment include the proper administration of the psychological tests and the correct interpretation of test data. After administering the tests and interpreting the data this information should be integrated with information obtained through interviews, biographical questionnaires and the psychologist's own observation (collateral information). Read Roos and Vorster (2009) for more information on this.

### 3.3.3 Collateral information

Information provided by the client is often subjective. Collateral information can help the psychologist to confirm or reject information supplied by the client and to form a more objective picture. Doctors, family members, teachers and previous therapists may have valuable information that could confirm or bring into question what you already know about the client. Collateral information consists of, but is not limited to, clinical history, prenatal and birth history, and family situation and history (including whether other family members have any physical or mental disorders).

The client must consent to the psychologist obtaining information from third parties. This information can consist of face-to-face consultations, telephonic consultations, questionnaires and reports, letters or affidavits by third parties (lay or professional). School records, testimonials and employment records will add to the existing knowledge about the client. Read Roos and Vorster (2009) for more information on this.

### 3.3.4 Mental status examination

A mental status examination (MSE) is a systematic documentation of mental functioning at the time of the interview. Most of the information can be obtained informally.



#### 3.3

Read *Mental status examination (MSE)* in Roos and Vorster (2009) and complete the following table to illustrate the elements of an MSE.

Elements	Example
General presentation	
State of consciousness	
Attention	

Speech	
Orientation	
Mood and affect	
Form of thought	
Thought content	
Perceptions	
Memory	
Intellectual functioning	

### 3.4 FORENSIC REPORT WRITING

Forensic report writing may be the least exciting part of forensic work, but it is the most important. No standard format exists and styles often change, depending on the referral question. The main goal of the report is to help the reader (court/judge) understand the individual and the situation he/she is in.

Forensic psychologists should always include an updated curriculum vitae (CV) with their report.



#### 3.4

- (1) Write or update your own CV. It is important to note who you are, when you studied and what you studied. The first 10 to 20 questions you will be asked in court will refer to your CV. Many psychologists have difficulty answering these questions, as they do not always remember what they have written in their CVs.
- (2) After writing your CV, formulate questions that you think you might be asked. This is an excellent opportunity to practise your “questioning skills”. Questions should be to the point and clear.
- (3) How would you feel if you were asked the following questions?
  - I see that you are quite young and have only four years of experience in this field. Would you consider yourself an expert and on what grounds?
  - I see that you consider yourself an expert in the field of child molestation. Have you attended any additional seminars or courses on this subject or are you merely relying on your university training?
  - Do you think that because you are a mother/father yourself that you sometimes tend to favour mothers/fathers more when you have to decide on the custody of a child?

## FEEDBACK

The goal of this activity is to give you an indication of what you might be up against in court. You should take your time and consider carefully when drawing up your CV. Questions you could be asked by legal council in court may sometimes seem rather personal, so bear in mind that they might be using your CV as a source for some of their questions.

### 3.4.1 Presentation

The basic rules of good writing apply to a forensic report. It should have a logical structure and be easy for the reader to follow. The goal of the report is to answer the referral question(s) and your conclusions should be supported by valid, reliable data. Remember, your report tells the reader a lot about your work ethic and expertise.



### 3.5

After studying Roos and Vorster (2009, *Forensic report writing*), draw up a template (example) of what you think a forensic report should look like. Put in basic headings and subheadings, with a short introductory paragraph under each heading.

Your clients are a father, mother, son (10 years) and daughter (12 years). The parents are getting divorced. The father has left the common home and the children are currently residing with their mother. The mother's attorney, Mr Lawyer, contacts you and asks for a forensic report.

## FEEDBACK

The first page of the report will probably be typed on your own letterhead, which should include your title and personal information. Below the letterhead you should state what the report is about, for example:

*CONFIDENTIAL PSYCHOLOGICAL ASSESSMENT OF MR XY AND MRS XX, AS WELL AS THE MINOR CHILDREN, A (... YEARS) AND B (... YEARS)*

The body of the report starts on the following page. You can use your own style, but it is crucial that you include the following information:

- Reason for referral
- Title and personal information of the client/s
  - Father:
  - Name:

Date of birth:

Age:

Educational level:

Occupation:

Repeat this process for the mother and minor children as well. You should include the names of the schools the children attend and their grades.

- **Dates of consultation**
- **Sources of information**

You can start this section with the sentence: “The content of this report is based on information that was obtained in the following manner:”

*Table 3.3: Sources of information* in Roos and Vorster (2009), provides examples of the information that could be considered as sources. (List all information that you received from the lawyers, the clients, the doctor, the school and even family and friends.)

- **Background information**

**Mr XY**

- Family
- Scholastic
- Occupational history
- Medical psychiatric history
- Legal history
- Social and relational history
- Parenting abilities

Repeat the process for the mother and children as well.

- **Behavioural observations**

- Father
- Mother
- Child A
- Child B

- **External sources of information** (Discuss the sources you have listed above.)

- **Psychometric assessment results**

- Father
- Mother
- Child A
- Child B

- **Integration of results** (for each individual)

- **Discussion**
- **Recommendation**

**NOTE:** The subheadings above will also give you an indication of which questions you can include in your structured biographical interview and/or questionnaire.

### 3.5 CONCLUSION

After completing this study unit you should have a basic understanding of what a psychological report should look like. Remember that, although the basic format often stays the same, it depends on the referral question. This question is your guide to how you should approach the assessment. A custody case often involves the most people (three or more) and is probably the most comprehensive of all reports. In a criminal case/personal injury case you only have to concentrate on one person, although the collateral information would be much more comprehensive.

### SELF-ASSESSMENT

The skills to do a proper forensic assessment are only acquired in time and with experience. It is a good idea to contact a psychologist who works in the forensic field and ask if you could help him/her with his/her next forensic case. This should give an indication of the paperwork (questionnaires, lawyer's letters, consent forms and billings contracts) involved in forensic assessment.

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# STUDY UNIT 4

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## *Practising ethical forensic psychology*

### OVERVIEW

In this study unit we discuss ethical principles and how you should uphold these principles when entering the forensic field. Ethical principles are crucial in the field of psychology, and even more so in forensic psychology. It is of the utmost importance that you familiarise yourself with the ethical codes and principles that apply to both the psychologist in general and forensic psychology in particular. There is a good chance that you will have to testify on the procedures you followed in your evaluation and how you came to your conclusions.

### LEARNING OUTCOMES

After completing this study unit you should be able to

- explain which organisations/councils control the behaviour of psychologists in the forensic field in South Africa and have laid down ethical principles for psychologists to follow
- discuss the functions of ethical codes
- explain the concept of ethics in psychology
- describe certain issues involved in practising ethical forensic psychology

### KEY CONCEPTS

Ethical forensic psychology

Ethical codes

Ethical issues

### PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Roos and Vorster (2009, chapter 4).

#### 4.1 ETHICAL FORENSIC PSYCHOLOGY

Ethical guidelines and principles are not legally enforceable unless they have been incorporated into the law. Different organisations have their own ethical guidelines, however. If you belong to an organisation that has a published ethical code, the organisation is entitled to punish you if you breach the code. All psychologists in South Africa are registered with the Health Professions Council of South Africa and are obligated to adhere to the Medical, Dental and Supplementary Health Services Profession Act 56 of 74, and its amendments.




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#### 4.1

- Compile your own ethical file and get copies of the following:
  - Ethical Code of Professional Conduct, 1999 (Medical, Dental and Supplementary Health Services Profession Act 56 of 74)
  - Guidelines for Child Custody Evaluations in Divorce Proceedings (1994)
  - Guidelines for Psychological Evaluations in Child Protection Matters (1998)
  - Specialty Guidelines for Forensic Psychologists (1991)

You can download copies of the above from the Internet. Type in the title and you will find the websites containing this information. These articles/guidelines have also been published in journals. The reference list in Roos and Vorster (2009, chapter 4) lists the journals in which these articles/guidelines have been published.

NOTE: Although not all of these ethical codes/guidelines are South African, they provide a good indication of what is expected of psychologists specialising in the forensic field.

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#### FEEDBACK

After collecting and reading through the different ethical codes that apply to psychologists in general and forensic psychologists in particular, you will notice that there are numerous rules to which you have to adhere.

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#### 4.2 ETHICAL ISSUES

When working in the forensic field you are considered to be an expert who does specialised work (Ethical Code of Professional Conduct, 1999). If you choose to do forensic work, you should maintain the highest standards of professional integrity as your work will be questioned and examined in the finest detail.

Concepts that have bearing on ethics include, but are not limited to

- competence
- consent
- relationships
- limits to opinion
- truthfulness and candour
- maintenance of expert witness role
- fact witness role

**4.2**

Read chapter 4 in Roos and Vorster (2009) for an explanation of the above concepts and answer the following questions:

- (1) What questions would you ask an expert to prove/question his/her credibility?
- (2) How would you approach a forensic evaluation, with specific reference to competence, consent, relationships, limits to opinion and truthfulness and candour?

**4.3**

Write an introductory speech of approximately one page explaining the following to a client:

- the procedure you are going to follow during the evaluation
- whatever is said during the evaluation will not necessarily be confidential
- testing procedure
- what test you intend using
- drawing up of a final report
- distribution of that report
- the client's right to refuse to undergo psychometric testing, but also the consequences thereof

**FEEDBACK**

It is one thing to know the theory of conducting a forensic evaluation, but explaining it to a client, who is usually a lay-person, is a totally different story. The client has rights and you are obligated to follow certain procedures. Since a forensic assessment is not therapy, it is advisable that you spend the first few minutes with the client discussing the rules and regulations that apply to this kind of interaction. It is your responsibility to advise the client on what procedure you are going to follow, what will happen to the information you will gather, and what his/her rights are.

**4.4**

You decide to request a psychological report from a psychologist. Formulate a letter in which you ask the psychologist to render specific services. Mention the role of ethics in the provision of such services.



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#### 4.5

How would you handle a situation in which a mother approaches you and asks you to evaluate her daughter? She suspects that her husband (the child's father) is molesting the child. She does not want the father to know that she has brought the child for an evaluation.

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#### FEEDBACK

The Medical Board states clearly that both parents should give consent when a child is evaluated. South African law, however, states that it is not necessary to obtain consent from both parents. However, although you will not be prosecuted by law if you see the child without the consent of the father, the father still has the right to report you to the Medical Board. Therefore, you should be able to explain your conduct to the Medical Board. In this specific case you could argue that the child's psychological and physical wellbeing were in danger and that you decided to proceed on those grounds.

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#### 4.6

Read through the following case study and answer the questions.

Mr Therapist had been seeing John in therapy for more than a year. John was suffering from severe depression, for which a psychiatrist had put him on medication. John decided to terminate therapy because his medical aid had reached its limit and he could no longer afford therapy or medication. Two months after terminating therapy, John killed his wife Sue, and then tried to commit suicide. His suicide attempt was unsuccessful, however, and he survived. During the investigation, John mentioned that he had been in therapy with Mr Therapist.

- If Mr Therapist were called to testify, would it be as an expert or as a fact witness? Give reasons for your answer.
  - Should Mr Therapist obtain John's consent to testify?
  - What should Mr Therapist do if John did not give consent, but were subpoenaed by the court?
- 

#### FEEDBACK

You might have gathered by now that the rules that apply to therapy are different from those that apply to forensic assessment. In a forensic assessment, the client knows from the beginning that "confidentiality" does not exist. In this case,

however, Mr Therapist had been seeing John in his capacity as a therapist and a therapeutic relationship had evolved.

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### 4.3 PRACTISING FORENSIC PSYCHOLOGY

When practising forensic psychology, you should be careful how you approach clients, settle on fees and draw up documentation. In this study unit you have received a brief overview of some of the ethical principles that apply to the field. Your credibility as a professional in the field of psychology will be questioned if you breach any of these principles. Even after you have drawn up your final report and had your day in court, you still have responsibilities towards your client with regard to records and filing. Some cases may be reopened or a parent might decide to apply to reverse custody, which might have been awarded more than 10 years ago.

### SELF-ASSESSMENT

You should now have a basic understanding of the ethical codes and guidelines that apply in forensic assessment. Read the following vignette and see how many ethical violations you can spot. This is not an actual case but a composite, designed to highlight particular aspects of information.

*Dr Unethical and Mr and Mrs Nkosi*

Mr and Mrs Nkosi are in the process of divorcing. They have been married for 12 years. They have two children, an 11-year-old girl and an 8-year-old boy. Mr Nkosi recently found his new true love at work. As he wanted to be with the new love of his life, he left the common home and moved in with his lover.

Dr Unethical receives a call from Mrs Nkosi's attorney requesting a custody evaluation for the Nkosi family. Although he has never done a custody case before, he sees it as a challenge and accepts. He mentions this to the attorney. Mrs Nkosi's attorney does not convey this to Mr Nkosi's attorney.

Both attorneys agree to use Dr Unethical and a date is scheduled for the family's first appointment. Both parents show up together for their first appointment. Dr Unethical informs them that he is an expert at conflict resolution (having taken one class in graduate school) and that he would like to help them resolve their differences about custody and the divorce. He describes his fees for the time and obtains their medical aid details. He states his diagnosis to be Adjustment Disorder on his claim.

After four sessions of attempted conflict resolution Dr Unethical decides to see Mr and Mrs Nkosi separately, because he does not seem to be succeeding in resolving their conflict. He asks each parent to bring one of the children for an interview. After this he writes a custody evaluation report for the court. He recommends that the 8-year-old boy should continue therapy with him.

The above description contains several ethical violations. Can you identify them? (Hint: there are more than 10.)

### FEEDBACK

The ethical problems posed in the vignette will become clear as you answer the questions that follow. After answering YES or NO, make an ethical statement. Use questions 1 to 3 as examples and complete the rest in the same fashion. Some answers might be repeated.

	QUESTION	YES NO	STATEMENT
(1)	Does Dr Unethical have the relevant expertise and training to conduct a custody evaluation?	NO	Lack of training to conduct a custody evaluation
(2)	Should Mrs Nkosi's attorney have informed Mr Nkosi's attorney of Dr Unethical's lack of expertise?	YES	Failure to inform the second attorney of the limits of expertise
(3)	Do you think that it was correct of Dr Unethical to convert the first session into a mediation?	NO	Dual tasks — it became therapy instead of an objective evaluation
(4)	Does Dr Unethical have training in mediation?	NO	
(5)	Did the doctor obtain consent from both parents to do the assessment and draw up a report?		
(6)	Did Dr Unethical properly advise both clients of the limits to confidentiality, scope of the task, boundaries for the information, purpose of the engagement, and what the product would be from the time together?		Did not obtain informed consent
(7)	Can you claim from a medical fund for forensic evaluations?	NO	

	QUESTION	YES NO	STATEMENT
(8)	Was Dr Unethical ethical in rendering his diagnosis of Adjustment Disorder?		Rendering a diagnosis of Adjustment Disorder without proper assessment procedures
(9)	Would you conclude that Dr Unethical did a proper custody evaluation?		
(10)	Was it correct of Dr Unethical to recommend that the young boy remain in therapy with him?		

#### 4.4 CONCLUSION

Having read the guidelines and principles that psychologists in the forensic field should adhere to, you should realise that this line of work requires a lot more precision than you may initially have thought. It is your duty to know what is required of you. The court does not accept ignorance as an excuse. Clients and attorneys have a great deal at stake and will not hesitate to report you if they think that you might have been unethical (especially if they have lost the case). The Health Professions Council of South Africa will also not accept ignorance as an excuse, especially as they have gone to the trouble of drawing up guidelines in this regard.

# STUDY UNIT 5

## *Forensic psychology in criminal cases*

### OVERVIEW

In criminal cases, the forensic psychologist assists the court in various ways. You will be expected to help the court understand the individual who has committed a specific act and determine an appropriate sentence for an individual who has been found guilty. You should familiarise yourself with the legal concepts pertaining to criminal cases and what is expected of you in these circumstances.

### LEARNING OUTCOMES

After completing this study unit, you should be able to

- explain “guilt” in a criminal context
- define and describe the following basic legal concepts
  - criminal capacity
  - intent
  - negligence
  - sentencing
- explain the role of the psychologist in criminal cases with regard to the following:
  - assessing an individual’s ability to stand trial
  - assessing the criminal capacity of the accused
  - making recommendations for the punishment of an offender who has been found guilty
  - advising on mitigation of sentence

### KEY CONCEPTS

Guilt	Stand trial
Criminal capacity	
Intent	Offender
Negligence	Litigation
Sentencing	

### PRESCRIBED MATERIAL FOR THIS STUDY UNIT:

Roos and Vorster (2009, chapter 5)

## 5.1 INTRODUCTION

The forensic psychologist has a dual role to play in criminal proceedings. First, he or she assists the court in assessing whether the accused is guilty or innocent. If the accused has been found guilty of a criminal offence, the psychologist is often expected to propose an appropriate sentence. To be able to do this you should understand certain legal terms and the manner in which the legal system approaches such cases.

## 5.2 BASIC LEGAL CONCEPTS IN THE CRIMINAL PROCESS

There are certain prerequisites that determine if a crime has been committed, namely an act or omission, the breaking of a rule and the guilt of the individual concerned.

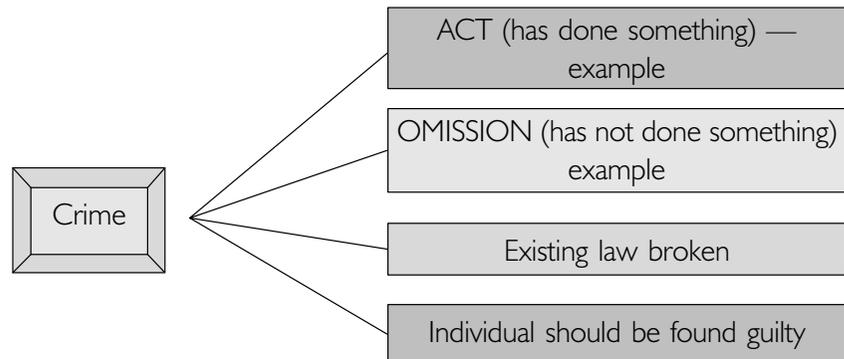


### 5.1

(1) You need to be familiar with certain legal terms before proceeding. Define and describe the following legal concepts and answer the questions that follow:

- civil proceeding
- criminal proceeding
- crime

(2) Complete the schematic representation of the elements that, according to the law, have to be present for a crime to have been committed.



(3) Why should you refer to individuals suspected of breaking the law as the “accused”, and refer to whatever they have been accused of as an “alleged” action?

## FEEDBACK

As a psychologist your main objective is to evaluate the individual who has been accused of a crime. You should, therefore, understand which elements have to be present according to law for a crime to have been committed. If you are

familiar with the relevant legal concepts you will find it easier to understand legal documents and follow the legal process.

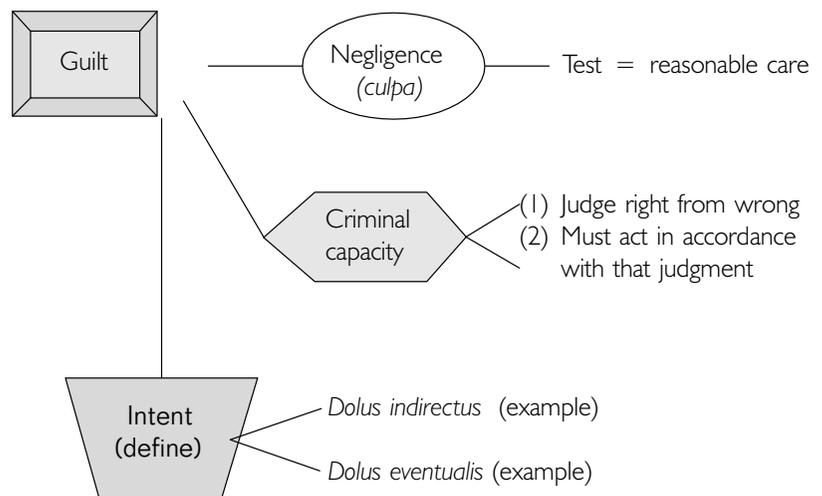
### 5.3 GUILT IN A CRIMINAL CONTEXT

For a court of law to find that a crime has been committed, the state has to prove that a certain individual (the accused) has performed a certain action contrary to existing law and that he or she is guilty. The term “guilt” in legal terms translates into (1) criminal capacity, (2) intent or, in certain cases, (3) negligence.



#### 5.2

- (1) After studying Roos and Vorster, 2009 (*Guilt in a criminal context*), draw up a schematic representation (mind map) of the elements necessary for guilt to be established. Note that the following example is incomplete and that you will be expected to provide more detail.



- (2) After completing the schematic representation, read the following scenarios and decide if the individuals can be held accountable for their actions. Substantiate your answer by discussing whether the individuals showed intent, what type of intent it was, or whether they were negligent.

If, for whatever reason, the individuals can distinguish right from wrong but cannot act in accordance with this knowledge, can they be held accountable for a deed they have been accused of? Give reasons for your answer.

#### Scenario A

A group of students are sitting on the roof of a university building. They are skipping class and have become bored. For the purpose of this exercise

assume that all the students are 18 years or older. Student (A) throws a full cool-drink can at his friend (Student B), but misses. B picks up the can and throws it back at A. He hits A on the eye and A loses the sight in that eye. Should B be held accountable for his actions?

### FEEDBACK

Did B show intent in his actions or were the students just fooling around. Was there any way B could have foreseen the result of his actions? Could B's action be described as *dolus indirectus* or *dolus eventualis*? Give reasons for your answer. This answer might also depend on B's emotional state. He could have thrown the can back in a playful manner or he might have been upset by A throwing the can at him in the first place, and thus have acted in anger.

### Scenario B

This scenario also takes place on the roof of the university building. Students C and D are playing a game of catch. C throws his heavy bag to D. D has difficulty catching the bag and it falls off the building, fatally hitting a young girl who was walking past. Are either C or D accountable for the death of the young girl?

### FEEDBACK

Did C show intent to kill the young girl? If so, what type of intent was it? Do you think C's behaviour was irresponsible? Could he have foreseen the end result? Did D show intent to kill the young girl and could he have foreseen the end result?

### Scenario C

The students are playing a game of football on the roof. E and F have always been competitive. E kicks the ball so hard so that F cannot get hold of it. F is athletic and decides to go after the ball. In the process, he loses his footing and falls off the roof. However, he lands on his Sociology professor and they are both killed by the impact.

### FEEDBACK

Should E be held accountable for his actions? Should F (or his beneficiaries) be held accountable for the death of his Sociology professor? When answering the questions, keep in mind what elements should be present for a crime to be committed and for guilt to be established. Your two schematic representations should be helpful in this regard.

### Scenario D

While lying in the sun on the roof, G kicks the side barrier off the roof. He gets a fright when the barrier gives way. He is sure that nobody saw him and tries to fix it to the best of his ability. The next day a worker who has to do waterproofing on the roof leans against the barrier and it gives way, resulting in the worker falling to his death.

**FEEDBACK**

Should G be held accountable for his actions? Does he have criminal capacity or intent or can his actions be described as negligence?

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**FEEDBACK**

These scenarios will have shown you that it is not always easy to decide whether or not a person is guilty. The forensic psychologist has an important role to play in this regard as he or she can give the court information on what the person performing the action was thinking at the time.

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**5.3.1 Sentencing**

After guilt has been established, a suitable sentence should be passed on the offender. The court takes three factors into consideration when passing sentence, namely, the nature of the crime committed, the offender as a person and the interests of the larger society. The forensic psychologist can greatly assist the court in this respect.

**5.4 THE ROLE OF THE FORENSIC PSYCHOLOGIST IN CRIMINAL CASES**

In criminal cases, forensic psychologists can be either appointed by the state or employed in a private capacity, usually by the defence. Regardless of who appointed the psychologist, he/she should focus on the following:

- the accused's mental state or ability to stand trial
- the accused's criminal capacity
- mitigation of sentence

Psychologists are often required to assess the accused on an outpatient basis or in prison. The goal of the assessment is to gather relevant psychological information that will provide a better understanding of the person's mental state and/or the nature of the alleged offence. It is, therefore, important for psychologists to understand and be able to assess criminal responsibility and fitness to stand trial. After a guilty verdict has been secured and before sentence is passed on the offender, evidence of mitigation or aggravation is heard.

As in other assessments, the referral question is of the utmost importance. The referral question should be used as the reference throughout the assessment. The assessment should include but not be limited to a thorough clinical interview, gathering of collateral information and diagnostic assessment. The accused's history and any incidents that might have affected his/her cognitive and emotional functioning should be noted and interpreted in the context of all the

facts gathered. If you are of the opinion that you are moving outside your field of expertise it is always advisable to contract an expert in that particular field.



### 5.3

Draw up a template of what you think a criminal forensic report should look like. Use basic headings and subheadings with a short introductory paragraph under each heading. (Stuhy Roos & Vorster, 2009, chapter 3.)

### FEEDBACK

After completing this activity you should have a basic understanding of what a criminal psychological report should look like. Remember that although the basic format often stays the same, it depends on the referral question. The question is a guide to how you should approach the assessment. A criminal assessment differs from the assessment in a custody case. In a criminal case you will have to include headings such as “ability to stand trial” and “cognitive functioning”. That also means that your battery of tests should include intelligence tests, which is not always necessary in custody cases. You should also be prepared to give your expert opinion on a suitable sentence.

The first page of your report will probably be on your own letterhead, which should include your title and personal information. Below the letterhead you should state what the report is about, for example:

*CONFIDENTIAL PSYCHOLOGICAL ASSESSMENT OF MR X*

You should start the body of your report on the next page. You can use your own style, but it is crucial that you include the following information:

- **Reason for referral**
- **Title and personal information of the client**
  - Name:
  - Date of birth:
  - Age:
  - Educational level:
  - Occupation:
- **Dates of consultation**
- **Sources of information**
- You can start this section with the sentence: “The content of this report is based on information that was obtained in the following manner.” Often this section will include other experts’ reports and police reports.
- **Background information**
  - Mr X

- Family
  - Scholastic
  - Occupational history
  - Medical psychiatric history
  - Legal history
  - Social and relational history
  - Perception of the alleged crime
  - Circumstances that led to the alleged crime
- **Behavioural observations of Mr X**
  - **External sources of information** (discuss the sources you have listed above)
  - **Psychometric assessment results**
  - **Integration of results**
  - **Discussion**
    - Ability to stand trial
    - Cognitive functioning
  - **Recommendation**

This is only an example. You might choose to use different headings or group some information together. It is important to develop a “recipe” that makes sense to you in your own individual style.

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## 5.5 ABILITY TO STAND TRIAL

Fitness or ability to stand trial (also referred to as competency to stand trial) refers to the defendant's mental state (at the time of trial). A diagnostic assessment is required to determine the presence or absence of mental illness or mental disability at that time. The defence, prosecution or the court itself can request such an assessment, especially if there is present or past evidence of mental illness or disability.



### 5.4

Study *Ability to stand trial* in Roos and Vorster (2009) and answer the following questions:

- Describe what “ability to stand trial” means.
- What does fitness to stand trial require from the defendant?
- What questions would a psychologist ask the defendant to determine if he/she is fit to stand trial?

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## FEEDBACK

The specific questions that you ask a defendant will be determined by the

alleged crime he/she has been accused of. You will want to determine if the accused knows what he/she did, if he/she can give possible explanations for his/her behaviour and if he/she understands the process through which he/she is currently going. It is necessary for you to realise that you are neither an attorney nor the judge. You have to look at the case from a psychological perspective. The following questions will help you to determine if the defendant is fit to stand trial:

- Describe the circumstances that led to the alleged crime.
- Tell me about the charges that have been brought against you.
- Why do you have an attorney — what role will he be playing?

### 5.6 ASSESSING CRIMINAL CAPACITY

The psychologist has an important part to play in the assessment of criminal capacity. As a psychologist you will be evaluating the accused's level of functioning at present (fitness to stand trial) and their criminal capacity at the time the alleged crime was committed. Individuals can only be found guilty if they (1) are able to distinguish between right and wrong, and (2) have the ability to act in accordance with this insight. Assessing criminal capacity will produce a hypothesis in respect of the accused's mental state at the time of the alleged offence.

Make a summary of the variables that might be relevant to determine whether an individual can distinguish between right and wrong. Use the following subheadings, but also refer to the individual's age and what can be expected at which age.

	ADULT	CHILD	WHICH TESTS/ DATA WOULD YOU USE?
Cognitive (intellectual) functioning			
Emotional functioning			
Degree of impulsivity			
Ability to show valid insights			
Reliable history of an accused's behaviour			
Role of substances			
Psychopathology			

### **Criminal capacity can be divided into three categories:**

- pathological criminal incapacity
- nonpathological criminal incapacity
- diminished criminal capacity

Study the summary of these terms below.

#### **5.6.1 Pathological criminal incapacity**

In cases of pathological criminal incapacity, the accused is diagnosed as suffering from a recognised psychiatric illness (or deficiency). This psychiatric illness renders the accused incapable of distinguishing between right and wrong and/or unable to act accordingly. You will remember that these are the two prerequisites for the accused to be found guilty. If the court finds that the accused was suffering from such an illness when the alleged crime was committed, a finding of "not guilty" must be made. This does not mean, however, that the accused can go free. In terms of the Criminal Procedure Act of 1977, the court has to send the accused to a psychiatric institution as what is known as a "president's patient". A panel of psychiatrists will then re-evaluate the accused at regular intervals and only they can recommend his/her discharge into society.

The second prerequisite is when the accused is found criminally incapacitated (due to a mental deficiency or illness) at the time of the trial. In this case, he/she will be found unfit to stand trial and will also be committed to a psychiatric hospital. However, when and if the accused recovers, he/she will be required to return to court to stand trial.

#### **5.6.2 Nonpathological criminal incapacity**

An accused suffering from a temporary condition (other than a mental illness or deficiency) that rendered him/her temporarily criminally incapacitated can be found to be suffering from "nonpathological criminal incapacity". In such cases, the accused suffers a total psychological disintegration owing to extensive and intensive periods of unbearable stress, and commits a crime under these stressful circumstances. This is often referred to as "temporary insanity".

#### **5.6.3 Diminished criminal capacity**

In cases of diminished criminal capacity, the basic prerequisites for a guilty verdict are present, but certain variables are deemed to have been present at the time of the alleged crime. These variables are considered to have diminished the capabilities of the accused. The accused has to show the court that he/she was subject to certain limitations that reduced his/her judgment or ability to act in accordance with this judgment. If diminished capacity is proven, the accused will still be found guilty of the offence. However, diminished criminal capacity does count as a mitigating factor when passing sentence. Clearly the expert opinion of a forensic psychologist can greatly assist the court in this respect.



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## 5.5

Study *Assessing criminal capacity* in Roos and Vorster (2009) and answer the following questions:

- Does the presence of a psychiatric disorder render the defendant incapable of standing trial? Give reasons for your answer.
  - Which disorders or conditions are commonly evaluated or adjudicated to determine incompetency to stand trial?
  - Which disorders or conditions may render a defendant unfit to stand trial? Refer to the accused's ability to distinguish right from wrong and his/her capacity to act in accordance with this judgment.
  - Give an example of a reversible disorder and an irreversible disorder. What does this mean in terms of "ability to stand trial"?
  - Give examples of disorders/conditions that you think could make a person "pathologically criminally incapacitated".
  - Give examples of disorders/conditions that you think could make a person "nonpathologically criminally incapacitated".
  - Which conditions or disorders could diminish a person's criminal capacity?
- 

## FEEDBACK

It is important to have a sound knowledge of pathology when doing forensic criminal cases. You should not only be able to detect the presence of a disorder, but also be able to explain how the presence of a disorder could have affected the accused. It is understandable that you might not have the knowledge of disorders and pathology required in this regard at present, but as you progress with your studies you should be able to pick it up.

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## 5.7 MITIGATION OF SENTENCE

The psychologist should take the following into account when recommending a suitable sentence for the accused to the court:

- the crime
- the personality of the offender
- the interests of society

The task of the psychologist includes, but is not limited to, the following:

- A complete diagnostic assessment of the defendant at the present time and at the time of the alleged criminal offence
- Providing corroborating evidence of the accused's earlier mental state through
  - reports or statements of witnesses

- reports of the victims of the crime
  - statements from friends and relatives of the defendant
  - earlier medical and psychiatric evaluations
- Placing the criminal behaviour in context (intra- and interpersonal dynamics)
  - Determining the situational context
  - Providing assessment with regard to the following:
    - nature of the crime (violent or not)
    - prevalence of the crime (frequency)
    - context of the crime (trusted positions)
    - current life circumstances in terms of how the offence has affected or changed his/her life
    - the accused's personal circumstances, age, health and education
    - the value (or potential value) of the accused to society
    - the presence of remorse
    - the possibility of repeat offending
    - prognosis for rehabilitation




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## 5.6

Read the following case studies and answer the questions:

### Case study A

Johnny is a brilliant third-year student with no prior convictions. After completing his final exams he and a few friends decide to celebrate. Johnny does not usually drink. Later that night after having consumed at least six beers, he decides to drive home. He kills a pedestrian in his intoxicated state.

### Case study B

Sharon is a third-year student. After completing her final exams she and a few friends decide to celebrate. They meet a few male students. She has become friends with one of them over the past six months and she accepts a cool drink from him. The drink is spiked and she soon starts to feel dizzy. She decides to leave the party and on her way home kills a pedestrian with her motor vehicle.

### Case study C

Angela is a mother of three. Her husband drinks heavily and often becomes aggressive. In his aggressive state he often hits Angela and/or the children. Angela has been hospitalised previously for injuries sustained from her husband's beatings. One night he comes home very drunk. Angela confronts him and he threatens to kill her, the three children and then himself. Without any show of emotion Angela goes to her bedside table, takes out her gun and kills her husband.

### Case study D

Thandile has been suffering from 'flu and has been booked off by her doctor for a few days. She is given medication. One morning, just after she has taken her medication, the school that Thandile's son attends phones and asks her to pick

up her son, as he has fallen and needs medical attention. On her way to school she loses control of her car and kills a pedestrian.

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## FEEDBACK

You will have found that the situations depicted in these case studies are not as clear-cut as you might have thought. A number of factors come into play in each situation. You are not expected to know all the legal factors that might play a role. Approach the case studies from a psychological perspective. What were the accused persons thinking, how could their histories have contributed, was there intent, etc? You can elaborate on the story and build information around it, but try to see the perspective of the accused as well as the victim. The questions posed are intended to make you think and to generate even more questions from your side.

### Case study A

In the past, the law treated intoxication as a mitigating factor. It was thought that an individual could not always distinguish between right and wrong and act in accordance with his/her judgment in an inebriated state. However, intoxication is now considered as an aggravating factor. There are laws against “drinking and driving” and it is up to the individual to take responsibility in this regard.

- Should Johnny be held accountable for his actions?
- Could he distinguish between right and wrong and act in accordance with this judgment in his intoxicated state?
- Should Johnny’s clean record and his potential value to society count for anything?

### Case study B

- Should Sharon be held accountable for her actions?
- Should Sharon have anticipated that her cool drink might have been spiked?
- Should she be found criminally incapacitated (to be pathologically/nonpathologically incapacitated or to have diminished capacity)?

### Case study C

- Would a finding of criminal incapacity be considered in Angela’s case?
- If so, what type and on what grounds?
- How could Angela and her husband’s history have contributed to her murdering him?
- When and for what reason did Angela buy the gun?

### Case study D

- What influence do you think Thandile’s medication could have had on her actions?
- Do you think that Thandile got a fright when she heard that her son had injured himself? Could this have played a role in what happened?

- Do you think it is “reasonable” for a person to be driving a car when taking medication? (Often medication has a warning label that advises the individual not to drive or operate heavy machinery.)
- 

## 5.8 CONCLUSION

The forensic psychologist can render a valuable service to the court when it comes to determining the guilt of an offender and formulating an optimal sentence. The specialist psychological knowledge of the forensic psychologist can shed light on the functioning of the accused and thus on his/her criminal capacity. The same applies when passing a suitable sentence.

# STUDY UNIT 6

## *Personal injury claims*

### OVERVIEW

This study unit examines the role of the psychologist in personal injury claims. These cases normally involve financial compensation and the psychologist assists the court in deciding the degree of damage (usually brain damage or psychological trauma) sustained by an individual. The types of assessments involved would be neuropsychological, educational, clinical and industrial. The objective of this study unit is to promote an understanding of neuropsychological and clinical assessment as well as the role played by the industrial psychologist in this field.

### LEARNING OUTCOMES

After completing this study unit, you should be able to

- discuss neuropsychology as a field in psychology
- explain the role of the neuropsychologist in personal injury claims
- explain neuropsychological assessment
- discuss neuropsychological testing of children
- explain the role of the educational psychologist in the assessment of children with head injuries
- differentiate between the assessments of clinical and industrial psychologists

### KEY CONCEPTS

Neuropsychology	Personal injury claims
Neuropsychological testing	Children with head injuries
Clinical assessments	Industrial psychological assessments

### PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Roos and Vorster (2009, chapter 6)

#### 6.1 NEUROPSYCHOLOGY

Neuropsychology is a specialised field in psychology and the neuropsychologist has specialist knowledge about brain-behaviour functioning. This includes knowledge of psychology, the neurosciences and cognitive sciences. In the personal injury field, neuropsychologists compare pre- and post-injury functioning in a brain-injured client, for example someone who has suffered a head (brain) injury in a motor-vehicle accident. A lawyer would consider a neuropsychological assessment if there is a possibility that his/her client has

sustained a brain injury. The changes caused by brain injury would manifest in behavioural, emotional and cognitive functioning. Such an assessment would be requested where disability compensation, personal injury compensation, competency evaluation and, in criminal cases, fitness to stand trial and criminal capacity are at issue.



### 6.1

Read Roos and Vorster, 2009 (*Neuropsychological assessment of adults*).

- (1) Why would a lawyer consider a forensic neuropsychological assessment?
- (2) In what type of cases would a neuropsychological assessment be requested?
- (3) How are neuropsychological changes manifested in an individual following a brain injury?
- (4) List the causes of brain injury. If you do not understand some of the terms, read up on them.

### FEEDBACK

- (1) To assess the psychological consequences of a brain injury by comparing a person's pre- and post-injury psychological functioning, particularly the neuropsychological functioning. This would be required if someone has been injured in a car accident, for instance.
- (2) Neuropsychological assessment is requested for people suspected of having suffered a head/brain injury in an accident, or when a brain injury appears to be influencing behaviour. Such cases would include recommendations for personal injury compensation, competency evaluation and criminal forensic evaluations to determine criminal capacity and fitness to stand trial. The objective of the assessment is to provide a neuropsychological diagnosis, and if one exists, to establish the causative factors of the diagnosis, to give a prognosis for improvement and, if needs be, to recommend treatment.
- (3) Changes in an individual could be evident in cognitive, behavioural and emotional functioning.
- (4) Possible causes of brain injury are: trauma to the head, vascular disorders, dementias, substance-related diseases, infections, brain tumours, lack of oxygen, nutritional deficiency, and epilepsy.

### 6.2 NEUROPSYCHOLOGICAL TESTING

A neuropsychological assessment involves the following three main areas:

- clinical interview and observations
- gathering and evaluating collateral information
- cognitive assessment or psychometric testing

Neuropsychological testing is one aspect of neuropsychological assessment. It comprises the administration of a battery of cognitive tests to assess brain functioning. Three main approaches are considered:

- The test battery can be fixed, which means the neuropsychologist uses a standardised battery. Such tests are always used together, for example the Halstead-Reitan Battery.
- A flexible approach can be followed. The neuropsychologist uses a composite of tests from different batteries and may even include other types of measures. An integration of these two approaches is often the best method.
- Individualised hypothesis testing can be done, as put forward by Lezak. This testing is tailored around the reason for referral, the client's strengths and weaknesses and the circumstances surrounding the assessment. It uses both quantitative and qualitative methods of test analysis. The quantitative component uses standardised measures, is objective and provides the means to make comparisons. The qualitative component takes into account the observations made during the testing and the social and cultural context of the client. This assessment allows the neuropsychologist to detect patterns of impairment.

Neuropsychological testing should consider

- the major areas of cognitive functioning
- mood and personality
- the possibility of malingering



## 6.2

Consider tables 6.1 and 6.2 in your textbook, which deal with the eight main areas of cognitive functioning as well as information processing in adults and children. Name the eight main areas of cognitive functioning and explain what *speed of information processing* entails.

### FEEDBACK

- Orientation
- Attention, concentration and tracking
- Perceptual abilities
- Memory and learning
- Visuo-spatial and construction abilities
- Verbal and language skills
- Concept formation and reasoning
- Executive functioning

Speed of information processing is the rate at which information moves through the central executive functioning systems. A slow rate of processing as well as the amount and complexity of information may result in slower task completion

and can affect all areas of functioning, such as social, school work, and even understanding what is being said.

### 6.3 NEUROPSYCHOLOGICAL TESTING OF CHILDREN

The main difference between adult and paediatric (or child) neuropsychology is that child neuropsychology takes into account the stages of child development. The neuropsychologist must therefore have a full understanding of child development as well as the neurosciences and cognitive sciences. When assessing a child the neuropsychologist needs to take into account the developmental stage the child is in and in which areas developmental lag exists. To do this the neuropsychologist needs to understand the skills associated with each phase of the child's development, interpret the information in terms of the child's present development phase and explain how a developmental lag may influence the child's future development.

In South Africa the neuropsychological testing of children presents a number of challenges, which will be discussed next.

There are few neuropsychological tests designed specifically for children internationally and there are even fewer that have been standardised on South African children.

Those that have been are standardised mainly on children whose home language is English or Afrikaans, so almost no tests exist for children with other home languages, in other words the majority of the population.

This means that paediatric neuropsychologists in South Africa face added challenges compared with their colleagues in many other countries. They must have a clear understanding of the educational and cultural background of the children they are testing and must be able to interpret tests both qualitatively and quantitatively.

One of the main factors to consider when assessing children with brain injuries is the delayed development of neuropsychological sequelae. This means that when testing a child the full impact of the injury may not be evident. The neuropsychologist should understand how information from the initial testing might become more evident as the child becomes older and the parts of the brain that were injured do not show appropriate maturation. (Read *Executive functions* in Roos & Vorster, 2009, for more information in this regard.)



#### 6.3

Read *Neuropsychological assessment of children* in Roos and Vorster (2009) and answer the following questions:

- Explain why it is important for the neuropsychologist assessing a child to have a clear understanding of child development.
- Explain the challenges in testing facing neuropsychologists in South Africa.

What will lawyers need to ascertain about their experience and approach to testing before appointing them to do a neuropsychological assessment on a child?

- Discuss the importance of understanding delayed executive systems when assessing a child.
- If testing does not always show executive dysfunction, what other means are available to the neuropsychologist to assess this?

## FEEDBACK

If neuropsychologists do not understand the child as a developing individual they will not be able to interpret the tests correctly as they will not know what skills can be expected at a certain stage of development. Neuropsychologists need to know what cognitive, emotional and behavioural patterns should exist at a given stage and how the child's interaction with the environment can influence the rate at which certain skills develop. They therefore need to know what is normal for a child of the age they are assessing. This will allow them to see how the child differs from the norm expected at a certain age in a particular environment, and to identify areas of developmental lag resulting from the brain injury, and predict what can be expected in the future.

The challenges facing neuropsychologists testing children in South Africa is that most tests available are not standardised on South African children.

Furthermore, the few that do exist have been standardised mainly on children from previously advantaged backgrounds whose home language is English or Afrikaans. Children whose home language is not English or Afrikaans and who are from different cultural and environmental backgrounds are, therefore, at a huge disadvantage when undergoing psychological testing as they differ from the norm group. This is because the tests developed either in or outside South Africa are seldom standardised on the majority of children in this country.

Lawyers must, therefore, make certain that psychologists can justify why they used certain tests, even when they are not standardised on the child being tested, to arrive at their conclusions. Psychologists must therefore understand the child's cultural, language, educational and environmental background to know what they are testing for and be able to interpret the tests qualitatively and not just quantitatively. If psychologists speak only English or Afrikaans, they should ask a colleague who is fluent in the child's home language to assist them with the testing and the interpretation of the tests. Collateral information from school teachers, scholastic functioning, and so on, would also be helpful.

The child's brain is a maturing/developing brain. Therefore, at the time of injury, not all areas of the brain are fully mature or developed. This means that at the time of the assessment not all difficulties or lack of skills will be apparent, as they will only become fully apparent when the child becomes older and the anticipated cognitive, behavioural, social, educational and emotional patterns do not develop. The child therefore "grows" into the injury, in other words, the deficits become more visible as the child becomes older. This is particularly

noticeable when the frontal brain has been injured and the executive functions do not develop appropriately. The neuropsychologist should therefore be aware of this slow maturing of executive systems, which is a normal process in all children, and of how subtle executive dysfunction may manifest in younger children. This means the neuropsychologist should also be an expert on the developing child. Some problems may only be evident in an unstructured environment and, therefore, may not manifest during the assessment, which takes place in a structured environment. The psychologist also needs to be aware of what deficits or impairments can be expected as the child grows older in order to give the proper prognosis and recommend suitable treatment. He/she should also know how these problems will influence the child negatively at school and later in the workplace.

The psychologist can interview teachers, parents and others who know the child well to establish difficulties in executive functioning. The psychologist can also observe the child in an unfamiliar environment where the child needs to provide his/her own structure. The purpose of this is to see how the child copes in these circumstances. The child's behaviour in the real world may often reveal problem areas not visible in the testing environment. It is also sometimes necessary to observe the child's behaviour over a period of time.

#### **6.4 THE ROLE OF THE EDUCATIONAL PSYCHOLOGIST IN ASSESSING A CHILD WITH A HEAD INJURY**

An educational psychologist who has training in child neuropsychology is normally asked to assess a child in a personal injury claim where a head injury has occurred. This will involve children from pre-school age as well as those involved in post-school education, or who were at school at the time of the injury but have since left. A number of different areas are assessed, as discussed briefly below.

Intelligence testing gives an idea of the level of the child's potential but does not indicate the current or future level of functioning and should not be used in isolation to determine the academic level the brain-injured child should be able to reach. In the assessment of brain-injured children, IQ tests should not be used as an indication of academic achievement because they are unable to pinpoint many of the possible neuropsychological deficits a child may be experiencing. Specialised neuropsychological tests are required for further evaluation.

Scholastic assessment is important when doing a neuropsychological assessment on a brain-injured child because it gives an indication of how the child is functioning in the real world and the type of problems he or she is experiencing at school. Many of the deficits may not be obvious in the neuropsychological assessment, but become evident in the formal schooling domain and academic tasks the child has to perform. The observations of the tester with regard to the child's self-monitoring, planning, organisation, approach to tasks and structuring are vital indications of functioning often not evident in the formal testing situation. Scholastic tests should be interpreted in the light of the available information on the brain injury, any neuropsychological deficits found by a paediatric neuropsychologist/educational psychologist trained in paediatric

neuropsychology, and by other experts such as occupational and speech therapists.

An emotional and personality assessment is necessary to identify any difficulties the child may experience coming to terms with losses caused by the injury. Such an assessment will also help to determine the type and duration of therapy required.

A comprehensive report has to be written in the final part of the assessment.



#### 6.4

Read *The role of the Educational Psychologist in the assessment of the Head-Injured Child* in Roos and Vorster (2009) and answer the following questions:

- (1) An educational psychologist may be asked to give a report for forensic purposes in personal injury claims. What are the aims of such a report?
- (2) What is included in an educational psychology assessment and why is it important to obtain a full history of the child?
- (3) Why is the assessment of a child with a head injury not only limited to an IQ (intellectual) test?
- (4) Why should the educational outcome of children who have suffered head injuries not be predicted by IQ tests alone? What other information does the paediatric neuropsychologist have to take into account when making predictions with regard to educational outcome and schooling difficulties that a brain-injured child may face?
- (5) Scholastic assessment gives an indication of the child's functioning in the real world. How does this benefit neuropsychological assessment?
- (6) How should scholastic difficulties be interpreted in a brain-injured child?
- (7) What type of tests should be included in scholastic assessment and what is the objective of scholastic testing?

#### FEEDBACK

- (1) An educational psychologist's report should aim to
  - describe the child's cognitive and educational potential at the time of testing
  - ascertain how the accident may have influenced these functions
  - establish the schooling or educational placement best suited for the child
  - determine the possible level of education the child will attain
  - discuss pre-accident levels of educational potential
  - discuss pre-accident cognitive potential
- (2) The assessment should include the following:
  - a full history
  - a full IQ test
  - a scholastic evaluation

- necessary perceptual evaluation (refer to the relevant section under child neuropsychology in Roos and Vorster, 2009)
- emotional and personality assessment
- analysis of schoolbooks, both pre- and post-accident
- analysis of school reports, both pre- and post-accident
- analysis of schooling records, for example profile card, old ed lab cards, mark schedules, and so on
- any assessments done at school or by other experts, both pre- and post-accident, that will provide information pertaining to the child's educational progress, for example, occupational and/or speech therapy assessments, school readiness assessments, or group tests done at school
- interviews with teachers regarding the child's pre- and post-accident performance, if the child is or was of school-going age

A full history is essential to enable the psychologist to ascertain how the child has changed post-accident. This is relevant to determine if any problems the child may have had pre-accident have been exacerbated post-accident, or whether the child is still experiencing the same problems as before. The history also provides information about other factors that would influence testing and the child's development, such as his/her cultural, environmental and educational background. It is also important to ascertain if any emotional traumas and problems were experienced at certain stages of development, which might explain a decline in school marks, and so on.

(3) Assessment of a head-injured child cannot be limited to intellectual assessment only, for the following reasons:

- Intelligence tests generally look at multidetermined activities and do not specifically consider concepts such as attention, information processing, executive functioning, organisation skills, tolerance for stress and learning of new information.
- An IQ test may not specifically address the relevant problem experienced by a child. IQ tests evaluate certain areas of cognitive functioning, but not all of them.
- IQ tests provide a general indication of average functioning, but do not indicate subtle neuropsychological dysfunctions.

Intelligence tests do not give an indication of overall functioning, hence the need to conduct a multifaceted assessment.

(4) IQ tests often do not give a clear indication of neuropsychological deficits and do not necessarily reflect the child's current or expected level of functioning. Psychologists need to consider the results of their own neuropsychological testing, the assessments by speech and occupational therapists, the report of the neurologist/neurosurgeon regarding severity of injury, type of injury and where the injury occurred, the child's pre-injury level of functioning, his or her background and environment and actual scholastic skills. Only by taking all this information into consideration will psychologists be able to predict possible future neuropsychological deficits, schooling difficulties and long-term educational outcome.

- (5) An indication of how children plan, organise, self-monitor and structure their work and apply their knowledge supplies information that is generally not evident in other testing. This will assist the psychologist in making recommendations about the child's future functioning.
- (6) The child's educational difficulties need to be interpreted in light of the following:
  - identified neuropsychological deficits
  - information about the brain damage
  - scholastic assessment
  - the child's emotional state
  - the child's schooling history, in particular the language of schooling, pre-accident achievement and type of schooling system
  - the child's background
  - information supplied by other specialists, such as speech and occupational therapists

For this reason it is crucial for the educational psychologist to be trained in neuropsychology and to understand the effects of a brain injury on scholastic achievement.

- (7) The object of scholastic testing is to obtain an indication of the child's functioning in the real world. Many difficulties become apparent in the formal schooling domain. Such testing should include age-appropriate independent tests that show how children plan, organise, self-monitor and structure their work without intervention from the tester. Formal structured and standardised tests, when available, should also be undertaken. The following tests should be included:
  - a full reading assessment including graded, speed and prose reading with a comprehension test, and an independent comprehension test
  - spelling at both formal and informal levels
  - an age- and grade-appropriate creative writing task; for older children in higher grades, summaries, précis, etc may be included
  - basic mathematical skills

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## 6.5 CLINICAL ASSESSMENT

Clinical assessment is required to ascertain the psychological impact of an injury on the individual and its consequences. This may include a diagnosis of post-traumatic stress disorder, mood disorders or other conditions. If psychological difficulties are apparent, the forensic psychologist should undertake a complete psychological evaluation of the client and determine whether there is a causal relationship between, say, the physical injury and the subsequent psychological condition. Therapy will have to be recommended and the number of sessions required should be indicated so that compensation can be claimed.

## 6.6 INDUSTRIAL PSYCHOLOGICAL ASSESSMENT

The role of the industrial psychologist is to provide parameters for quantifying

the opinions of the other experts involved — this is related to the amount of money that will be awarded.



### 6.5

Answer the following questions:

- (1) When is it necessary to request a clinical assessment in personal injury claims?
- (2) Explain why the industrial psychologist's report is normally the last report produced in a forensic assessment relating to personal injury claims.

### FEEDBACK

- (1) Clinical assessment should be requested in cases where an injury has a psychological impact on an individual at a personal and broader family or social level. A person's ability to deal with radical changes at an individual and social level needs to be assessed. Many people suffer from post-traumatic stress after a serious incident or develop a mood disorder such as depression, and these problems should be addressed through psychotherapy. The aim of clinical assessment is to determine whether there is a causal relationship between the incident causing the injury and the subsequent psychological condition.
- (2) The industrial psychologist's report has to integrate facts from all the other experts' reports to determine an individual's capacity for work and loss of earnings.

### CASE STUDY

A 10-year-old girl who is Zulu speaking was involved in a motor vehicle accident in which a speeding motor vehicle hit her while she was standing on the pavement. She sustained a severe brain injury and an arm fracture. She was unconscious for three weeks and in hospital for two months, separated from her parents. Two years have passed since the accident. At the time of the accident she was in Grade 2 and was an average learner. She is now struggling at school and has problems expressing herself verbally. She has become clumsy and finds it difficult to carry heavy objects. Socially, she prefers to play with younger children, and children of her own age tease her about her physical problems and her failure at school. Her teachers have noted that she is easily distracted, has a poor memory, struggles to concentrate and has difficulty interpreting questions and textbooks. She has temper outbursts and isolates herself from others. Her parents have instituted a claim against the Road Accident Fund. You are the lawyer they have approached to handle their claim.

- (1) What experts are you going to consult to assist you with the claim?
- (2) What factors will the neuropsychologist need to consider?

- (3) What difficulties may the educational psychologist be faced with when deciding what tests to use and in interpreting them?
  - (4) Why does the educational psychologist need to consider pre- and post-accident levels of educational achievement?
  - (5) With regard to the long-term outcome, what factors do the neuropsychologist and educational psychologist need to keep in mind when interpreting the tests?
  - (6) What information suggests that a clinical evaluation of emotional and psychological problems should be carried out?
  - (7) What role will the industrial psychologist play in the claim?
- 

### FEEDBACK

- (1) The following experts will be consulted to assist with the assessment and the claim:
  - a neuropsychologist
  - an educational psychologist to obtain information from the parents and teachers, and from scholastic and psychoneurological assessment
  - a clinical psychologist to do a clinical assessment to determine emotional and social adjustments and to recommend appropriate therapeutic interventions (if this is covered by the educational psychologist, a clinical psychologist may not have to be consulted)
  - a neurologist/neuropsychologist to do a comprehensive neurological assessment
  - speech and language therapists
  - an occupational therapist to investigate the reported clumsiness and physical problems
  - a psychiatrist to investigate the reported temper outbursts and possibly prescribe medication, particularly for the future
  - an industrial psychologist to make recommendations about compensation for loss of earnings
- (2) The neuropsychologist should consider the following factors:
  - a neuropsychological, emotional and personality assessment to ascertain cognitive, emotional/personality and behavioural difficulties
  - a psychoneurological diagnosis
  - the aetiology or causative factors of such a diagnosis
  - the prognosis and probability of improvement
  - recommendations for treatment
  - how the deficits will negatively influence long-term functioning and thus the client's career and educational abilities
- (3) The child needs to be assessed in Zulu. If the psychologist is not Zulu speaking, a language barrier will probably exist. The psychologist will have to obtain the assistance of a Zulu-speaking psychologist or psychometrist to do the testing and to assist with interpretation in the interview. When

interpreting the test they need to be aware of how cultural differences, educational background, language and environment can negatively or positively influence the results. The lack of standardised tests means that the choice of appropriate psychometric assessment instruments is problematic and that qualitative and not purely quantitative interpretations need to be made. There may be difficulties in obtaining relevant and well-represented information about the child's performance at school and his/her background.

- (4) The child's educational achievement reflects functional outcomes, which give a clear indication of how the child is able to apply her cognitive functioning. The psychologist has to discuss pre- and post-accident levels of educational and cognitive potential in order to indicate how the injury has influenced the long-term educational outcomes of the child. This helps the industrial psychologist to ascertain loss of earnings as a result of the accident.
  - (5) The brain of a 10-year-old girl is still developing and has not yet reached maturity. Therefore, the experts need to keep the possible long-term implications in mind when they interpret the tests. The executive systems of the child are not yet fully developed and when she becomes older, behavioural problems and deficits with self-regulation, planning, flexibility in problem solving, temporal organisation of behaviour, resource allocation, inhibition, abstract reasoning, and strategies for problem solving might become evident.
  - (6) She was separated from her parents for two months, which is emotionally traumatic for a young child. She is isolating herself from others, is being teased by her peers, is struggling to cope with school work, and has to come to terms with the change in her intellectual ability and physical disabilities. These are all difficult adaptations to make and could well result in emotional and psychological problems. A clinical evaluation should recommend therapy for the child and her parents so that they can come to terms with the changes in their daughter and find ways of helping her to live her life to its full potential.
  - (7) The industrial psychologist will consider all the information provided by the various experts and make a decision about the future loss of earnings caused as a result of the head injury.
- 

## 6.7 CONCLUSION

The role of a psychologist regarding personal injury claims is discussed in this chapter. The specific role of professional psychologists, who specialise in neuropsychological, educational, clinical and industrial psychology, is focused on since they have to assist the court in deciding the degree of damage and the financial compensation.

# STUDY UNIT 7

## *Assessment for competency: custody and curatorship*

### OVERVIEW

Since the 1980s it has generally been accepted that in the evaluation of families in custody and divorce disputes, the emphasis should no longer be on determining which parent is “good” or “bad”, but rather on parental capacity, as well as on the best interest of the child. It is therefore of the utmost importance that psychologists and social workers who do this type of forensic work should familiarise themselves with all relevant aspects regarding the evaluation of families. Only then will they be able to do an ethical, scientific, and legally sound evaluation and thereby serve the best interest of the family.

Assessment for competency comes into play in custody and curatorship evaluations. In both these cases an individual is assessed to determine how competent he/she might be to perform certain required functions. In custody evaluations, a parent’s ability to parent a child is evaluated and in curatorship evaluations, an individual is assessed to determine if he/she is competent to run his/her own financial and legal affairs.

### LEARNING OUTCOMES

After completing this study unit you should be able to

- provide an overview of the different Acts with which professionals should be conversant when evaluating families in custody or access disputes
- explain the different types of custody and access and be able to indicate the advantages and disadvantages of each type
- explain the criteria for determining custody and access
- explain the process of divorce
- indicate how the evaluation of families in custody disputes should be conducted
- compile a parenting plan
- identify divorce-related syndromes
- discuss different ethical aspects that are important in the evaluation of families
- explain the circumstances under which a curator will be appointed
- identify the different types of curators and the specific roles they play

### KEY CONCEPTS

Child custody

Parental authority

Guardianship

Minor

Sole guardianship

Sole custody access

Joint legal custody  
Physical custody  
Curatorship

Parallel guardianship

## PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Roos and Vorster (2009, chapter 7)

### 7.1 INTRODUCTION

Read Roos and Vorster (2009), chapter 7, and answer the following questions:

- Why has there been a change in the general view of divorce in that it is now seen as a “normal” event in the life cycle of some families? What is your personal point of view regarding this change of view? Motivate your answer.
- What is the “tender years doctrine”? Do you agree with this? Provide a motivation.
- What is the role and function of the Family Advocate?
- What is the role and function of the psychologist/ social worker in the evaluation of families in custody and access disputes?

### FEEDBACK

- Divorce is increasingly seen as a normal event that takes place in the life-cycle of some families. This is due to the changing view of divorce, changes in the traditional roles of men and women and also because of socio-economic changes whereby women are becoming financially independent. Changes in belief systems and in the legal system have also contributed to this change in attitudes. The student should be able to support his/her own view on this.
- The tender-years doctrine implies that children need the mother’s nurturing and care more than that of the father. It actually also implies that the father is not able of nurturing or fostering a child. The student should be able to provide his/her own view on this doctrine.
- The Family Advocate has two roles, namely, that of evaluating the family, but also providing mediation for the family.
- The psychologist/social worker must assist the Family Advocate and the court in making a decision regarding the best interests of the child. This means that the psychologist/social worker must evaluate the family and/or assist the parents in compiling a parenting plan.

### 7.2 LEGAL ACTS IMPORTANT IN CHILD CUSTODY/ACCESS DISPUTES

Psychologists whose scope of practice includes forensic work, and specifically the evaluation of families in custody disputes, should have knowledge of the most important stipulations of the legislation pertaining to divorce.



7.1

- Marriage can be dissolved by the following:
  - (1) .....
  - (2) .....
  - (3) .....
  - (4) .....
  
- The following grounds for divorce are accepted:
  - (1) .....
  - (2) .....
  - (3) .....

**FEEDBACK**

- Marriage can be dissolved by the following:
  - (1) death
  - (2) where a person has disappeared or been reported missing over a period of time
  - (3) divorce
  - (4) by the annulment of a voidable marriage
  
- The following grounds for divorce are accepted:
  - (1) Irretrievable breakdown of the marriage — there is no longer a normal marriage or it is highly unlikely the marriage relationship between the spouses will be restored.
  - (2) Incurable mental illness.
  - (3) Continuous unconsciousness.



7.2

Study the following case studies and indicate on which grounds divorce will be granted in each case.

**Case study A:**

Mrs Pillay was in a car accident three years ago and suffered severe neurological damage. She does not understand any instructions, cannot speak and is in a wheelchair. According to an evaluation of a psychologist, she functions on a pre-school level. Mr Pillay applies for divorce.

**Case study B:**

Mr and Mrs Smith have been married for five years. Mr Smith is a pathological liar and has a criminal record. Mrs Smith indicates that she did not know of this. They find it difficult to communicate and Mrs Smith has moved in with a friend and has started divorce proceedings.

**Case study C:**

Mr and Mrs Mosiane were on their honeymoon in Thailand in 2005 when the tsunami struck. Mr Mosiane suffered only minor injuries but Mrs Mosiane is still in hospital after suffering severe injuries and has not regained consciousness. Mr Mosiane has become involved with his secretary and is now applying for divorce.



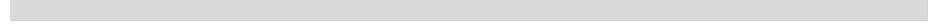
**FEEDBACK**

- Case A: Incurable mental illness
- Case B: Irretrievable breakdown of marriage
- Case C: Continuous unconsciousness



**7.3**

- Explain what you understand by the term “mediation”?
- Do role-play in class in which two learners play the roles of a father and a mother who cannot agree regarding **access**. Another learner must play the role of the mediator and help the “parents” to agree on a settlement.



**FEEDBACK**

Mediation is the process whereby an independent person such as a Family Advocate/psychologist/social worker will help opposing parties (such as parents in divorce) to reach some form of agreement or settlement.



**7.4**

It is often stated that the Prevention of Family Violence Act of 1993 is unrealistic. What are the most important stipulations of this Act? What is your opinion of this Act? Substantiate your answer.



## FEEDBACK

The most important stipulation of the Prevention of Family Violence Act of 1993 is that a partner or ex-partner can obtain a protection order. This Act also makes provision that a psychologist or social worker should report when he/she suspects that a child is being abused. However, the limitation of this Act is that although it prohibits the aggressor from causing damage, there is no way in which the victim can really be protected. If an aggressor really wants to cause damage to a victim, "a piece of paper" will not prevent him/her. It is only after "the damage" has been done that the aggressor can be charged with transgressing this Act. However, one can argue that this Act is mainly a deterrent.

You should be able to substantiate your own view on this matter.



### 7.5

- What is the age of majority? .....
- For which activities does a minor need both parents' consent?  
.....
- Complete the following regarding the Children's Act 38 of 2005:
  - (1) A child under the age of ..... is considered a minor.
  - (2) The "best interest of the child" implies that the .....,  
....., ....., ..... and ..... should  
be taken into account.
  - (3) May a child be subjected to cultural or religious practices that are not in  
the best interest of the child? .....
  - (4) Can children have legal representation? .....
  - (5) In a case of a child born out of wedlock, the biological father has no  
responsibilities or parental rights. True or false? .....
  - (6) Should children be involved in decision-making processes? Substantiate  
your answer. ....
  - (7) What must parents do if they do not agree regarding parental  
responsibilities? .....
  - (8) From what age may children give consent to medical treatment for  
themselves? .....
  - (9) Is it a criminal offence for a mother to refuse the father access to the  
child? .....

## FEEDBACK

- 18 years
- A minor needs both parents' consent for

- marriage
  - adoption of a minor child
  - removal of a minor child from the country
  - application for a passport
  - the alienation or encumbrance of a minor's immovable property
- The Children's Act 38 of 2005:
    - (1) 18 years
    - (2) physical, psychological, emotional, educational and social needs
    - (3) No
    - (4) Yes
    - (5) False
    - (6) You should be able to formulate your own answer.
    - (7) Go for mediation in order to compile a parenting plan.
    - (8) 12 years
    - (9) Yes
- 

### 7.3 DIFFERENT TYPES OF CUSTODY AND ACCESS

The psychologist/social worker should familiarise himself /herself with the different types of custody and access in order to make a recommendation that is acceptable to the court.



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#### 7.6

Answer the following questions.

- What are the four types of custody?
  - Distinguish between *reasonable access* and *limited/structured access*. Then explain the different forms of limited/structured access.
- 

#### FEEDBACK

- Custody, sole custody; split/divided custody/ joint custody.
- Reasonable access is usually determined by the parents with their unique circumstances and preferences. It also implies that the emotional bond and relationship between the children and the non-custodian parent should be maintained. In limited/structured access, the access is usually stipulated by a court order. The following alternatives of limited/structured access exist:
  - Access under supervision: an objective party must supervise the access
  - Phased-in access: when the relationship between the parent and child is not satisfactory and the parent and child must develop a bond it is often done under supervision of a professional person
  - Parallel access: where parallel custody is awarded
  - Non-physical access: the parent may not see the child but telephonic

contact may be allowed. Postponed access is where the court decides that a parent must first meet certain conditions before access will be allowed (eg, that the parent must attend an anger management programme).



Compile a three-month programme/plan of action for a three-year-old girl who has not had contact with her father since her birth. The court has ordered that access should be phased in over a period of three months. You are requested to provide the court with a programme of how this access should be phased in.

#### FEEDBACK

- Example of such a programme:

Date	Time and duration	Venue	Supervisor
2008-01-02	14h00-15h00	Therapist's office	Therapist. Mother should attend session as well.
2008-01-07	14h00-15h30	Therapist's office	Therapist. Mother will be present for half the session.
2008-01-16	14h00- 15h30	Therapist's office	Therapist will be present for half the session then observe from observation room. A parenting guidance session for both parents will be scheduled for the next week.

Date	Time and duration	Venue	Supervisor
2008-01-23	11h00-13h00	Half of session in therapist's office, remaining time picnic in garden opposite therapist's office	Therapist will meet father and child in office. Father and child will have picnic in garden. Therapist will have a short session with child after the picnic.
2008-02-3	14h00-16h00	Father will collect the child at therapist's office. He will take her to a park and return her to therapist's office.	Therapist will have a short session with child afterwards. A parenting guidance session for both parents will be scheduled for the next week.
2008-02-14	11h00-15h00	Father will collect child from mother's home. Spend the time with child. Father can decide on activity and venue. Return the child to therapist's office.	No supervision. Therapist will have a short session with child at 15h00.
2008-02-24	10h00-16h00	Father will collect child from mother's home. Spend the time with child. Father can decide on activity and venue. Mother will collect the child as in agreement with father.	No supervision. A session for the child, as well as a parenting guidance session for both parents will take place the next week.
2008-03-15	8h00-17h00	Father will collect child from mother's home. Spend the time with child. Father can decide on activity and venue and return child to mother's home.	No supervision. A session with the child will be scheduled for the following week. The possibility of the child sleeping over at the father's home will be discussed.

Date	Time and duration	Venue	Supervisor
2008-03-29/30	8h00 Saturday till 16h00 on Sunday	Father's home. Father will collect the child at mother's home and return her on Sunday at 16h00.	No Supervision. A parenting session with both parents the following week. If the child adjusted well, reasonable access as agreed upon in the parenting plan will continue.

**Important:** This is only an example of a programme. Each access plan will differ due to the unique circumstances of each family.



### 7.8

Do the following exercise:

Mrs Jacovedes presents with the problem that she is currently in the process of divorce. However, she would like information on the different types of custody, as well as the advantages and disadvantages of each, to make an informed decision. Without any background information on Mrs Jacovedes and her circumstances, provide her with the necessary information.

### FEEDBACK

Provide the different options and explain the advantages and disadvantages of each. You should know these by using your knowledge of families and developmental psychology.

### 7.4 CRITERIA FOR DETERMINING CUSTODY

It is accepted in the literature that in the evaluation of families in divorce disputes, no single criterion for determining custody is paramount. Rather, a combination of factors should be taken into account in determining the best interest of the child and the parenting potential.



## 7.9

Read the following case study of the Van Heerden family. Apply the different criteria for determining custody (Roos and Vorster, 2009) and from the information provided, reach a conclusion regarding custody of and access to the three children. Substantiate your recommendation(s).

Dr and Mrs Van Heerden and their three children are referred to you for evaluation. Your evaluation revealed the following:

Dr and Mrs Van Heerden met when she consulted him as a patient. At that time, she was pregnant with Alan, who is now 9 years old. Alan is not Dr Van Heerden's biological child. His father absconded when he heard of the pregnancy. The Van Heerdens fell in love and married just after Alan's birth. Dr Van Heerden legally adopted Alan. Two more children were born from this marriage, Talitha (now 7 years old) and Tarryn (4 years). Dr Van Heerden is 38 years of age, and a medical doctor. His wife is 32 years old and an artist. They live in the Free State.

Mrs Van Heerden initiated the divorce proceedings. She is currently in a relationship with Derek (22 years) and wants to marry him after the divorce has been finalised. Both parents are applying for custody of the children.

Dr Van Heerden can be described as a friendly, yet introverted person. He likes order and structure, and shows great respect for other people. However, some people may experience him as aloof. He is a medical doctor. He prefers to lead a quiet life, and routine plays an important role in his life. His practice is not very busy and he has a trustworthy partner.

Dr Van Heerden and his partner work shifts he does the morning and afternoon shift, whilst his partner prefers to work in the afternoons and the evenings. Therefore, Dr Van Heerden is generally home by 16:00. Because he is an ordered, structured and disciplined person, he maintains the routine in the household. He usually helps the two older children with their homework and often attends their extra-mural activities. The children experience him as strict as he maintains discipline. He spends a lot of time with them especially with games that can stimulate their development.

Mrs Van Heerden is an artist. She is a "free spirit". She finds routine inhibiting and boring. She is an extrovert and a fun-loving person. She likes to socialise and has many friends. She belongs to a group called African Artists, which meets once a month over a weekend to discuss art and to visit different exhibitions. She met Derek at one of these weekends and became involved in a relationship. The children describe her as "fun", as she will allow them to stay up late to watch the stars, or to scribble on the walls (budding artists), or to choose their own clothes even if they are quite unconventional or even inappropriate for the occasion. She believes children must develop at their own tempo and according to their own inclination. She presents art classes during the afternoons.

Both parents agree that the relationship with Derek is just a symptom of their incompatibility. They both wish for an amicable divorce, but cannot reach consensus on custody and access. The main reason is that Mrs Van Heerden and her lover intend to relocate to the Natal Midlands to establish an artist school. The idea of the children moving is unacceptable to Dr Van Heerden. Alan is a difficult child. He has ADHD as well as learning disabilities. He receives speech therapy and occupational therapy. Because of his ADHD, he socialises poorly, and has problems in maintaining relationships with friends. During the past year, he befriended another boy (the son of Dr Van Heerden's partner). He is on medication, which Dr Van Heerden has to supervise as his wife usually forgets. Alan sometimes complains to his mother that his father is too strict. He knows that Dr Van Heerden is not his biological father, but has never requested information about his biological father. Alan is good at rugby and horse riding. He owns his own horse.

Talitha is a shy and withdrawn child. She is sometimes bullied by her brother. She loves drawing and will isolate herself for hours in her room, drawing or playing fantasy games. She is often described as a "dreamer". She does well at school. She has two special friends that she has known since preschool. She is loving and sweet, and has a very good relationship with her father. She sometimes frustrates her mother, as her mother experiences her as too submissive. She takes ballet and art lessons.

Tarryn is a bubbly, happy little girl. She is an extrovert. Because of her extroversion, as well as the fact that she is as pretty as a doll, she attracts attention wherever she goes. People adore her and she basks in all the attention she receives. She is loving and lovable. She can maintain herself and has an abundance of self-confidence. She is easy to manage and has good relationships with everybody in her family. She also loves horse riding and excels at swimming.

*The above case study gives an indication of the different criteria that need to be considered when doing an evaluation in custody disputes. From this, you will realise how difficult such evaluations are and that the importance of each criterion should be kept in mind while trying to determine the best interest of the child.*

## FEEDBACK

Use the criteria as provided in Roos and Vorster (2009) to come to a conclusion.

- Aspects that were important in this case are the following:
  - The one child has ADHD the mother will find it difficult to provide the

structure needed by such a child. She often forgets to give him his medication.

- Mrs Van Heerden's view on child rearing.
- The age difference between Mrs Van Heerden and her lover — it may be a high-risk relationship.
- The mother intends to relocate.
- Alan's problems with socialising and that he has just managed to befriend another child.
- The children's activities.
- The parenting potential of both parents. It seems as if Dr Van Heerden is more predictable and more available to the children.
- One will also have to evaluate the personality function of each parent.

In this case, it was recommended that custody should be awarded to the father. Do you agree?

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## 7.5 THE PROCESS OF DIVORCE

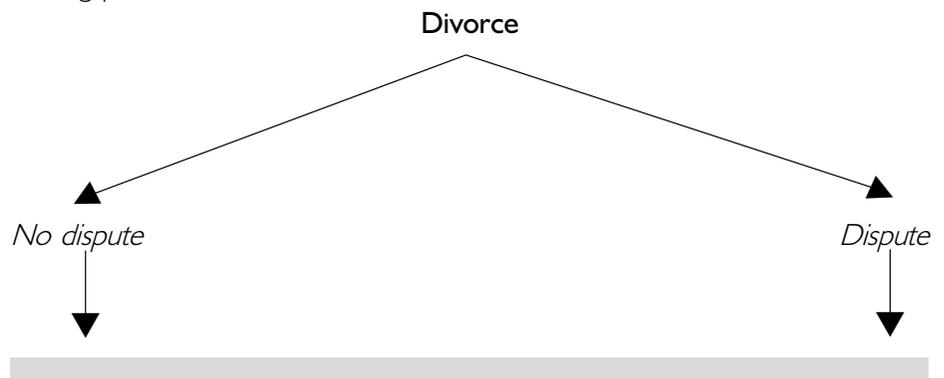
The process of the dissolution of a marriage (where children are involved) and the subsequent legalising of a divorce can be divided into two main categories — a process characterised by dispute(s), or a process whereby a settlement is reached.

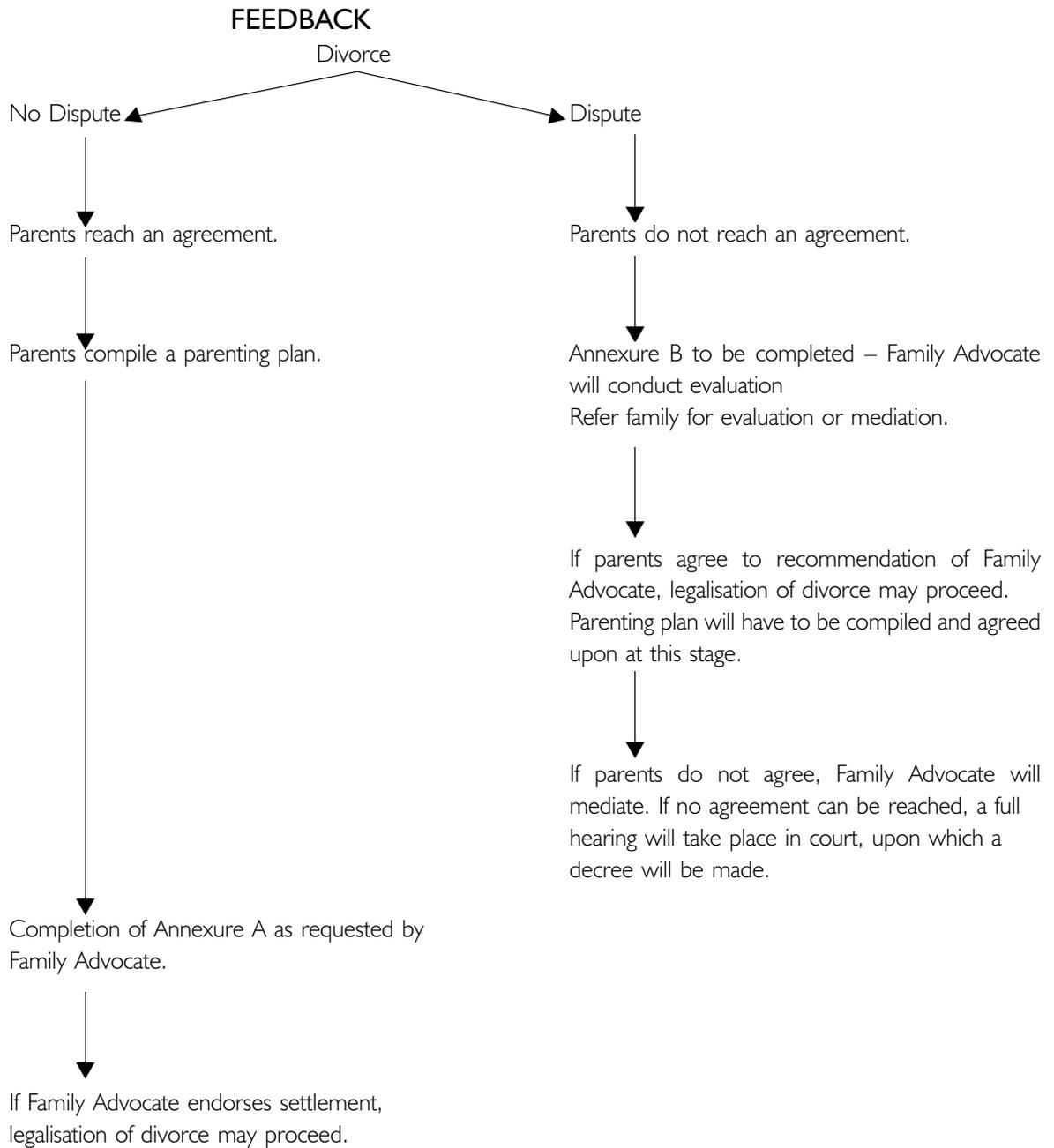
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### 7.10

Draw a schematic presentation of the process of divorce. Use the following as starting point:





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## 7.6 EVALUATION OF FAMILIES IN CUSTODY DISPUTES

The psychologist/social worker involved in the evaluation of families in custody disputes must be able to do a scientific evaluation of the different family members, their roles, behaviour, functioning and interaction in order to reach a substantiated conclusion.



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### 7.11

Answer the following questions:

- What is the aim of the evaluation?

- How would you as professional prepare yourself for such an evaluation?
- What methods will you use to gather your data?

### FEEDBACK

- To determine the best interests of the child.
- Compare your answers with 7.1.6 in Roos and Vorster.
- Observation, interviews, psychometry and collateral resources.



### 7.12

Using the case study in Activity 10, indicate what additional information you would like to obtain in order to write a valid report. Use the following grid to help you in this activity. You can adjust the grid to provide more space if you wish to do so.

Name of family member/system	Information I need	How will I obtain this information?
Dr Van Heerden		
Mrs Van Heerden		

Name of family member/system	Information I need	How will I obtain this information?
Alan		
Talitha		
Tarryn		

Name of family member/system	Information I need	How will I obtain this information?
Derek		
Family as a system		

## FEEDBACK

Evaluate your grid by comparing it with the content of the text (Roos & Vorster, 7.1.6 *Methods of data gathering*).

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## 7.7 THE PARENTING PLAN

The new Children's Act requires that parents provide a parenting plan before the court will award custody. Psychologists and social workers will have to help parents to compile parenting plans.

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### 7.13

Answer the following question:

- What is the aim of a parenting plan?
- 

## FEEDBACK

The aim of a parenting plan is to promote the interests and wellbeing of the child, to involve both parents in fulfilment of parental responsibilities and to promote cooperation between the parents.

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### 7.14

Using the same Van Heerden family (as in activities 10 & 14), compile a parenting plan based on your recommendation (as in activity 9).

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## FEEDBACK

Your parenting plan should include all aspects as stated in Roos and Vorster (2009). Examples of parenting plans are also available on the Internet. (However, not all the parenting plans on the Internet meet all the requirements — you can, however, use it as a basic plan and modify it to meet the necessary requirements.)

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## 7.8 DIVORCE-RELATED SYNDROMES

Psychologists conducting evaluations in custody disputes should have a thorough knowledge of divorce-related syndromes and should be able to identify them.



### 7.15

- What are the primary characteristics of the Parental Alienation syndrome?
- What are the primary characteristics of the Malicious Mother syndrome?
- What are the primary characteristics of the Sexual Allegations in Divorce syndrome?

### FEEDBACK

You will find all the characteristics of all divorce-related syndromes in Roos and Vorster (2009).

## 7.9 ETHICAL CONSIDERATIONS IN THE EVALUATION OF CUSTODY DISPUTES

All psychologists/social workers should be aware of accepted standards of practice and ethical behaviour when conducting evaluations in custody disputes.



### 7.16

Evaluate the following case study. Indicate which ethical codes have been violated. Substantiate your answer.

Mrs Naude is a psychologist in Mareestad — a small town in North West province. Her husband is the only lawyer in the town. Mr and Mrs Naude have a son of five years old who is in the local nursery school, Knikkie Kleuterskool. One day, when Mrs Naude went to fetch her child, the nursery school teacher, Mrs Smit asked Mrs Naude if she would be willing to evaluate her little daughter of five years. Mr and Mrs Smit are in the process of getting divorced and Mrs Smit is worried about the impact of the divorce on the child, and wishes to obtain a recommendation regarding custody. Mrs Naude's husband is Mrs Smit's lawyer and he has advised her to obtain psychological help for the child.

Mrs Naude arranges an appointment for the following afternoon. During the session, the little girl indicates that she does not want to visit her father as, according to her: "he has hit me with a steel pipe on my back". When

Mrs Smit went to fetch her little girl, Mrs Naude conveyed this information to the mother. She also advised the mother to contact CPU immediately and not to allow the child to visit the father again. Mrs Smit contacted CPU the same afternoon.

The following day was Mrs Naude's son's birthday. She arranged a party for him where all the children would be swimming. Mrs Smit's little girl is also invited. While the children were swimming, Mrs Naude noticed that there were no marks on the little girl's back. She took the child aside and pulled down the swimming costume to see if there were any marks on her bottom. There were no marks. She confronted the child — who insisted that the alleged assault really did happen.

The child's ballet teacher also attended the party. Mrs Naude asked the ballet teacher if the child had ever complained to her that her father hit her. The ballet teacher indicated that it had never happened.

Mr Smit telephones Mrs Naude the following day and requests an appointment with her. He indicates that CPU has contacted him and he is of the opinion that there are certain facts of which Mrs Naude should take note. Mrs Naude refuses an appointment with him. Mrs Naude indicates to him that she is already compiling a report in which she recommends custody to the mother, with supervised access to the father.

## FEEDBACK

The psychologist/social worker conducting evaluations of families in custody disputes is seen as an expert who must assist the court in making a decision. Therefore, a thorough knowledge of forensic psychology and of different subfields of psychology is necessary. The evaluator should also always keep in mind that his/her objectivity might be comprised by his/her own family of origin, his/her theoretical assumptions about families, and gender issues. It is therefore advised that all psychologists doing such an evaluation should consult with a mentor/supervisor on a regular basis.

## 7.10 APPOINTMENT OF A CURATOR

A curator is usually appointed when an individual is no longer able to manage his/her own affairs adequately. The curator then assumes responsibility and acts as a kind of legal manager for the individual. But how do we determine if an individual can no longer assume responsibility for his/her own life and affairs? The forensic psychologist can assist the court in determining the capabilities, or lack thereof, of the individual in question. Different scenarios require the appointment of different curators.

There are three different types of curators that can be appointed, namely:

- **curator bonis**

- curator ad litem
- curator personae



## 7.17

Read Roos and Vorster (2009) and complete the following table:

CURATOR	DUTY OF CURATOR	EXAMPLE OF SCENARIO
<i>Curator bonis</i>		
<i>Curator ad litem</i>		
<i>Curator personae</i>		

### FEEDBACK

As a psychologist working in the forensic field, you have to know the terminology used in legal process. Knowing these terms and when they are used will help you to understand and follow the legal process.

It is not always easy to assess cases where curatorship should be assigned. The psychologist should do a full mental status exam. Other factors such as age, the severity of the cognitive disability and family dynamics also play a role. Often, elderly people do not like the idea that someone else (a curator) will manage their affairs, and they might try to fight the process. The forensic psychologist should act very carefully and thoroughly in the course of the psychological assessment.



## 7.18

Read Roos & Vorster 7.2 and answer the following questions:

- Which guidelines should the psychologist follow when considering the mental capacity of an individual, specifically whether the individual concerned is able to care for himself/herself?
- If you conclude that an individual cannot cope on his/her own, what recommendations would you make?
- If an individual is mentally incapacitated because of the negligence of or assault by another person, what important aspect should you build into your recommendation?
- Under which circumstances would you recommend that a curator be appointed for a child?

## FEEDBACK

You will notice that this particular forensic field differs from the custody field. You will be required to express your opinion on whether an individual is able to take care of himself/herself. If you come to the conclusion that the individual is incapable of looking after himself/herself, you should be able to make recommendations about the appointment of a curator, the need for specialised care and/or the need for treatment. In certain cases you should also be able to make recommendations about financial compensation, which requires knowledge and expertise in those matters.

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## 7.11 CONCLUSION

A proper evaluation of the relationships between parents and children is necessary to help the court reach a decision that will be in the best interest of the child. When doing such evaluations, the psychologist should understand the legal process of divorce and maintain the highest work ethic. In a disputed custody case there will always be parties who disagree with your recommendations. They will scrutinise your methods closely and do everything in their power to discredit you.

Cases involving the appointment of a curator can be very traumatic for the individual involved, because it affects his/her legal status and can result in the loss of certain rights. People generally do not like others to control their lives and such recommendations and evaluations should therefore be handled with the utmost care and sensitivity.

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## *Assessment for compensation*

### OVERVIEW

Industrial psychologists working in the field of forensic psychology have important investigating and integrating functions to fulfil. Their tasks are primarily related to three fields:

- assessing compensation after someone suffers personal injuries that influence his/her work and earning capacity, or when dependants claim for loss of support after the death of a provider
- establishing a basis for determining the amount of alimony in a divorce action
- determining damages arising from disputes about employment practices

The industrial psychologist has to analyse, investigate and integrate information obtained from various sources, including experts, plaintiffs and employers involved in and pertinent to the forensic assessment process. This information must provide a coherent basis that the court can use in its deliberations when deciding how much compensation to award. In addition to providing information, the industrial psychologist should also inform the court if there is any information missing that could influence the court's deliberations.

### LEARNING OUTCOMES

After completing this study unit, you should be able to

- explain the scope of practice of the industrial psychologist
- discuss the role of the industrial psychologist in making recommendations about a person's ability to generate income
- evaluate how the industrial psychologist acts as an integrating specialist by examining all relevant reports to make projections regarding immediate and long-term influences on functioning
- explain the role of the industrial psychologist in predicting future loss of earnings
- explain how the industrial psychologist can consider the wider scope of factors that influence an individual's long-term work and earning capacity

### KEY CONCEPTS

Compensation assessment

Income projections

Loss of earnings

Earning capacity

### PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Read Roos and Vorster (2009, chapter 8).

## 8.1 INTRODUCTION

The industrial psychologist provides information on which the legal team and the actuary can base their calculations to compensate people financially. The aim is to ensure that people will be in the same position they would have been in had the wrongful incident not taken place and contributed to certain losses. Losses could be calculated in terms of money or could involve loss of love and affection, enjoyment of life, companionship, guidance, and so on.

## 8.2 SCOPE OF THE INDUSTRIAL PSYCHOLOGIST

The scope of the industrial psychologist will be explained in the following case study. Answer the questions before you read the suggested answers.

Person who sustained a personal injury: Patrick Mogane  
Age: 15 years



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### 8.1

Indicate the *specific scope of practice* in which the industrial psychologist is involved in assessing Patrick's losses.

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## FEEDBACK

The case under consideration does not fall in the field of medical negligence, public liability or assault to the individual. From the information provided it appears that litigation can be brought against the Road Accident Fund or against the driver of the other vehicle in his/her own capacity. The losses did not occur because of divorce actions or as a result of employment practices.

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## 8.3 ROLE OF THE INDUSTRIAL PSYCHOLOGIST

The industrial psychologist takes into consideration a person's innate abilities, education, training, skills and knowledge as well as the socio-economic circumstances that could impact on his/her ability to generate income in the future.



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### 8.2

Discuss the different sources of information the industrial psychologist should consult in order to make a recommendation about Patrick's ability to generate income. You have learnt from an interview with Patrick's father that he is part of a family of nine and that two of Patrick's siblings died in the same accident in which he sustained his injuries. All the family members were schooled up to

grade 10. His mother is a domestic worker and his father is a driver at a large sugar refinery. His father has two sisters, currently employed, who are taking care of their children as single parents. Patrick's two brothers who died in the accident were scholars in their grade 9 and 10 years, respectively. Patrick's older brothers are employed as unskilled farm labourers.

### FEEDBACK

The industrial psychologist should draw up a development plan for Patrick. This entails gathering information on Patrick's development from birth to his current age of 15 years, if the information is available. It should include his educational history and achievements.

Knowledge of developmental and educational psychology is essential to determine if Patrick reached his developmental milestones at a normal, above or below normal rate, and if his educational achievements are congruent with his innate abilities.

To predict Patrick's ability to generate income it is important to draw up a general profile of the genetic pool from which he has inherited his potential. The individual family members' developmental and career history, in conjunction with current career and life positions, will provide valuable information to predict a probable (more than 50% chance) or possible (less than 50% chance) career path and associated level of income for Patrick. Other sources of information that should be included are Patrick's performance in a formal school setting, a measurement of his performance against his peers, a general indication of the level of education he has been exposed to and his socio-economic circumstances.



### 8.3

Describe the *type of information the industrial psychologist should obtain from other medico-legal experts to prepare a recommendation for compensation. You have learnt from the medical reports that Patrick sustained serious head injuries, a broken hip and that his face was scarred as a result of the accident.*

### FEEDBACK

The industrial psychologist needs to examine all the available reports from different experts (the neurosurgeon, neurologist, neuropsychologist, occupational therapist, speech therapist, psychiatrist, clinical and educational psychologist and reconstructive surgeon) to determine the exact nature of

Patrick's injuries in terms of short- and long-term implications, including medical and treatment costs, cost of equipment if applicable, and cost of assistance or care. These sources provide valuable information on Patrick's level of post-injury functioning. The industrial psychologist should also ensure that all the specialisation disciplines have been consulted for a comprehensive assessment of loss of abilities and functions, including the prognosis for abilities and functioning after treatment, and what Patrick's final post-injury status will be. For example, it might be necessary to have Patrick assessed by additional experts, such as an occupational therapist, to determine the type of work that would be suitable for him.



#### 8.4

Describe one of the processes an industrial psychologist can use to determine a possible *career path and associated earnings for Patrick*.

#### FEEDBACK

Given Patrick's relatively young age (15 years) it is impossible to say with any certainty what his career direction would have been. At best one can suggest a potential level of education he could have achieved based on his history and the biographical history of his immediate and extended family, the economic resource base of the family and the improved social/educational circumstances in the post-apartheid era. It has been put forward that it is highly unlikely that Patrick would have progressed further than grade 10 because of the deprived socio-economic circumstances of his family. However, it is possible that he could have been employed in the informal market as a "piece worker" (someone who is employed ad hoc on a daily basis). Earnings for piece work are from R50 to R70 a day. He would probably have spent a number of years generating an income in the informal sector and then later in the formal sector. If Patrick was motivated to work and applied himself, he could have acquired a more permanent position within the formal organised market within three or five years. The more qualified he was, the sooner he would have been able to acquire more permanent tenure. Information on the specific levels of remuneration associated with job levels is gathered through surveys by organisations such as PE Corporate Services and FSA Contact/Human Capital Corporation.

#### 8.4 CONTINGENCY DEDUCTIONS

One of the primary functions of the industrial psychologist is providing the court with an indication of how certain factors might influence a person's career

development. These factors might be negative or positive. Examples of such factors include family genetics, educational and social values or economic influences. Contingency deductions are an important part of the quantification process. The court determines the magnitude of the contingency deductions that are going to be applicable to an individual's case to determine his/her loss of earning capacity. The industrial psychologist needs to highlight the risks and indicate future implications that the court should take into account when quantifying an individual's losses.

## **8.5 CONCLUSION**

The case study dealt with above shows that industrial psychologists should have a narrow, focused approach as well as a broad, holistic approach. At a microlevel, industrial psychologists need to examine an individual's personal, social, educational and familial history with a magnifying glass, and at a macrolevel they should be aware of the impact of broader socio-economic trends in national as well as international markets. The knowledge and skills of industrial psychologists are crucial in the forensic field, since the integrating and investigatory nature of their work allows for the "filtering" of information that enables the legal team to make meaningful recommendations to compensate individuals for losses sustained.



## PART III

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### *Key considerations in forensic psychology*

# STUDY UNIT 9

## *Human development and abnormal psychology*

### OVERVIEW

This study unit provides a holistic approach to the multifaceted perspectives on what could be regarded as normal child development. Forensic psychologists should have knowledge of normal child development to be able to determine abnormal child development and identify circumstances that promote the development of abnormal behaviour at a later stage in life. The identification of abnormal behaviour is important in both civil and criminal cases.

Intrapersonal- as well as interpersonal-cultural perspectives should be examined to gain an understanding of normal child development. Psychology is an extremely diverse field and limited space does not allow for a comprehensive account of the relevant historical developments and the ways in which different theoretical paradigms can be applied. Abnormal behaviour is the subject of volumes of textbooks, recent research and intense debate. This study unit will therefore provide only a broad overview of the themes relevant to forensic psychologists.

### LEARNING OUTCOMES

After completing this study unit, you should be able to

- discuss the most important explanations of human behaviour from a physiological perspective
- discuss the three major approaches of the psychodynamic perspective and apply their principles to normal human development
- explain why knowledge of the cognitive development of children is important
- discuss the relevance of the ecological theory in explaining individual human behaviour
- name the theory that explains that behaviour can be observed and imitated
- discuss the model that explains the complexity of the development of abnormal behaviour, and explain why this model is preferred
- discuss the most prominent pathologies in children and adults

### KEY CONCEPTS

Physiology  
Cognitive development  
Ecological theory  
Abnormal behaviour

Pathology

## PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Read Roos and Vorster (2009, chapter 9).

### 9.1 NORMAL CHILD DEVELOPMENT AND DIFFERENT PERSPECTIVES

To illustrate how different factors impact on human development we shall examine a portrait of Vincent van Gogh, from his birth until the age of 11, based on the biography by Lawrence and Elizabeth Hanson (1955). A short background of Vincent's life is cited because his life history highlights the most important matters discussed in this study unit. The full text can be found at the following address: "Van Gogh, Vincent" Microsoft® Encarta® Online Encyclopedia 2005 <http://encarta.msn.com>

Vincent was a Dutch painter who early in life displayed a moody, restless temperament. He cut off part of his own ear after a quarrel with a friend, which was the first serious sign of mental illness. Soon after finishing *Crows in a Wheatfield*, Van Gogh shot himself on July 27, 1890, and died two days later.



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#### 9.1

Read the following description of Vincent van Gogh's physical appearance as well as chapter 9 in Roos and Vorster (2009) and discuss human development from the physiological perspective.

Vincent may have had the Van Gogh red hair and freckles and from an early age he showed signs of the Van Gogh devotion to a narrow creed, which would later become fanaticism, but in all other respects he was his mother's child. This was obvious from his appearance, the sunken light blue-green eyes, the sidelong suspicious glance, and his temperament: impatient, abrupt, the hot temper rising in a second to such uncontrollable fury that there must have been early indications that he was mentally unstable — indications to be repeated in certain of his younger siblings.

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### FEEDBACK

Vincent inherited a particular genetic history from his parents. Physically, he resembled his mother. The genetic structure that Vincent inherited from his mother also influenced his behaviour. Certain schools in psychology claim that people's personalities can be predicted from their physical features.

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## 9.2

Read the following description of Vincent van Gogh's early development and his relationship with his father and mother, and discuss human development in terms of the *psychodynamic approaches*:

Rev Theodorus van Gogh married Anna Cornelia Carbentus when he was 29 and she was 32. On 30 March 1852 their first child, a boy, was born. The baby Vincent died a few weeks after his birth. The sorrow of his parents — and there is every sign that his mother in particular took the loss of her firstborn badly — was allayed the next year. On 30 March 1853, exactly one year after the birth of the first son, another boy was born. He was given the name of his dead brother — Vincent.

Vincent's father appears to have lived rather apart from his children, and particularly from this first boy, who must have seemed in his roughness and violence to be the very antithesis of his father. Van Gogh senior was kind, considerate, conscientious and affectionate in his way, but it was not the child's way. Even when the father walked with his son (as he did every day), studied with him and encouraged him (as he did regularly), the barrier between them prevented any true intimacy. It was Vincent's mother, who could perhaps have given the child what he needed, who should bear the main responsibility for Vincent's development. For it was not long before he became what is now known as a problem child. The attitude of a mother towards her first living child is almost always ambivalent. He was often a joy to his mother; but her pride in him would as often change frighteningly into a coolness, almost a dislike, as though she resented the strength preserving him from the dangers that had robbed her of her firstborn. In this mood and in anger she often could not resist brandishing before him a picture of that dead brother, who would have been so different — obedient, quiet, ever loving — and rebuking him for adding to her suffering with his naughtiness. Then she would repent, would dote on him, spoil him, caress him fiercely and possessively, for at times he was very precious to her, more so than any other of her living children.

She could not rationalise her grief for the loss of the first Vincent and, as these things will if not checked, the grief became a habit to be worked off on his successor. The living child was brought up under the shadow of his dead namesake. Every week a pilgrimage was made to the grave to lay flowers by the headstone. Whenever he was unruly or difficult — and he naturally grew into a difficult child, stubborn, bad-tempered and rough — the first Vincent was held up to him as the model son.

### FEEDBACK

According to the psychodynamic approaches, the early development of children is of the utmost importance to later development in adolescence, adulthood and during the elderly life phases. *Classical psychoanalysis* maintained that humans'

psychic function could be divided into the preconscious, the unconscious and the conscious. Three different structures are also distinguished. Strong impulses from the id and inhibitions from the superego cause conflict and anxiety, which are managed by a defence mechanism. The most important function of the defence mechanism is to protect a person. In Vincent's case it might have been possible that he used denial as a way of dealing with the anxiety that he experienced as a child. This suggests that he was not able to deal with his anxiety and that he ignored it so that he did not have to deal with it. The case studies do not clarify which coping strategies Vincent applied, but one can imagine that he was exposed to a great deal of conflict and anxiety.

Another approach in the psychodynamic perspective is *ego psychology*. The challenges that Vincent was exposed to during his first few years can be observed in his inability to form trusting relationships with other people. He developed a basic feeling of mistrust since he never developed a sense that the world was a safe place. In the next section the importance of stable object relations will be discussed to illustrate the implication of this issue.

A child's parents are the very first people that he/she learns to know as representatives of the outside world. In Vincent's case his parents' interaction with him could be described as inconsistent and distant.

Vincent had to develop a sense of himself in relation to an inconsistent mother and an aloof father. This type of environment does not provide quality parental care or promote optimal development.

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## 9.2 COGNITIVE DEVELOPMENT

Vincent's parents sent him away from home when he was 11 years old. What, according to the cognitive development theory of Piaget, was Vincent's level of development at that time?

First read the following excerpt:

*Vincent was, however, behaving increasingly like a peasant boy, and in 1864 his parents, worried by his roughness and fits of rage and rude speech, decided to send him to a school for the sons of gentry at far-away Zevenbergen. It was raining when they took him off in a carriage on the first day of October. The dark depressing day symbolised his feelings as he watched them drive away without him. His happiness at home had been intermittent and mingled with much misery and humiliation, but it was still home. He was, after all, only 11 years old.*

### FEEDBACK

At the age of 11 Vincent would just have started to understand and apply logical operations. During this phase he would only just have begun to exercise abstract thinking and to develop the ability to hypothesise and speculate about the

possibilities of his parents sending him away. It must have been very confusing for Vincent and it is possible that he believed that his behaviour was responsible for his parents' decision.

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### 9.3 INTERPERSONAL-CULTURAL PERSPECTIVE

Vincent's father was a pastor in the Dutch Reformed Church. He could not afford to marry until he had been earning a living for two years. His wife Anna Cornelia Carbentus was the daughter of a well-known bookbinder in The Hague. She too came from an old family, but an unremarkable one of small traders. In keeping with the Dutch character and the record of the Van Gogh family, he was a minority man, preaching a Calvinistic doctrine in the midst of a predominantly Catholic people. He did not preach well, and his congregation of 100 souls (a 60th part of the village) did not increase, but his charity was beyond creed — he gave freely to the poor.

He had a strong family feeling, was proud of the Van Gogh family and greatly attached to his parents, brothers and sisters. The name of Van Gogh had been known and respected in the Netherlands as far back as the 15th century; the first recorded member of the family was, characteristically, a Protestant theologian.

Vincent had three sisters: Anna, two years his junior, Elizabeth and Willemien. Anna resented his domineering ways, and the two younger girls, both delicate, were too much afraid of his noise and roughness to feel, or at any rate to express, affection. Then there was the second son, Theo, four years younger than Vincent. He, like his younger sisters, was gentle, sickly and nervous, but unlike them he admired the strength and forcefulness of his elder brother; he began to follow him about, they slept together, and the strange couple — for they seemed outwardly to have little in common — often appeared to be inseparable.

Vincent began to spend more and more time with the peasant boys he met every day at the village school. They had become his friends; they were as blunt and short of speech as he, and with them alone (the little Theo excepted) he felt at ease — no politeness demanded, no cleanliness, no neatness of clothes, no restraint. He looked like them, he seemed to feel like them, and he believed himself to be one of them, but unworthy.

He was happiest chasing about the countryside after butterflies, beetles and birds' nests, for all of which he had a passion. If he had thought about the matter at all he would have said proudly and defiantly that he was a Brabant peasant; he felt at home in the village school, he felt at home in the cottages of the peasant boys' parents, he wanted nothing else.




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### 9.3

Answer the following questions:

- Indicate the important aspects of the *ecological theory* based on the historical context in which Vincent was born.
  - If Vincent's father related to Vincent according to the principles underlying the social learning theories, speculate about his parenting style and how he tried to achieve behavioural changes.
- 

### FEEDBACK

In order to understand individual behaviour one should always keep in mind the specific cultural and interpersonal context in which a person develops. For example, his strong religious background had certain implications for the way in which Vincent's father behaved, the age at which he married and his relationships with his children. The stigma attached to Vincent's interaction with children who did not belong to his socio-economic class should also be understood in terms of the unspoken rules and assumptions of that time.

The development of Vincent's personality, behaviour and interactions was influenced by a variety of factors: his parents and their parenting style; his siblings; his own personality; and the economic, social and political influences of the time. To understand an individual's behaviour one should consider his/her cultural background, bearing in mind that every society and community has its own values, principles and socialising norms. Be careful, however, not to seek an explanation for an individual's behaviour based solely on the broader environment and cause-effect relationships.

- If Rev Theodorus van Gogh based his parenting style on the social learning theory he would have expected Vincent to learn by observing him and imitating his calm and controlled behaviour and interaction with people.
- 

### 9.4 ABNORMAL PSYCHOLOGY

Explain the adaptation model with regard to the history of Vincent van Gogh.

### FEEDBACK

There are various theories that explain the development of abnormal behaviour. The adaptation model provides for multiple perspectives and does not propose a linear cause-effect explanation. According to this model, Vincent had certain personal attributes such as his own social and coping skills, his physical condition and psychological make-up. His environment was characterised by emotional distance between people, a lack of supporting interpersonal relationships and a sense of discomfort about his association with peasant children. Vincent had to

adapt constantly to the demands of the situations he found himself in. He was forced to compete with a deceased brother, deal with the inconsistent behaviour of his mother, the teasing of his siblings and being sent away at the age of 11, which he must have interpreted as rejection of himself.

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## 9.5 VULNERABILITY, RISK AND PROTECTIVE FACTORS



### 9.4

Answer the following questions:

- (1) Name the risk factors that increased the likelihood of psychopathology in Vincent.
- (2) What factors heightened Vincent's vulnerability and intensified his vulnerability to the risk factors?
- (3) Name the protective factors that promoted healthy development and the ability to adjust to his environment.
- (4) Name one of the disorders that he displayed symptoms of as a child.

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### FEEDBACK

- (1) Risk factors may have included his genetic inheritance, his father's aloofness, his mother's inconsistent behaviour towards him, her habit of comparing him with her deceased first-born child, and the fact that Vincent was named after his deceased older brother and born on the same day only a year later.
- (2) Vulnerability factors included his gender (as a boy, Vincent had a greater chance of developing behavioural problems), his temperament and the young age at which he was targeted and subjected to rejection.
- (3) Protective factors included his younger brother Theo, peer group support and friendship, and his ability to draw.
- (4) Vincent probably developed a conduct disorder since there is evidence of repetitive and persistent patterns of behaviour that violated the basic rights of others and/or societal norms.

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## 9.6 ABUSE



### 9.5

The case study does not provide enough information, but if you were able to assess whether Vincent's parents abused him, what type of abuse would you have suspected?

**FEEDBACK**

Vincent probably suffered emotional abuse. His parents did not meet their child’s need for emotional security and acceptance. He was continuously subjected to an emotionally hostile environment in which he was rejected and exposed to conditions that he was not able to deal with at a very young age. One can just imagine what effect the continual comparisons with his deceased brother and the visits to his grave might have had on Vincent.



**9.6**

Complete the following sentences:

- (1) Vincent’s mother probably suffered from a (a) ..... disorder after she lost her firstborn.
- (2) A bipolar disorder involves episodes of (b) ..... and depression.
- (3) When a person presents hallucinations without any evidence of substance abuse he most likely suffers from (c) .....
- (4) (d) ..... is most often characterised by cognitive impairment, disorientation, confusion and restlessness.
- (5) Intoxication is a temporary state in which a person exhibits (e) ..... , (f) ..... , (g) ..... , slurred speech, loss of coordination, (h) ..... , and (i) .....
- (6) Pathological gambling is a (j) ..... disorder.
- (7) A personality disorder is a pervasive, enduring and (k) ..... pattern of inner experiences. Behaviour deviates markedly from the (l) ..... context.
- (8) In criminal cases, the diagnosis of a (m) ..... personality disorder is often made on Axis ii.

**FEEDBACK**

- (a) mood
- (b) mania
- (c) schizophrenia
- (d) delirium
- (e) impaired judgment
- (f) mood changes
- (g) irritability
- (h) perceptual disorders
- (i) hallucinations
- (j) impulse-control
- (k) inflexible
- (l) cultural
- (m) antisocial

**9.7**

Read the case study about Carlos in Roos and Vorster (2009) and answer the question posed in the case study.

**FEEDBACK**

It is important to establish if Carlos has lost his acting capacity because of AIDS dementia. A thorough neurological assessment as well as an assessment by a clinical psychologist is required. These assessments will determine the impact of the illness on his neurological abilities and whether Carlos is incapable of managing his own affairs. Brain deterioration caused by AIDS dementia results in a gradual loss of intellectual abilities that will interfere with his social functioning and/or the way in which he manages his business. Symptoms include memory and judgment impairment, loss of the capacity for abstract thinking, loss of self-control, confusion, language and motor problems as well as memory impairment. Information from collateral sources such as his colleagues, his wife, his children and any other person who can give information is important to determine diminished cognitive ability. If his children are of the opinion that Carlos cannot cope on his own, recommendations must be made for the appointment of a curator, the need for specialised care such as institutionalisation and the need for treatment.

**9.7 CONCLUSION**

This study unit illustrated the complexity of human development and the development of abnormal psychology. Human development always takes place in a broader, complex sociocultural context. A variety of factors come into play in both normal and abnormal development, as illustrated by the adaptation model. This study unit provided a broad overview of the different perspectives on understanding human behaviour, but psychology is a well-developed science that comprises research, theories and application. Anyone wishing to be a forensic psychologist should be well grounded in his/her specialisation area.

# STUDY UNIT | 10

## *Understanding the physiological functioning of the brain*

### OVERVIEW

The aim of this study unit is to provide a basic overview of the physiological functioning of the brain. This will help you understand the neuropsychological assessment discussed in study unit 6.

### LEARNING OUTCOMES

After completing this study unit, you should be able to

- name the most prominent developments in the study of brain-behaviour relationships
- explain why a functional knowledge of neuroanatomy is essential for understanding neuropsychological assessment
- draw the basic organisation of the nervous system
- explain the essential structures of the brain and their general functions
- discuss which general neuropsychological impairments are likely to manifest in particular areas of the brain

### KEY CONCEPTS

Brain-behaviour relationships

Functional neuroanatomy

Neuropsychological assessment

Nervous system

Brain structures

Neuropsychological impairments

### PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Roos and Vorster (2009, chapter 10)

### 10.1 BRAIN-BEHAVIOUR RELATIONSHIPS

It is possible that you may act in certain ways because of the chemical effect of the medicine you are taking. Perhaps the birth injury you sustained when you were delivered with the aid of obstetric forceps is the reason why you can never concentrate effectively. As illustrated in the historical overview in Roos and Vorster (2009) scientists and medical practitioners became aware quite early that a relationship exists between the functioning of the brain and certain manifested behaviours, or lack thereof. Their observations were based mainly on people

who sustained injuries to certain areas of the brain and who were unable to execute certain functions afterwards.

Read the discussion on functional neuroanatomy in Roos and Vorster (2009).

## 10.2 FUNCTIONAL NEUROANATOMY

The nervous system forms the basis of our ability to observe, adjust to and interact with our world. It is this that enables us to receive, process and act on messages, not only from the environment, but also from our bodies. How does the nervous system handle this information, from the time the body receives it until the body reacts to it? The basic building blocks of this process are the cells that make up the nervous system.

The human brain consists of between 10 and 12 billion of the basic cells that we call neurons. The primary function of the neuron is communication within the nervous system. This communication is indispensable to the execution of any actions, and therefore has a direct influence on our behaviour and experiences.

This section will provide a simple explanation of the pathways of information processing in the nervous system.

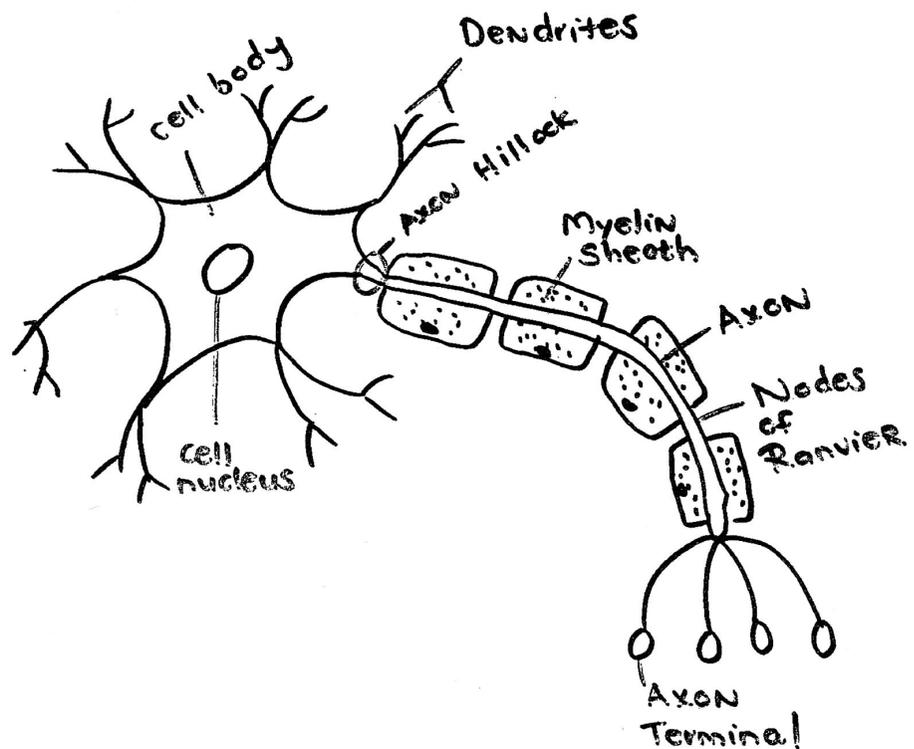
### The nature of neural impulses and the transmission of information via synapses

- A **neuron** is filled with, and surrounded by, body fluids.
- Only a thin membrane separates the fluids inside and outside the neuron.
- The fluid inside and outside the membrane of the neuron contains minute dissolved chemical particles called **ions**.
- Ions are electrically charged positively or negatively (like the poles of a battery).
- Ions pass through the membrane when it becomes permeable.
- The membrane becomes permeable when the neuron functions or becomes active.
- When the neuron is in an inactive state, there are more negatively charged ions inside the membrane and more positively charged ions on the outside. The neuron is now **polarised**, that is, **electrically charged**.
- When information comes in, the neuron fires and transmits a nerve impulse as a result of being stimulated at the dendrites by the nerve impulses of other neurons.
- This stimulation makes a cell membrane more permeable for a short time of about one thousandth of a second.
- This means the positively charged ions on the outside can move through the membrane into the cell. Positively charged ions are now inside the cell and negatively charged ions are on the outside. This reversal in polarity occurs in a chain reaction along the whole length of the axon (like a burning fuse).
- An important principle in this regard is that a neuron either reacts fully to a stimulus, or not at all. This is what is known as the “**all-or-nothing principle**”. In other words, the strength of the impulse does not depend on the strength of the stimulus. It can be compared to pulling the trigger of a

rifle — more pressure on the trigger does not cause the bullet to travel faster or further. Either the rifle is fired because the pressure on the trigger is great enough, or it does not fire at all.

- The **axon terminals** of one neuron do not normally make physical contact with the dendrites or cell body of another neuron. They are very close together without actually touching. There is, however, a functional contact between neurons — called the **synapse**.
- The neuron that transmits the impulse is known as the **pre-synaptic neuron**, while the receiving neuron is referred to as the **postsynaptic neuron**.
- At the synapse there is a microscopic gap between one neuron and another, which is about 30 to 50 millionths of a millimetre in size. This gap is called the **synaptic cleft**.
- On the axon terminals of the presynaptic neuron are tiny sacs, known as **synaptic vesicles**. These synaptic vesicles contain chemical substances, known as **neurotransmitters**.
- When a nerve impulse arrives at the axon terminals of the pre-synaptic neuron, it causes neurotransmitters to cross the synaptic cleft. They are picked up by the receptor sites on the dendrites of the postsynaptic neuron.

Neurons handle only one-way traffic — impulses come from the dendrites and are then transmitted down the axon to the axon terminals.



- Neurons = individual cells in the nervous system that receive, integrate and transmit information.
- The axon can vary in length from one millimetre to two metres.

You should now have a basic knowledge of the way in which the cells in the nervous system process information and communicate throughout this system.

Now that you know something about the microlevel of information processing within the nervous system, we shall continue by focusing on the macrolevel anatomy and physiology of the nervous system. The nervous system consists of the **central nervous system** and the **peripheral nervous system**.

The central nervous system consists of the brain and the spinal cord, while the peripheral nervous system consists of the somatic (skeletal) nervous system and the autonomic nervous system (organs and glands). For the purpose of this study unit we only focus on the spinal cord and its functions as well as the different parts of the brain and its functions — the central nervous systems. If you are interested in the complexity of the relationship between the human body and behaviour, consult the references given at the end of chapter 10 in Roos and Vorster (2009).

### 10.3 THE SPINAL CORD AND ITS FUNCTIONS

- The spinal cord is a complex nerve cable situated in the spinal column, which connects the brain to the rest of the body.
- The most important function of the spinal cord is the upward and downward transmission of nerve impulses and the integration of particular reflex actions.
- A cross-section of the spinal cord shows that two sections can be distinguished:

(1) Butterfly-shaped grey matter in the centre

- Unmyelinated nerve fibre
- Regulates reflex movements (automatic, rapid responses eg the knee-jerk response in reaction to a light blow just below the knee; blinking the eye when an insect flies into it; pulling away the hand when it is burnt). Protects us from potentially harmful stimuli.

(2) Surrounding white matter

- Myelinated nerve fibre
- Transmits nerve impulses to and from the brain

Many forms of paralysis result from spinal cord damage, which indicates the vital role it plays in transmitting signals from the brain to the motor neurons, which move the body's muscles.

The nervous system (ns)	Central ns	Peripheral ns
Brain	Spinal cord	Somatic ns Autonomic ns
Forebrain	Midbrain Hindbrain	Sensory nerve tracks
Motorised nerve tracks	Sympathetic ns	Parasympathetic ns
Thalamus	Medulla	
Hypothalamus	Pons	
Cerebrum	Cerebellum	

The functions of the different structures are explained briefly below.

### **Forebrain**

- The forebrain is the largest and most complex region of the brain.
- Thalamus: All sensory information (except smell) must pass through the thalamus to get to the cerebral cortex (the outer layer of the cerebrum).
- Hypothalamus: Regulates temperature and biological needs such as hunger and thirst and controls the autonomic nervous system.
- Cerebrum: The wrinkled surface of the cerebrum is the cerebral cortex, which is the outer layer of the brain. It includes the brain areas responsible for learning, remembering, thinking and consciousness. The cerebrum is divided into the right and the left hemispheres. Each of these is divided into four parts called lobes.

### **Cerebral cortex**

- The occipital lobe: Most visual signals are sent from here, and this is where visual processing begins.
- The parietal lobe: This area registers the sense of touch, integrates visual input and monitors the body's position in space.
- The temporal lobe: This area regulates the comprehension of speech and language.
- The frontal lobe: This area controls movement. The prefrontal cortex is disproportionately large in humans. It regulates high-order functions such as memory for temporal sequences, working memory, relations between objects and events and thought processes.

### **Subcortical areas**

- Limbic system: This system is not a well-defined anatomical system with clear boundaries. Evidence links the limbic system to the experience of emotion.
- Basal ganglia: Involved with the output of appropriate movement and alterations of muscle tone.

### **Midbrain**

This is the segment that lies between the hindbrain and the forebrain. It integrates sensory processes such as vision and hearing. Lying at the central core of the brainstem, it contributes to the modulation of muscle reflexes, breathing and pain perceptions. It plays an important role in the regulation of sleep and arousal.

### **Hindbrain**

- Medulla: It is attached to the spinal cord and circulates blood, regulates breathing, maintains muscle tone and regulates reflexes such as sneezing, coughing and salivating.
- Pons: It connects the brainstem to the cerebellum. The pons is also involved with sleep and arousal functions.
- Cerebellum: Translates as "little brain". It is critical to the coordination of movement and the sense of physical balance. It has an important function in organising sensory information that guides movements.

## SUMMARY

The brain consists of two hemispheres: a “right-hand-side half brain” and a “left-hand-side half brain”. The left hemisphere is usually better in tasks involving verbal tasks such as language, speech, reading, mathematics, logic, verbal comprehension and writing. The right hemisphere appears to be more superior in the tasks that involve nonverbal processing such as spatial, musical, visual acknowledgement tasks, fantasy and creativity. Damage to the left hemisphere leads to serious language problems, while similar damage to the right hemisphere seldom has the same effect. The left cerebral hemisphere only receives information from the right-hand side of the body and the right half of the visual field. So it is then that the right hemisphere of the brain only receives information from the left-hand side of the body and the left-hand side of the visual field. For most people, the language abilities are mainly situated in the left-hand-side cortex of the brain.

The reason why the left hemisphere handles verbal material so well is because it processes information in an analytical, abstract, rational, logical and linear way. In contrast to this, it is stated that the right hemisphere is better equipped to handle spatial and musical material because it is synthetic, concrete, nonrational, intuitive and holistic.

The right hemisphere apparently plays a more active role in the handling of emotions than the left hemisphere. The right hemisphere sees the umbrella or overall picture and common links — a wide-angled way of looking, with the focus on the global. The left hemisphere focuses on small detail — zooms in on the specifics with the focus on one particular local point.

Each part of the brain (and not only the cerebral hemispheres) is completely different and contributes differently, according to its specialised abilities, towards the capacity of the total brain’s function. However, in the end, it is the wonderfully complex, exceptionally sophisticated skills that we as people display, that rely on the total brain and on the coordinated actions of all the components. Our two hemispheres are not cerebral competitors, but rather, they unite their specialised capacities to deliver an integrated single intelligent person.

When we read a story, the right hemisphere plays a special role in the decoding of visual information, enabling us to retain the story-line, recognise the humour and the emotional content, derive meaning from the past and understand metaphors. Simultaneously the left hemisphere plays an important role in the comprehension of the syntax, translation of written words in their phonetic representation and the derivation of meaning from a complex relationship between word concepts and syntax. It is therefore clear that there is no activity in which only one hemisphere is involved or to which only one contributes.




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### 10.1

Study the exercise in Roos and Vorster (2009). The following table gives the answers:

No	Structures of the brain	Functions	Manifestations of damage to the different structures
1	Frontal lobe	It is critical for the coordination of movement and the sense of physical balance. It has an important function in organising sensory information that guides movement and is also involved in emotion, mood and motivational outputs.	Struggle to control fine hand movements, maintain balance, walk smoothly; lack of motivated behaviour; emotional lability; abstract thought processes.
2	Motor cortex area (precentral gyrus)	This area controls all muscles, including fine hand, finger and facial movements.	Problems with fine motor skills such as those involved in writing, typing or playing a musical instrument; problems with maintaining balance.
3	Somatosensory area (postcentral gyrus)	This area is responsible for the primary reception and processing of somatic sensory information from the skin, muscles and joints.	Problems with touch sensitivity, sensations of hot and cold, pain, and kinaesthesia.
4	The parietal lobe (secondary somatosensory area)	This area registers the sense of touch, integrates visual input and monitors the body's position in space.	Impaired interpretation of input from sensory receptors in the skin, muscles and joints, constructional praxis.
5	The occipital lobe	Most visual signals are received and interpreted in this area.	Visual hallucinations such as flashing lights, impaired vision.
6	Cerebellum	The cerebellum is critical for the coordination of movement and the sense of physical balance. It has an important function in organising sensory information that guides movement.	Problems with fine motor skills such as those involved in writing, typing or playing a musical instrument; problems with maintaining balance.
7	Spinal cord	The spinal cord is responsible for transmitting information between the brain and the rest of body. It handles simple reflexes.	Different levels of paralysis, which implies an impairment in movement.

No	Structures of the brain	Functions	Manifestations of damage to the different structures
8	Medulla	It regulates the heart beat and breathing and basic reflexes such as sneezing, coughing and salivating.	Damage to the medulla will lead to problems with the regulatory systems.
9	Pons	It contains neural fibres that pass signals from one part of the brain to another.	Since the pons relays information between the cerebral cortex and cerebellum, damage to the pons will result in problems with thinking and sensing functions, and coordination of fine muscle movement and balance.
10	The temporal lobe (contains the general intelligence, speech and auditory areas)	This area is responsible for the comprehension of speech and language.	Unresponsiveness, purposeless behaviour, olfactory and complex visual and auditory hallucinations, lack of language comprehension, disturbances of mood and memory, and struggling to find words.
11	Sylvian fissure	This area divides the temporal and parietal lobes.	



#### 10.4 CONCLUSION

This study unit provided a basic introduction to brain-behaviour relationships. Neuropsychology is one of the assessment contexts in forensic psychology. An understanding of neurological deficits in terms of impairment of functions is dependent upon a specialised knowledge of brain-behaviour relationships. The specialised field should be updated regularly to enable one to do a professional assessment.

# STUDY UNIT | |

## *Personnel psychology*

### OVERVIEW

A basic understanding of personnel psychology is important in the forensic context because many contractual obligations arise for both employer and employee in the employment relationship. Knowledge of personnel psychology also allows the industrial psychologist to quantify the losses an individual has sustained or will sustain.

### LEARNING OUTCOMES

After completing this study unit you should be able to

- explain personnel psychology concepts such as recruitment, selection, performance management, performance appraisal and job evaluation
- explain the term “job analysis”
- discuss the relevance of certain items in a job description
- differentiate between good and bad recruitment processes
- explain how bad appointment decisions can be made when proper selection procedures are ignored
- discuss the implications for an organisation and the people involved when performance appraisal processes are ignored
- explain how an industrial psychologist can use job description, performance appraisal and remuneration data to inform decisions about employees

### KEY CONCEPTS

Recruitment

Performance management

Performance appraisal

Job evaluation

Job analysis

Selection

Remuneration

### PRESCRIBED MATERIAL FOR THIS STUDY UNIT

Read Roos and Vorster (2009, chapter 11).

### 11.1 INTRODUCTION

Personnel psychology has to do with the understanding of individual work behaviour in an organisation, and the appropriate remuneration for that output. Managing people in organisations entails three broad activities, namely:

- **attracting** people to the organisation by ensuring that it has a good reputation among the public and that people actually want to be associated with it
- **developing** staff through training to do their work better and with greater enjoyment
- **retaining** people in the organisation by building loyalty so that they do not leave the organisation

## 11.2 ATTRACTING HUMAN RESOURCES

The organisation needs to know how many and what kind of skills it needs for the attainment of its objectives. The process of human resources planning (including budgeting) gives direction in this regard. Once this plan and budget have been approved, the recruitment and selection department can start planning to attract those skills. If job descriptions already exist for additional appointments, the information contained in them will inform the recruitment and selection process, but if new positions are created in the organisation, the job descriptions must be developed as accurately as possible through a process of job analysis.

### 11.2.1 Job analysis

Information about a specific job, such as the type of work, the complexity of the work, the outputs required and the type of skills necessary to deliver those outputs, must be collected. This is done by analysing the job through observations, questionnaires and interviews with incumbents and managers. This information must be recorded in a document called a job description.




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#### 11.1

Read through the example of the job description in Roos and Vorster (2009) and explain the importance of each of the following items in the job description document:

- (1) job title
  - (2) person to whom the employee reports
  - (3) approval information
  - (4) date
  - (5) qualifications (job specification)
  - (6) experience (job specification)
  - (7) work environment
- 

#### FEEDBACK

- (1) The job title gives an indication of the seniority of the job.
- (2) The job title of the person the incumbent reports to indicates the type of leadership that can be expected of the superior and how that could make

the job easier or complicate it. For example, an HR Manager reporting to a Financial Director does not have the same professional status as an HR Manager reporting to the Director of an organisation.

- (3) It is sometimes necessary to refer back to the person who approved the job description to provide more information or clarity on things that are uncertain.
  - (4) Jobs and their contents change over time in relation to the changing business environment and therefore it is important to ensure that you do not work with a job description containing outdated information.
  - (5) The education level required to do the job gives an indication of the professional field and complexity level of the job contents.
  - (6) This gives an indication of how long it takes a competent person with the necessary educational background to become fully functional in the position. In some jobs all the required skills can be obtained in a few weeks, but others that are more complex may take months or even years to master.
  - (7) The work environment can make it easier or more difficult to achieve goals. The difficulty level of achieving goals may differ in positions with similar tasks but different working conditions. People exposed to elements such as heat, dust, greater distances to travel, and noise find it more difficult to obtain their goals than people who are sheltered from such harsh elements.
- 

### 11.2.2 Recruitment

The first objective of recruitment is to create as large a pool of candidates as possible to choose from when filling vacancies. Candidates should not only be recruited from external resources. Current employees could also be recruited. The recruitment function must, therefore, consider the most cost-effective ways of inviting applications from as many applicants as possible through newspapers, periodicals, agencies, referrals, and so on.



#### 11.2

Read through the advertisements below and answer the following questions:

- (1) Which advert gives the applicant the best idea of what he/she will be doing in the position?
- (2) Which advert gives the applicant the best idea of the type of organisation?
- (3) Which one of the two advertisements best describes the seniority of the job?
- (4) Which advertisement gives the best indication of the skills and qualification levels needed?
- (5) Which of these two advertisements will attract the most inappropriate CVs?

Advertisement A

**Wanted!!!!**

*International company is expanding to South Africa.*

*What we provide:*

*Internationally accepted training programme in management*

*Starting salary: R5 000 plus*

*What we need:*

*Young candidates with focus and a goal-directed personality*

*Young candidates prepared to start at the bottom of the corporate ladder and work their way up*

*Young candidates to share in the experience (and of course the success and wealth) of a company in existence for 20 years.*

*If you want to be professional and successful and you comply with the requirements above, please phone 082 555 OPPORTUNITY.*

Advertisement B

**RECEPTIONIST/ADMINISTRATIVE OFFICER**

*In a busy surgery in Alberton*

*Reception, bookkeeping, account payments, cash receipts, dictaphone and typing.*

*Minimum requirements:*

*Computer literacy in MS-Word, Excel and MASS*

*Fully conversant (read and write) in English and Afrikaans*

*At least 5 years' appropriate experience*

*Starting date: 15 January 200X*

*Competitive remuneration*

*Fax or e-mail your CV by 10 December 200X to:*

*Theresa at 012 800 000*

## FEEDBACK

Why do you think the questions that were asked in the section above are important in recruitment and drawing up a job description?

People who read an advertisement should have a good idea of how well they will fit into the organisation and the job. People who have doubts about this will probably not even respond to the advertisement.

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### 11.2.3 Selection

Selection involves deciding who among the pool of candidates is the most suitable. Ideally one should meet and interview every applicant personally, but some jobs attract so many applications that it is impossible to interview everyone. In such cases the initial screening will be based on the information in the applicants' CVs. The person making the final decision will only have time to interview the top three or four applicants and, therefore, a selection committee may decide how many interviews they should hold to select the short-listed people. The information obtained in selection tests, reference checks and medical examinations complements the information gathered from CVs and interviews that will inform the final decision.

---



### 11.3

Read through the following case study and underline the problems the candidate may experience because she is not suitable for the position to which she has been appointed.

Job: Secretary

Mary-Ann has been appointed as a secretary of one of the factory managers in her father's organisation. She completed grade 12 last year and did not want to study at a tertiary education institution, so her father decided to take her into his business. She had done some odd administrative jobs there during her school holidays. Her father indicated to the manager that he should appoint his daughter in the vacant secretarial position. The business of the organisation has many activities.

Mary-Ann is a very shy person, which means that she is generally very quiet and reserved. The manager is much older than she is and she does not have the confidence to ask him for clarity on the different secretarial tasks that she is supposed to do.

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## FEEDBACK

It is clear that Mary-Ann does not have the qualifications or the experience needed to fulfil the requirements of the job. She will, therefore, lose confidence

because she does not have the knowledge to carry out the duties she is expected to perform. For example, she will struggle to book a flight for her manager, which would cause her to lose confidence in herself. Gradually, other people's opinions of her will become increasingly negative. Mary-Ann's uncertainty could also leave a bad impression with the clients of the company.

The manager responsible for her training will not be able to execute his own duties since he has to show Mary-Ann how to do her job. In order to avoid confrontation with Mary-Ann's father (his boss), he might decide to do the tasks himself, leaving Mary-Ann feeling even more incompetent.

A better option would have been for Mary-Ann's father to appoint a competent secretary and ask her to mentor Mary-Ann.

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This case study illustrates that the lack of proper selection procedures in an organisation has far-reaching implications for the actual candidate, the manager, other employees and the organisation's clients.

### **11.3 DEVELOPING EMPLOYEES**

The employees of an organisation must be developed continually to keep up with the dynamic and ever-evolving business environment. In response to the changing business environment, organisations need to adapt their goals to the new situation and provide learning opportunities for their employees to stay abreast of the new challenges.

#### **11.3.1 Performance management**

Performance management is a process consisting of planning (what is to be measured and how often), managing (who will do the measurements), reviewing (who monitors the fairness of the process), rewarding (who is rewarded for exceptional outputs) and development (who is sent on what courses). The human resources department is usually responsible for this process, which entails keeping a record of the information, ensuring that the process is applied consistently, and explaining the process to employees and management.

#### **11.3.2 Performance appraisal**

Performance appraisal refers to the interaction between a specific person and his/her manager, and the processes used to share and evaluate job-related information. The appraisal systems mentioned in table 11.2 (Roos & Vorster, 2009) are different ways of evaluating and expressing the job goal achievement of individuals relative to one another.



## 11.4

Think about your own working environment or the working environment of someone close to you. Have you or this other person ever had the experience of being misjudged in the workplace, or of being treated unfairly because of a negative experience in the past? For example, have you ever been scolded for coming late “every day” after being late for work once because of transport problems? Have you ever been accused of being aggressive and uncooperative because you had an argument with someone who was considered to be the manager’s favourite? Have these incidents influenced your career or salary? Or has this happened to someone you know? Do you think that these situations would have had different outcomes if a formal performance appraisal system had been used correctly in the workplace? Why do you think so?

### FEEDBACK

The scenarios described above, and many others that you can think of yourself, happen in the workplace every year. People make judgments about one another and think that these judgments are based on facts. However, they are generally based on **informal impressions**. Very often these informal impressions have a huge influence on employees’ salaries and advancement opportunities, even though decisions based on these impressions cannot be justified and are often not valid. A formal appraisal system, implemented and used as it should be, provides more **accurate performance data** than that those obtained through **standard processes**. These data can then be used for training and development and compensation decisions. The decisions will be more valid and justifiable because they are based on more accurate and acceptable data. After all, wouldn’t we all prefer to be evaluated against the same criteria as the manager’s favourite when promotion and salary increase decisions need to be made?

### 11.3.3 Appraisal interviews

The communication of information as sensitive as the achievement or nonachievement of goals is an extremely complex matter. During an appraisal interview, the manager must communicate to the employee whether his/her performance is acceptable or unacceptable. A person whose evaluation is not very positive needs to be motivated to do better, and a person who did exceptionally well should be recognised appropriately and rewarded in relation to what the company can afford. Such information is communicated in appraisal interviews and managers need to be well trained in handling such delicate matters, as they can have far-reaching implications for the employer-employee relationship.



### 11.5

Sipho was given the task of developing a new recruitment and selection process for his organisation. His manager has no particular interest in recruitment processes and was not involved in the policy information process with Sipho. During their few interactions Sipho received a proverbial pat on the back and his manager commented that he was doing a good job and that everyone was happy with what he was doing. After a period of six months, the policy document developed by Sipho was submitted to the Board of Directors for approval. The Board's expectation, which Sipho's manager had never communicated to him, was to have an affordable, implementable, understandable recruitment policy that was in line with legislation. Sipho personally presented his policy document to the Board. According to his policy, recruitment would be managed by a selection panel consisting of 12 members (one for each department). This panel had to interview every applicant, and no applicant could be rejected if he/she was not granted an interview. From a fairness and legal point of view, this principle was very acceptable. However, from a management perspective it was deemed impractical to take such a big group of people out of their jobs for such a long period of time. The policy document was therefore rejected and the Board started to question Sipho's competence to perform the job.

List in bullet style how Sipho's manager could have dealt with the situation.

### FEEDBACK

- The manager should have ensured that he remained informed about the Board's expectations.
- He should have communicated the Board's expectations to Sipho.
- He should have monitored Sipho's progress and ensured that it was in line with the Board's expectations.
- He should have shown interest in his subordinate's task.
- He should have given constructive feedback to ensure that the output was aligned with the expected objective.
- He should have read through or listened to the presentation before it was taken to the Board.

### 11.4 RETAINING EMPLOYEES

In an organisation where the processes for attracting and developing employees are well defined, the organisation may still be in danger of losing its employees if proper processes for retaining employees are not in place. Benefits, financial or otherwise, are vital in retaining employees.

### 11.4.1 Compensation

Extrinsic compensation does not only comprise financial rewards such as salary, medical scheme, pension contributions and allowances, but also nonfinancial rewards such as special privileges (eg parking space, size of office and air-conditioning). Intrinsic compensation refers to the enjoyment employees experience in doing the work and being involved in organisational processes.



#### 11.6

Explain the following concepts:

Job analysis	Job evaluation	Performance appraisal
Definition: ..... ..... ..... ..... .....	Definition: ..... ..... ..... ..... .....	Definition: ..... ..... ..... ..... .....
Purpose: ..... ..... ..... ..... .....	Purpose: ..... ..... ..... ..... .....	Purpose: ..... ..... ..... ..... .....
End result: ..... ..... ..... ..... .....	End result: ..... ..... ..... ..... .....	End result: ..... ..... ..... ..... .....

#### FEEDBACK

Can you see that job analysis, job evaluation and performance appraisal are three different concepts? All of them apply to the field of HRM and all are important, but they differ. Make sure that you understand the differences and do not confuse these three concepts.

When a job is analysed, the **activities** in the job are explored and job descriptions and specifications are drawn up. Job analysis and the resulting job descriptions and specifications are the basic building blocks of all the other HRM activities that take place in an organisation.

In job evaluation, the relative **value** (worth) of a job is determined by comparing

it with other jobs or against predetermined standards. It results in a job hierarchy that reflects the importance of different jobs in the organisation.

When the performance of a staff member is appraised, his/her work-related **strengths and weaknesses** are determined. The performance appraisal process results in a documented history of the quality of employees' work and also the development activities that employees were involved in to equip them with the necessary knowledge, skills and abilities to do the work they were appointed to do.



#### 11.4.2 Determining salaries

Job evaluation draws a distinction between different levels of jobs and ensures that jobs contributing more to organisational goals are rewarded at higher levels than those contributing less. Wage and salary surveys provide information about the remuneration levels of other employers in similar positions. The pay-level policy determines how the organisation will pay its employees in relation to other employers. Pay ranges and grades define the minimum and maximum pay limits for employees in specific job families. The pay systems distinguish between different methods of payment, for instance, monthly versus weekly, commission versus fixed salary or payment for time versus payment for completed assignment.

#### 11.5 INTEGRATIVE ACTIVITY

Celia is employed by Snowball Ice Cream Company. Her job consists of visiting supermarkets, cafés and tuckshops to ensure that they always have the full product range of Snowball Ice Cream Company available in their freezers. She was recently involved in a motor accident that permanently paralysed her. The CEO of the company met with the human resources manager and asked him what could be done to retain Celia.

Describe the importance of the following and how the human resources manager could use it to formulate his recommendations to the CEO.

- (1) job description
- (2) performance appraisal
- (3) remuneration package
- (4) payslip

#### FEEDBACK

- (1) Job description

Prior to the accident, Celia was responsible for serving clients by visiting them personally. After the accident a new job description would entail re-evaluating her essential duties and responsibilities. She could still travel and visit her clients with the assistance of a driver or she could communicate

with her clients through video-teleconferencing. She could also use her skills to train new recruits.

All the changes agreed upon would have to be captured in an updated job description.

(2) Performance appraisal

The performance appraisal information may be used to determine how successfully she might perform in a training role. Previous experience and/or training as a trainer should be indicated in her performance appraisal history. Interviews with her manager as well as colleagues could be used to determine the strengths and weaknesses of Celia's envisaged new position. An industrial psychologist would also use this information to predict Celia's future job performance and the possible developments in her career path. All the changes agreed upon would have to be captured in an updated performance appraisal document.

(3) Remuneration package

A careful analysis of her current package may reveal that she receives a small fixed salary and commission on the actual ice-cream sales. Because this might not be appropriate in the new position, her pay structure could be changed to a higher fixed salary with no commission. The current package may also include a car/travelling allowance, which would no longer be relevant and should therefore be converted to normal salary in her new package.

(4) Payslip

The payslip may show that contributions were paid to a group insurance policy. The terms of this insurance must be examined and if Celia can claim compensation for her disability, that option should be investigated further.



## 11.6 CONCLUSION

In this study unit you learnt about the most important personnel psychology concepts and how to apply them practically to case studies and activities. Knowledge of personnel psychology is important to ensure effective practices and systems in which people work optimally. The interaction and influence between certain personnel practices, such as recruitment processes and job advertisements, were illustrated. In the forensic context, knowledge of industrial psychology plays a vital role in determining loss of work skills and compensation. Personal development file Personal development file

## PERSONAL DEVELOPMENT FILE

### I SELF-ASSESSMENT

**Instructions:** For each of the following items, write 1, 2, 3, 4 or 5 in the space provided to indicate your degree of knowledge or skill in a particular competence. If you do not have a particular competence listed, or if your knowledge of it is poor, write 1, 2, 3, 4 or 5 in the space provided to indicate your development priority for that area of competence.

Desirable forensic psychologist competencies	Knowledge/ skill					Development priority				
	Weak		Strong			Weak		Strong		
	1	2	3	4	5	1	2	3	4	5
(1) Explain the role of the psychologist in the forensic context in South Africa.										
(2) Differentiate between the various specialisation categories in psychology.										
(3) Differentiate between civil and criminal cases.										
(4) Identify noncompliance with the functions of the law.										
(5) Differentiate between civil and criminal action.										
(6) Discuss various sources of the law.										
(7) Explain officials of the court.										
(8) Explain forensic concepts										
(9) Discuss legal processes.										
(10) Discuss the role and functions of the psychologist in the courtroom.										
(11) Explain how the referral question determines the nature of the assessment.										
(12) Discuss the types of information that should be obtained in an interview for forensic assessment purposes.										
(13) Describe the role of psychometric tests in a forensic evaluation.										
(14) Indicate the importance of comprehensive and supportive collateral information.										
(15) Differentiate between the various ways of assessing mental status during an interview.										
(16) Explain the importance of the forensic report in a forensic assessment.										
(17) Give an exposition of how the industrial psychologist's report differs from other professionals' reports.										
(18) Elaborate on how psychologists should adhere to the different ethical codes that apply to psychometric evaluation, test security, record keeping and report writing.										

Desirable forensic psychologist competencies	Knowledge/ skill					Development priority				
	Weak		Strong			Weak		Strong		
	1	2	3	4	5	1	2	3	4	5
(19) Discuss the importance of clarifying test procedures, fees, consent and confidentiality.										
(20) Critically explain how the recommendations made will affect people's lives and futures.										
(21) Explain which organisations/councils control the behaviour of psychologists in the forensic field in South Africa and have laid down ethical principles for psychologists to follow.										
(22) Discuss the functions of ethical codes.										
(23) Explain the concept of ethics in psychology.										
(24) Describe certain issues involved in practising ethical forensic psychology.										
(25) Explain "guilt" in the criminal context.										
(26) Define and describe the following basic legal concepts. <ul style="list-style-type: none"> <li>● criminal capacity</li> <li>● intent</li> <li>● negligence</li> <li>● sentencing</li> </ul>										
(27) Describe the role of the psychologist in criminal cases with regard to assessment of <ul style="list-style-type: none"> <li>● the ability to stand trial</li> <li>● assessing the criminal capacity of the offender</li> <li>● recommendations for punishment of an offender</li> <li>● mitigation of sentence</li> </ul>										
(28) Discuss neuropsychology as a field of psychology.										
(29) Explain the role of the neuropsychologist in personal injury claims.										
(30) Explain neuropsychological assessment.										
(31) Discuss neuropsychological testing of children.										
(32) Explain the role of the educational psychologist in the assessment of children with head injuries.										
(33) Differentiate between clinical and industrial psychologist assessments.										
(34) Provide an overview of the different Acts with which professionals should be conversant when evaluating families in custody or access disputes.										
(35) Explain the different types of custody and access and be able to indicate the advantages and disadvantages of each type.										

Desirable forensic psychologist competencies	Knowledge/ skill					Development priority				
	Weak		Strong			Weak		Strong		
	1	2	3	4	5	1	2	3	4	5
(36) Explain the criteria for determining custody and access.										
(37) Explain the process of divorce.										
(38) Indicate how the evaluation of families in custody disputes should be conducted.										
(39) Compile a parenting plan.										
(40) Identify divorce-related syndromes.										
(41) Discuss different ethical aspects that are important in the evaluation of families.										
(42) Identify the different types of curators and the specific roles they play.										
(43) Explain the industrial psychologist's scope of practice.										
(44) Discuss the role of the industrial psychologist in making recommendations about a person's ability to generate income.										
(45) Evaluate how the industrial psychologist acts as an integrating specialist, by examining all relevant reports to make projections about the career options and earning capacity.										
(46) Explain the role of the industrial psychologist in predicting the loss of earnings in the future.										
(47) Explain how the industrial psychologist can consider the wider scope of factors that influence an individual's long-term work and earning capacity.										
(48) Discuss the most important explanation of human behaviour from a physiological perspective.										
(49) Discuss the three major approaches in the psychodynamic perspective and apply the principles of these approaches to normal human development.										
(50) Explain why knowledge of the cognitive development of children is important.										
(51) Discuss the relevance of understanding ecological theory in explaining individual human behaviour.										
(52) Name the theory used to explain that behaviour can be observed and imitated.										
(53) Discuss the model that can be used to explain the complexity of the development of abnormal behaviour and why this model is preferred.										
(54) Discuss the most prominent pathologies in children and adults.										
(55) Name the most prominent developments in the historical background of brain-behaviour relationships.										

Desirable forensic psychologist competencies	Knowledge/ skill					Development priority				
	Weak		Strong			Weak		Strong		
	1	2	3	4	5	1	2	3	4	5
(56) Explain why functional neuroanatomy is essential for understanding neuropsychological assessment.										
(57) Draw the basic structure of the nervous system.										
(58) Explain the essential structures of the brain and their general functions.										
(59) Discuss which general neuropsychological impairments are likely to manifest after injury to particular areas of the brain.										
(60) Explain the difference between the primary personnel psychology concepts such as recruitment, selection, performance management, performance appraisal and job evaluation.										
(61) Explain the term "job analysis".										
(62) Discuss the relevance of certain items in a job description.										
(63) Differentiate between a good and bad recruitment process.										
(64) Explain how bad appointment decisions will be made when proper selection procedures are ignored.										
(65) Discuss the implications for the organisation and people involved when performance appraisal processes are ignored.										
(66) Explain how the industrial psychologist can use data on job descriptions, performance appraisal and remuneration to influence decisions about employees.										

## ACTION PLAN FOR ACQUIRING COMPETENCIES

Instructions: Use this form to develop an action plan after you have identified the areas in which you lack knowledge and skills.

(1) List your three desired competencies, in order of priority:

(a) .....

(b) .....

(c) .....

(2) For each competence, identify to what extent it consists of knowledge, skills(s), or attitude(s). Place these in rank order for each competence:

(a) ..... Skills ..... knowledge .....

(b) ..... Skills ..... knowledge .....

(c) ..... Skills ..... knowledge .....

(3) For each competence, identify and write out, in as much detail as possible, the knowledge, skills and attitudes needed:

(a) Knowledge: .....

.....

Skills:.....

.....

Attitudes: .....

.....

(b) Knowledge: .....

.....

Skills:.....

.....

Attitudes: .....

.....

(c) Knowledge: .....

.....

Skills:.....

.....

Attitudes: .....

.....

(4) Action plan: Write down how you would go about acquiring the elements of each competence. Indicate several milestones for each competence (ie how you would know if you are making progress) and a timetable for each. The last milestone should mark the completion of your acquisition of that particular knowledge, skill or attitude.





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