Selecting the Right Expert: Competency, Reflexivity, and Ethical Practice in a Reforming Legal Landscape

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Anita McGregor

Why expert selection matters

Expert evidence often pivotal to judicial decision-making

Increased scrutiny on reliability and methodology

Legal reforms demanding higher transparency and accountability

Poor selection can lead to inconsistent opinions, appeals and ethical risk

Understanding Competency in a Modern Forensic Context

- Qualifications, registration, and forensic training
- Knowledge of current legislation and evidentiary standards
- Familiarity with validated tools and structured methodologies
- Cultural competence and understanding of systemic influences
- Awareness of limits—knowing when a case is outside one's scope

What does this mean when selecting a psychologist as an expert?

The Project

- March 2024 – contacted by the Public Defenders' office to produce an educational resource outlining the expertise of forensic psychologists that could be tendered in criminal court proceedings in NSW
- Collaboration between:
  - Yiota Zingirlis, Chair of the College of Forensic Psychologists, NSW
  - Amanda White, the then President of ANZAPPL NSW,
  - Anita McGregor, program director of the Master of Psychology (Forensic) program at UNSW.
- March – November 2024 discussions ensued on the context and content of an expert report as to the education, training, experience and areas of expertise for Forensic Psychologists in NSW.

The process

- In discussion with the Public Defenders office and other legal representatives, it was noted that the primary questions around the training and expertise of forensic psychologists (and other psychologists) was often not well understood. The final identification of issues were:
  - **What study, training and experience do Forensic Psychologists have?**
  - **What are Forensic Psychologists' areas of expertise?**
  - **Can a Forensic Psychologist diagnose a mental health impairment or cognitive impairment (as defined in the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)?**
  - **Can a Forensic Psychologist provide a treatment plan for a person with a mental illness or disorder?**
  - **Can a Forensic Psychologist provide a risk assessment report for a criminal offender?**

July 2025 – the report is active!

Expert report as to the education, training, experience and areas of expertise of Forensic Psychologists in New South Wales.

Date: 5 November 2024

Authors:

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Yiota Zingirlis	Forensic Psychologist, Chair, College of Forensic Psychologists - NSW Section, as at November 2024.

The abridged curriculum vitae of each author is attached to this report as an annexure. Full copies are available on request.

INTRODUCTION

This report addresses the training, study, experience, and consequent areas of expertise of Forensic Psychologists.

The authors consent to the tender of this document in criminal court proceedings in New South Wales where the issue of Forensic Psychologists' areas of expertise is a relevant issue.

EXPERT WITNESS CODE OF CONDUCT

We acknowledge, for the purpose of Rule 31.23 of the *Uniform Civil Procedure Rules 2005* (NSW), that we, Dr Amanda White, Ms Anita McGregor, and Ms Yiota Zingirlis, have read the Expert Witness Code of Conduct contained in Schedule 7 and agree to be bound by it.

SOURCES OF INFORMATION

- https://www.ahpra.gov.au/Registration/Registers-of-Practitioners.aspx
- https://www.psychologyboard.gov.au/Standards-and-Guidelines/Codes-Guidelines-Policies/Guidelines-area-of-practice-endorsements.aspx
- https://www.swinburne.edu.au/course/research/doctor-of-psychology-clinical-and-forensic-psychology/
- https://www.unsw.edu.au/study/postgraduate/master-of-psychology-forensic

Why is this project important?

Process to become a psychologist in Australia is confusing, convoluted and shifting! It can be an opaque process to psychologists, much less legal representatives who potentially lack an understanding of the various types and subtypes of mental health professionals.

Will aid legal professionals in selecting appropriate psychology experts for specific legal issues, streamline the process of gathering expert evidence and ensuring that underqualified or misrepresented experts are not relied upon. Allows more effective 'matching' of experts to case needs.

Reduces potential for psychologists to be asked to work outside their areas of competence.

Legal representatives can advocate more effectively for vulnerable clients.

Encourages clearer communication between legal and psychological professionals, reduces misunderstandings about roles, responsibilities, and boundaries.

Given that forensic psychologists must meet rigorous standards set by Ahpra and APAC for work within the court system, lawyers can ensure expert testimony meets admissibility criteria under Australian law and enhance the quality and reliability of psychological expert evidence relied upon regarding mental health and legal questions

Training of a Forensic Psychologist

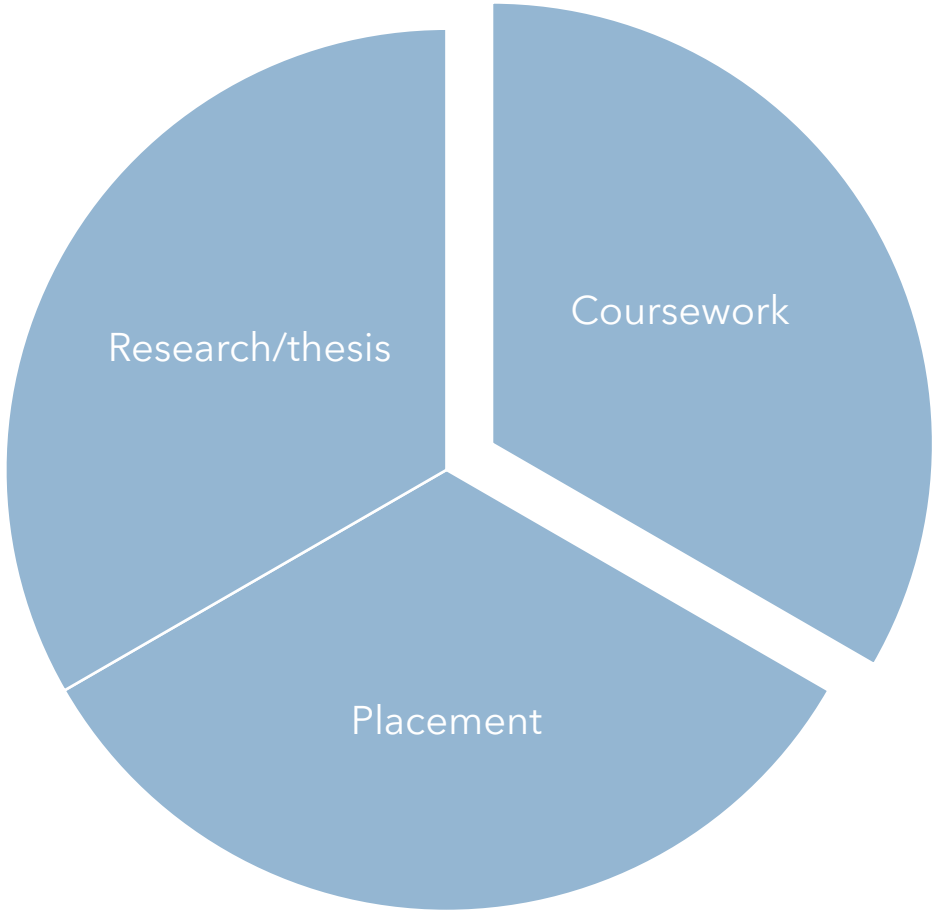
Undergraduate Degree	Honours or equivalent	Master's or Combined Masters & PhD	Endorsement
3 years	1 year	2 to 5 years	Up to 2 years

What do Forensic Psychologists learn?

Coursework – ethics, theory and practice of assessment and treatment, communication and interpersonal relationships, working with vulnerable and/or diverse populations, practice across the lifespan, research design and evaluation with forensic focus

Placement – 1000+ hours of placement under supervision where students must demonstrate competencies (general and forensic specific)

Research – must independently conduct research consistent with a Master's or PhD level project within area of forensic psychology



What do Forensic Psychologists learn?

- Competency 1: Applies and builds scientific knowledge of psychology to inform safe and effective practice
- Competency 2: Practises ethically and professionally
- Competency 3: Exercises professional reflexivity, deliberate practice and self-care
- Competency 4: Conducts psychological assessments
- Competency 5: Conducts psychological interventions
- Competency 6: Communicates and relates to others effectively and appropriately
- Competency 7: Demonstrates a health equity and human rights approach when working with people from diverse groups
- Competency 8: Demonstrates a health equity and human rights approach when working with Aboriginal and Torres Strait Islander Peoples, families and communities

Apply advanced psychological knowledge of the following to their practice in forensic psychology: i. contemporary legal and justice systems (including family, criminal, civil and administrative law proceedings) and the role of the forensic psychologist within the legal and justice systems in Australia

- psychological and legal theory relevant to justice, such as alternative dispute resolution, restorative justice and therapeutic jurisprudence
- psychological theories and research findings pertaining to involvement of individuals with legal processes, procedures and proceedings
- the role of the psychologist within a range of forensic settings.

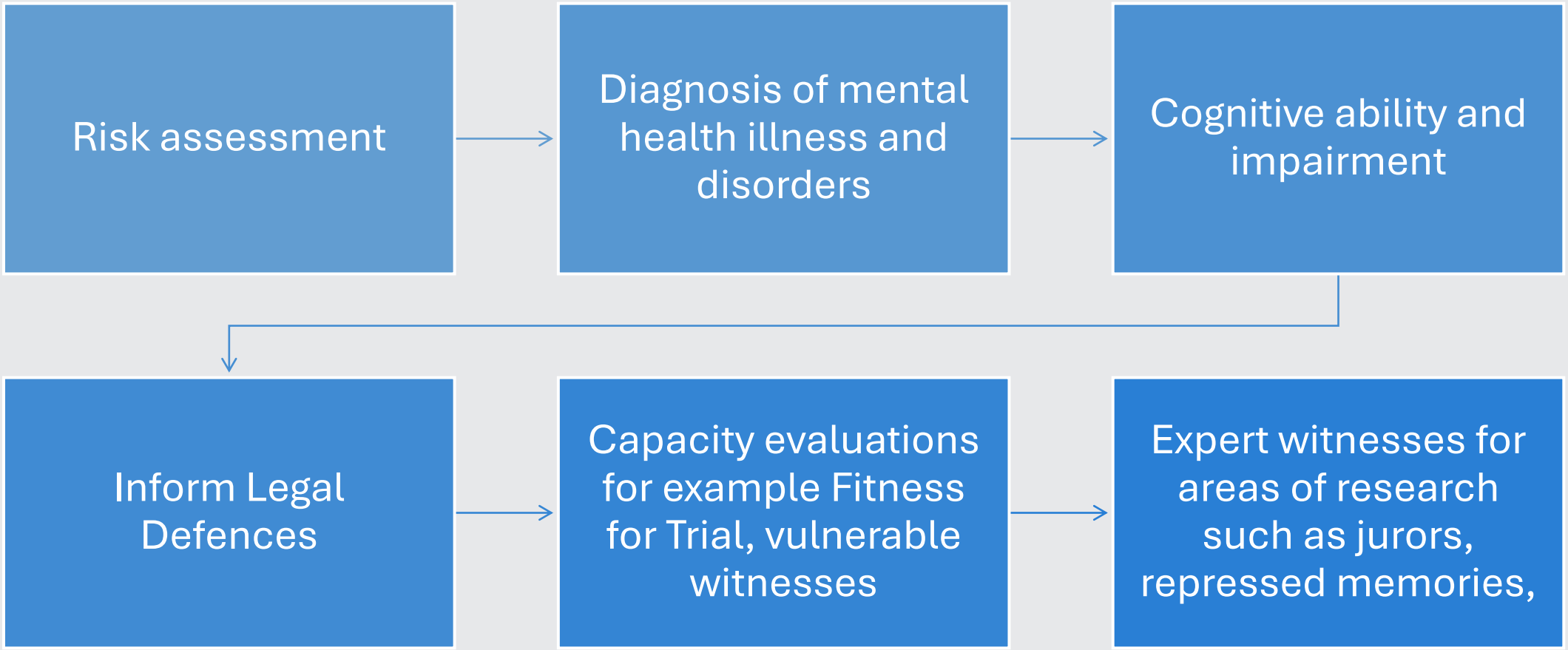
Apply advanced psychological knowledge to culturally responsive assessment in the area of forensic psychology, including:

- assessment of individuals involved in the legal and justice system using appropriate and various methodologies, including psychological testing, investigative interviewing, behavioural observations, risk assessment, measures of functionality and collateral information from multiple sources
- evaluation of malingering and impression management within a forensic context.

Apply advanced psychological knowledge to culturally responsive interventions in the area of forensic psychology, including:

- selection, tailoring and implementation of psychological interventions appropriate for individuals or communities engaged with, affected by, or vulnerable to involvement in legal proceedings
- dispute resolution using evidence-based mediation and other dispute resolution strategies
- consultation and collaboration with and referral to other professionals regarding the psychological implications of forensic psychological issues for individuals.

The product – what can Forensic Psychologists do for the Courts?



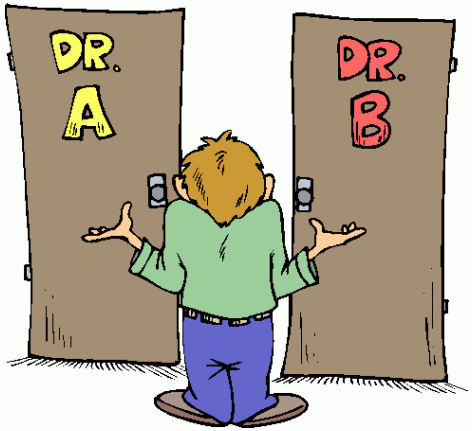
Guidance

For Psychologists: Should I Take This Case?

- Do I have specific expertise matching the legal question?
- Am I familiar with applicable statutes and evidentiary rules?
- Can I complete the assessment without compromising neutrality?
- Do I have recent practice using the relevant tools?
- Would a more specialised colleague be more suitable?

For Legal Professionals: Selecting the Right Expert

- Match the expert to the *legal question*, not just the profession
- Look for evidence of structured, validated methodologies
- Confirm training with key tools (e.g., HCR-20V3, cognitive measures)



Where to from here?

- How do we ensure this document is disseminated? Used?
- Feedback on its usefulness?
- CAPL project?

Thank you!

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