Child custody disputes: Bridging the gap between psychologists and family court

Kate Pratsides

Edith Cowan University

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Child Custody Disputes: Bridging the Gap between Psychologists
And Family Court

Kate Pratsides

A Report Submitted in Partial Fulfillment of the Requirements for the
Award of Bachelor of Arts (Psychology) Honours, Faculty of
Community Studies, Education and Social Sciences, Edith Cowan
University.

Submitted November, 2004

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The number of divorce cases that come before judges and registrars within the Family Court system is steadily increasing, and so is the use of psychologists as expert witnesses. However, little is known about what the judges and registrars think of the psychologist's use of psychometric test results when writing their forensic report, this study attempts to answer that. This thesis is presented in two sections. The first is a literature review of guidelines that are available to psychologists when writing a forensic report. These guidelines include (1) broad guidelines provided by professional associations, such as the American Psychological Association; (2) more specific practice guidelines published in books and journals; and (3) policy documents on expert evidence set forth by jurisdictions. The second section is a qualitative study on the views of judges and registrars within the Family Court of Western Australia to determine if their views coincide with the available guidelines.
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The Ethical Principles and Guidelines for Reporting Psychometric Tests in the Family Court: A Review

Kate Pratsides
The Ethical Principles and Guidelines for Reporting Psychometric Tests in the Family Court: A Review

Abstract

There are three levels of guidance available to psychologists who write forensic reports for the Family Court: (1) broad guidelines provided by professional associations, such as the American Psychological Association; (2) more specific practice guidelines published in books and journals; and (3) policy documents on expert evidence set forth by jurisdictions. These three levels differ in the degree of detail that they provide, but overlap significantly in their guidance to psychologists. It is unclear if the judiciary have contributed to the development of the first two levels of guideline, or if psychologists have provided any input into jurisdiction policies. At all levels, there are no specific guidelines concerning the balance between detailed reporting of psychological test data and limiting technical information so as to maintain the integrity of those tests.

Author: Kate Pratsides
Supervisor: Dr. Greg Dear
Submitted: August, 2004
The Ethical Principles and Guidelines for Reporting Psychometric Tests in the Family Court: A Review

Introduction

According to the Australian Bureau of Statistics, the divorce rate has increased steadily over the past 30 years. It was 7.4% in 2001, which was up from 6.4% in 1996 and 2% in 1971 (Australian Bureau of Statistics, 2001). Divorce is not an easy process for any of the parties who are involved. It is an emotional process and money and property issues have the effect of generating strong responses that can override the divorcing couple’s common sense. In 2001, 51.2% of all divorces involved at least one child under 18 years of age (Australian Bureau of Statistics, 2001). While joint custody is currently the favoured type of custody, as compared to ten years ago, there are still many parents who seek sole custody (M. C. Ackerman & Steffer, 2001). When a couple is in dispute over the custody arrangements concerning their children, and mediation is not effective in resolving the dispute, the next step is to have a judge decide the custody arrangements. Most courts attempt to dissuade couples from taking the process this far because then the decision is taken out of their hands and becomes the judge’s discretion regarding what are the best custody arrangements for the children. Both parties are then forced to accept the decision regardless of whether they agree with it or not (Wyer, Gaylord, & Grove, 1987).

The courts are increasingly relying on expert testimony from psychologists and other mental health practitioners for deciding the outcomes of child custody cases. This is due to the number of custody cases that judges oversee and because some of the cases involve allegations of substance abuse, domestic violence, sexual abuse of a child, or accusations that one parent has a mental illness (Bow & Quinnell, 2001). Experts are
also being called upon because of evolving legal standards that make it harder for judges to determine what their final custody recommendations should be (LaFortune & Carpenter, 1998). An expert witness's job is to help the court understand a scientific, technical, or specialized area of interest (Tolman & Mullendore, 2003). The most common experts utilized by Family Courts are psychologists. The primary sources of referrals for psychologists to conduct evaluations for the family courts in the US, are from attorneys (41%) and judges (41%) (Bow & Quinell, 2001). In Western Australia, most of the psychologist's referrals for the family court are from the child's representatives appointed by the court (G. Dear, personal communication, August 6, 2003). Child custody litigation is one of the most difficult forensic fields to be involved in due to the animosity that exists between the partners, the emotions involved and the necessity for balance. Forensic psychologists collect and report to the court the necessary evidence to help judges understand areas where they do not have adequate expertise, so that the judge can make an informed decision concerning the best interest of the child (Saunders, 2001). Horveth, Logan and Walker (2002) found that many final recommendations by judges in child custody disputes included suggestions from the psychologist's reports.

The psychological evidence is obtained by conducting evaluations on both parties contesting for custody and on other relevant people in the children's and parents' lives, to determine parental capacity, the needs of the children, and what set of residence and contact arrangements will be in the best interest of each child (American Psychological Association, 1994 [APA]). Evaluations can consist of observations, interviews of the relevant people, analysis of relevant files, and psychological
assessments (which might include psychometric testing) of the parents (Melton, Petrila, Poythress, & Slobogin, 1997). If a parent's psychological assessment data indicates that he or she has a psychological disorder, the psychologist must determine whether or not it is treatable, if the disorder places the children in danger, and if it is likely to affect the competency of the parent to raise his or her children (Ellis, 2001). Psychologists need to be careful when reporting their interpretations of the parent's psychological test results because judges and magistrates are not trained in the interpretation of psychological test data and it is critical that the data are appropriately applied by the court (M. C. Ackerman & Steffen, 2001). Evaluations are predominantly provided to the court in the form of a report. Of 800 judges surveyed, 92% of them expect psychologists acting as expert witnesses to write a report for the court pertaining to the psychologist's findings, and 66% of those judges expect psychologists to testify in court (M. C. Ackerman & Steffen, 2001).

Three levels of guidance are available to forensic psychologists writing psychological assessment reports for a child custody evaluation. The first level is comprised of guidelines set out by professional associations. These guidelines are broad principles that form a general framework that is based on codes of ethics. One such professional association is the American Psychological Association (APA) (1994), which developed guidelines to assist psychologists, both for general evaluations and specifically for child custody evaluations. Other psychological associations from different countries have also developed their own ethical principles and guidelines, such as Britain (British Psychological Society, 2002 [BPS]), New Zealand (New Zealand Psychological Society, 2002) and Australia (Australian Psychological Society, 1997
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[APS]). The second level consists of guidelines developed for forensic psychologists, which provide more specific guidelines than those developed by the professional associations. These guidelines are found in books and journals which have been written to provide psychologists with more concrete guidelines and to debate which are the best ones to follow, for both child custody cases specifically and other cases for which psychological assessments are required (e.g., M. C. Ackerman, 1995; M. J. Ackerman & Ackerman, 1997; Melton et al., 1997). The third level of guidance is established by policy documents that different jurisdictions have developed. For example, in Australia the Family Law Rules 2004 (Cwlth) s. 15(63) contains guidelines for the content of expert witness's reports for the Family Court (Family Court of Australia, 2003). All of the previous levels of guidance provide psychologists with guidelines for writing an evaluation report that are similar, but they differ in the detail that they provide for psychologists.

The sections that follow discuss each level of guidance. With respect to the jurisdiction-specific level, the discussion pertains to the new rules pronounced by the Family Court of Australia which came into effect in March, 2004. Because legislation and policy are regularly amended, it is critical to adopt recently published guidelines. This review is therefore restricted to guidelines that have been developed since 1992, the year in which the APA published its most recent revision of its code of ethics.

Professional Associations

Ethical Principles.

The different psychological associations around the world have developed ethical principles to guide psychologists in their conduct while assessing and
counselling clients. These principles concern psychologists involved in many different areas of psychological practice, including clinical, health, and forensic psychology, as well as in psychological research. Psychological associations developed their ethical principles for many reasons; one is due to the increased use of psychological assessments in the courts, both criminal and civil. The increased numbers of psychological reports submitted as court evidence are due to the increased number of psychological assessments that the courts are requesting. The use of psychological assessments is a tool used to try to answer the legal question that psychologists have been employed to assist with.

In 1992, the APA published a revised edition of the *Ethical Principles of Psychologists and Code of Conduct*. The Ethical Principles were revised to better guide psychologists in working towards the "highest ideals" (Anastasia & Urbina, 1997, p.533). They are an aim for how psychologists should conduct themselves and were written so that they encompass a broad array of psychological roles (APA, 1992). The Ethical Principles include views on all the different facets that are part of a psychologist's profession, for example, relationship boundaries between a psychologist and his or her clients, fee payments, record use and storage, and the use of tests (APA, 1992). For the first time the APA Ethical Principles includes a section on forensic activities, due to the increase in use of psychologists within the forensic setting (Perrin & Sales, 1994). The section on forensic standards, which include six standards, discusses reporting of psychologist's findings. While some of the standards provide slightly ambiguous guidance, others are more directive and helpful (Perrin & Sales, 1994). Two of the less specific standards are 7.01, psychologists must comply with the
other requirements within the Ethical Principles and be competent while performing their roles, and standard 7.03, which necessitates that psychologists state what they believe their role is before testifying, so that there is no misunderstanding concerning what the psychologist was hired to determine (Perrin & Sales, 1994). The previous two standards are general guiding principles from which guidelines that are more specific can be derived. Psychologists who write reports for the courts will find that other forensic standards provide guidance that is more concrete. Standard 7.02(c), states psychologists should acknowledge within their reports any limitations that occur during assessments and any effect that the limitations have on the psychologist’s recommendations. Standard 7.04(a) demands that psychologists are truthful, follow legal procedures when writing reports, and can justify their conclusions, and standard 7.04(b), states that psychologists must acknowledge the limits of their data or conclusions (Perrin & Sales, 1994). The previous standards are to protect the individual under assessment by ensuring that psychologists do not make blanket statements about someone without sufficient data to support the claims made. The previous three standards are a basis for other guidelines that are available. Two other standards that discuss report writing are 1.23 (a & b), which are to ensure that any work conducted by a psychologist is documented in full detail to ensure accountability, and if the work is to be used in a legal context, then the report must be of high enough quality to be used in court (APA, 1992). The inclusion of a forensic section in the Ethical Principles is a sign of progression towards an advanced set of principles. A significant problem that psychologists have with the APA Ethical Principles is that they do not offer a definite answer on whether it is ethical or not for psychologists to give their opinion on the
ultimate legal issue, such as custody arrangements in divorce proceedings. Furthermore, the standards do not provide specific guidelines regarding the content of the psychologist’s reports; this is an important issue because it does not promote the development of a standardized writing procedure (Perrin & Sales, 1994).

A psychological assessment report should concentrate on discussing what the psychological assessments disclose about the people relevant to the legal question under issue and not about the psychological processes used to obtain the information (Weiner, 1999). Psychologists are charged with maintaining the integrity and security of psychological tests. Providing too much detail about psychometric tests will affect and diminish the integrity of the tests (APA, 1992). This ensures that the “right” method of answering a psychological test does not become common knowledge and allow people with a certain type of disorder to present as if they do not have a disorder. This issue causes problems for psychologists because some guidelines advise psychologists to provide a thorough explanation of each psychological test used in the psychologist’s assessment of the parties involved in the case (e.g., Family Law Rules 2004). Section 1.02 of the APA Ethics Code (1992) advises psychologists that if their ethical responsibility conflicts with the law then psychologists must make it known that they are committed to the Ethics Code and to take steps to reasonable resolve the conflict. Psychologists need also be careful in their description of the person who they are assessing; the psychologist’s job is not to label the person, but to answer the legal question of whether the person is adequately able to meet the needs of their children. This issue is discussed in Ethical Principle 2, evaluation, assessment or intervention (APA, 1992). When offering their conclusions, psychologists should describe how the
subject has characteristics that resemble certain types of people who have certain kinds of experiences. Relative statements about people create fewer difficulties for the psychologist than specific ones if the psychologist is required to give testimony (Weiner, 1999).

In 2002, the New Zealand Psychological Society set forth their own Code of Ethics for psychologists working in New Zealand. The New Zealand Psychological Society's Ethics are not as extensive as the Ethical Principles presented by the APA and do not include a section allocated to the reporting of psychological assessments or forensic psychology. But some of the Principles contain sections which make general reference to report writing (New Zealand Psychological Society, 2002). The sections are contained in Principle 3, Honesty, and Principle 4, Social Justice and Responsibility to Society. Section 3.1.3 ensures that the highest standard of evidence supports a psychologist's claims or conclusions, that psychologists identify any statements that are their opinion and that they clarify the basis of their opinion. Principle 3.1.6 ascertains that the reporting of assessments are accurate, complete and clear and Principle 4.1.4 advises psychologists to take care when reporting their results so that the results are not misused or misrepresented (New Zealand Psychological Society, 2002). The New Zealand Psychological Society’s Code of Ethics is only slightly different from the APA’s Ethical Principles. However, psychologists can use the New Zealand ethics as a further source to determine what should be included in a psychologist’s report so that it satisfies both the psychologists’ ethical values and the needs of the judges and magistrates of the court. Psychological providers need to balance ethical principles with legal and regulatory mandates (Anastasia & Urbina, 1997). This is because the
psychologist's client is now the court, not the individual, and psychometric test assessments conducted by a psychologist in child custody disputes are to inform the court. They form part of the process of discovery.

Ethical principles are the basis for the guidelines that have developed to direct psychologists towards the best approach to take when writing psychological reports based on psychological assessments of an individual.

**Reporting Guidelines**

"The goal of the guidelines is to promote proficiency in using psychological expertise in child custody evaluations" (APA, 1994, p.677). The APA (1994) guidelines on child custody evaluations are extensive in describing the process psychologists should follow when evaluating those involved in the case, but they provide only minimal guidance on what psychologists should include in their reports to the court. The APA advises that psychologists should not act as a judge and provide an ultimate decision, but if a psychologist provides a recommendation on custody arrangements then the recommendations must be based on proven psychological data and the psychologist must be acting in the best interest of the child (APA, 1994). The APA guidelines offer guidance, but they are an aspiration and are not mandatory (Krauss & Sales, 2000). Horvath et al. (2002) found that when they studied psychologist’s reports in child custody cases that many psychologists did not adhere to all of the APA’s guidelines. The authors theorised that this may be because the APA guidelines are too vague to properly follow (Horvath et al., 2002).

The Australian Psychological Society (APS) and the British Psychological Society (BPS) provide much more detailed guidelines concerning the contents of
psychologist's psychological assessment reports. Both psychological associations believe that psychological assessment reports should commence with identifying information about the psychologist conducting the evaluation, including qualifications of the psychologist, and a statement with reference to whom the report is being prepared for (APS, 1997; BPS, 2002). The APS advises psychologists to include the reason for the assessment, including a summary of relevant background events and any previous assessments that are important. Both the APS and the BPS agree that an explanation of all the materials and tests used to complete the assessment should be included in the final report. Psychologists should include the name and outline of the psychometric tests used, the details of the tests can be included in an appendix or as an attachment to the report if there is a lot of detail or the case is a very complex one (APS, 1997; BPS, 2002). Concerning the psychologist's findings, only the essential conclusions derived from the psychological testing should be reported and any inferences made should be specific to the data collected. Psychologists should also make a note concerning how much they concur with the test findings (APS, 1997). Where there are a range of opinions, the report should include a summary of the range of generally accepted opinions and the reasons for the expert's opinion (BPS, 2002). If the psychologist is not able to provide his opinion without restriction, the restriction must be included within the report (Academy of Experts and the Expert Witness Institute, 2003). The report should conclude with a summary of the major findings and recommendations. If the custody case is a complex one it might be easier for the audience of the report to have the summary at the beginning of the statement (APS, 1997; BPS, 2002).
None of the previously mentioned psychological associations provides guidance concerning the amount of test data detail that ought to be included in forensic reports, for both general court proceedings and the family court. Guidance is needed on this issue because the court is a different type of client to the usual psychologist's client (e.g., someone seeking counselling). The court has the right to test a psychologist's expertise and the psychologist's interpretation of the test data. With other clients, such as social workers, counsellors, psychiatrists or companies asking for psychological evaluations of potential employees, a psychologist can explain that since the client is not trained in the interpretation of psychometric test data, the client will have to consult another psychologist to determine if the original interpretation of the data is correct. But with the court, psychologists need to find the balance between abiding by their association's ethical principles, protecting the integrity of tests (not providing too much information concerning what the test does or the purpose of the test), and following the guidelines that advise psychologists to fully explain the tests used and the purpose of them.

Guidelines for Forensic Psychologists

There are many different guidelines published in journals and books that build on those published by, for example, the APA. These publications provide further concrete guidelines for psychologists than those set out by some of the psychological associations. Another reason that these guidelines were written is that some psychological associations have not set out their own guidelines, such as the Canadian Psychological Association. Melton et al. (1997) provide extensive guidelines for psychologists to follow. The authors believe that a psychological assessment report
Ethical Principles and Guidelines

should be set out in a specific order. The order is as follows: (a) the referral source and legal issues to be investigated, (b) a list of the people who were contacted to help carry out the assessment, (c) sources of information used, other than the person being examined, (d) relevant background information, (e) findings from the psychological tests used, and (f) the relevance of the findings to the legal issue under consideration (Melton et al., 1997). When two or more summaries can be concluded from the collected data, all summaries should be noted along with the data and the assumptions that led to those conclusions (Melton et al., 1997).

During a psychological assessment a psychologist amasses great amounts of information, but only the most salient information should be included within the report (M. C. Ackerman, 1995; Melton et al., 1997). Psychological assessment reports should include information that is supporting, as well as non-supporting of the psychologist’s conclusions, and an explanation stating why the supporting material was more heavily weighted. Background information on the case and the people involved should be kept relatively short because such information is already known to the court (M. C. Ackerman, 1995). Some guidelines suggest that it is of more assistance to write a brief report, while others take the stand that it is more beneficial to include all of the information that the assessment generates (Amundson, Daya, & Gill, 2000; Melton et al., 1997). A brief report includes the psychologist's conclusions, but without extensive data and justification, it provides little ammunition for cross-examination and does not document and organize the data collected (Melton et al., 1997). A minimalist, or brief, report reduces ambiguity and speeds up the court proceedings (Amundson et al., 2000). Lengthy reports include all the available information, including legal and psychosocial
information related to the legal issue under consideration, and allow the psychologist an
out from a difficult situation during testimony. But it may include irrelevant
information, redundancies or excessive ambiguities (Amundson et al., 2000; Melton et
al., 1997). This maximalist approach, which, according to Amundson et al., some
judges and magistrates prefer, encourages psychologists to not only come to character
conclusions, but to provide more evidentiary conclusions and jurisprudence. Amundson
et al. speculated that judges proceeding over child custody cases might encourage
lengthy reports because they do not want to use simple common knowledge, common
law, or common sense due to the issue involved. The maximalist model speaks to the
ultimate issue, which many psychologists and psychological associations are in debate
about. A lengthy report is also at risk of not being read in full or understood (Melton et
al., 1997). The length of the report is usually an individual preference, but it should be
brief enough so that it is useful to whoever commissioned it and, at the same time,
comprehensive enough to answer the legal question under consideration. Melton et al.
recommend that the court, or whomever the client is, be consulted to determine which
information and how much of it should be included within the report. However,
psychologists should not include in the report only what the instructing lawyer would
like them to, but everything that will help the judge act in the best interest of the child.
Most lawyers will most likely prefer short reports, and, if needed, they can obtain more
information through informed questioning of the psychologist or through the
psychologist's testimony. Lawyers are mainly interested in the psychologist's
summaries, conclusions or recommendations (M. C. Ackerman, 1995).
All of the previous guidelines grew out of the ethical principles that the APA, the New Zealand Psychological Society, the Family Court of Australia, and others, set forth. Ethical Principles such as reports must be truthful and candid, they must acknowledge the limits of the data and conclusions, and the reports must be based on sufficient information to support the findings (APA, 1992).

The guidelines for psychologists that are available from books and journals do not provide much more information on the issue of how much detail is appropriate to include in forensic, psychological reports than the professional psychological association's guidelines. In addition, they are of no assistance in the attempt to discover a balance between test data detail and ethical consideration, other than to state a preference for brief reports.

Family Law Rules 2004

In 2004, the Family Court of Australia introduced new rules for the conduct of the court, and these included a set of guidelines to control the conduct and use of expert witnesses within the family court. These guidelines are a means for the court to try to standardize the use of expert witnesses. Section 15.63 is dedicated to what should be contained in an expert witness's report for the Family Court of Australia (Family Court of Australia, 2003). The family court's guidelines are similar to those set forth by the APS and BPS, but with some different requirements for psychologist's working within the family court. One is that psychologists support their conclusions with other relevant literature. Another is that disclosures must be included within the report if the report is not complete because further research or data are needed (Family Court of Australia, 2003). An expert's report must, "include a statement about the methodology used in the
production of the report” (Family Court of Australia, 2003, p. 216). This section provides an indication on how much information should be included within an expert’s report. The Family Law Rules direct psychologists to provide all relevant facts upon which the psychologist’s opinion is based, as well as details about all tests relied on by psychologists to create their opinions. There is no explanation concerning what details and how much detail must be included within the expert’s report. As directed by Melton et al. (1997), if there are a range of opinions, that range must be acknowledged and the reason for the expert’s opinion, and all of the conclusions arrived at, must be included in a summary (Family Court of Australia, 2003). The Family Law Rules do not contribute new guidelines for psychologists employed by the courts, but because they are backed by legislation, non-compliance comes at a cost. The costs range from the court refusing to accept parts of the report as evidence to non-payment for the psychologist’s work (Family Court of Australia, 2003). Psychologists do not have the same freedom with the guidelines published by the Family Court of Australia as they have with those developed by psychological associations and those published in books and journals.

The Family Law Rules refer to the reporting of tests and experiments, but it is unclear how much detail they expect the expert to provide. A court may want to only be informed of the name of the tests used, and how reliable they are, or the court may want the psychologist to explain to the court all the aspects of the test (how does it work, what is the test for and how did the psychologist obtain his conclusions from it). The Family Law Rules also do not provide psychologists with guidance on the issue that providing details of the tests or experiments used in a psychological evaluation may be in conflict of the expert witness’s ethical codes. Psychologists who are expert witnesses need
clarification on how much detail to provide and how to deal with the conflict of the court’s needs and their own ethical code. This is why it is essential to obtain the judicial system’s range of views on these issues.

Conclusions

While the three levels of guidance provide psychologists with guidelines on the contents of psychological forensic reports, there is not a substantial difference between the recommendations provided by the guidelines. While some of the guidelines (e.g., Amundson et al., 2000; Family Court of Australia, 2003; Melton et al., 1997) briefly mention the issue of volume of information, there is not a consensus on the length of psychological reports, or the amount of detail that should be provided about the psychometric tests used in psychological evaluations. The guidelines also do not provide psychologists with an explanation concerning what they should do when their ethical code is in conflict with the needs of the judicial system.

Professional associations’ ethical principles and guidelines were developed in an attempt to standardize psychologist’s assessment reports and to ensure that the client’s rights are not infringed upon. The client that appears to have been in mind with respect to those guidelines is an individual who is consulting the psychologist about his or her own (the client’s) psychological functioning. In forensic psychology, the client is the court, not the person or people whose psychological functioning is being evaluated. Psychologists are able to choose from, or combine parts of, different guidelines, within the ethical code of the Association to which they belong and the legislation that they are required to work within. The psychologist’s task is to be able to find the best fit between the ethical principles of the psychological associations, the report guidelines,
and the needs of the Court. In child custody cases, where psychologists are commonly employed, it is unclear whether the judiciary has had any input concerning what the judicial system needs to continue to uphold the best interest of the child. Most guidelines give the impression that psychologists developed the guidelines for psychologists. I could find no published research by either psychologists or the judiciary into the judiciary’s views on reporting of test data. This apparent lack of consultation is harmful to the best interest of the child because there is not an understanding of what the judges require from psychologists to help them in their deliberations. Future research is needed in this area, to help both the judicial system and psychologists. Any future research must focus on integrating and finding a balance between the psychological ethical codes, practitioner guidelines, and the needs of the judiciary. A priority for such research is an exploration of Family Court judges’ and magistrates’ views on what information should be included in a psychological report and the amount of detail that should be included about psychological tests and test data.
References


Working Together: Judges, Registrars and Psychologists Attempting to Improve Forensic, Psychological Reports for the Family Court

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Abstract

The author collected qualitative data to explore what information and amount of detail that judges and registrars from the family court require in forensic psychological reports on parents' psychometric test for a child residency evaluation. Semi-structured interviews were conducted on five judges and four registrars from the Family Court of Western Australia. Thematic analysis was conducted separately on the judges and registrars' data due to the different contexts that each receives the psychologist's report in. The data indicated that judges prefer the psychologist's conclusions, and registrars want to know why psychologists reach their conclusions and the reasons behind them. Neither the registrars nor the judges wanted a lot of technical information about the tests used within their reports. The views collected do not contradict the guidelines provided by the Australian Psychological Society, but they do contradict a rigid interpretation of the Family Law Rules, 2004.

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Introduction

The use of psychologists as expert witnesses within the Family Court is becoming increasingly more common and so this factor is becoming an important concern within the courts (Bow & Quinnell, 2001). One reason for the increase of the use of psychologists within the Family Court is that many couples cannot agree on residency issues, another is because some of the residency cases that judges oversee involve allegations of substance abuse, domestic violence, sexual abuse of a child, or accusations that one parent has a mental illness (Bow & Quinnell, 2001). Experts are also being called upon because of evolving legal standards that make it harder for judges to determine what their final parenting orders should be (LaFortune & Carpenter, 1998). Child residency litigation is one of the most difficult forensic fields to be involved in due to the animosity that exists between the partners, the emotions involved and the necessity for balance. The Family Court asks psychologists to conduct psychological assessments of all the relevant people involved in residency cases and lay out the collected information to the court in the form of a report. Forensic psychologists collect and report to the court the necessary evidence to help judges understand areas where they do not have adequate expertise, so that the judge can make an informed decision concerning the best interest of the child (Saunders, 2001). Many final recommendations by judges in child residency disputes have included suggestions from the psychologist's reports (Horvath et al., 2002). The increased use of psychologists in the Family Court
has brought forward the issue of what should psychologists include in their reports and how much detail the courts need to assist in their decision-making.

**Residency**

Within the Family Law Rules, 2004, any orders put into place that are related to children are under the heading of parenting orders (Family Court of Australia, 2003). Parenting orders encompass residency issues, contact between the child and the non-resident parent and special issue orders. The term residency has replaced the word custody and includes where the child resides and for how long, especially if parents share residency (Family Court of Australia, 2003). Contact between the child and the non-resident parent includes orders of where the contact will occur, for how long and whether the contact is supervised or not. Special issue orders include such matters as what religion the child will be brought up in, what school the child will go to and any other cultural issues that the parents believe are important (Family Court of Australia, 2003).

**Guidance**

There are three levels of guidance are available to forensic psychologists writing psychological assessment reports for a child residency evaluation. The first level is comprised of guidelines set out by professional associations. The professional association's codes of ethics provide the basis for these guidelines; the guidelines are broad principles that form a general framework. Psychological associations developed their own ethical codes, in addition to numerous other reasons, in response to the increased use of psychological assessments in the courts, both criminal and civil. One such professional association is the American Psychological Association (APA; 1994),
which in 1992, published a revised edition of the *Ethical Principles of Psychologists and Code of Conduct*. The Ethical Principles were revised to better guide psychologists in working towards the "highest ideals" (Anastasia & Urbina, 1997, p.533). From these ethical codes the APA developed guidelines to assist psychologists, both for general evaluations and specifically for child residency evaluations. Other psychological associations such as Britain (British Psychological Society, 2002 [BPS]), New Zealand (New Zealand Psychological Society, 2002) and Australia (Australian Psychological Society, 1997 [APS]) have also developed their own guidelines from the basis of their own ethical codes, but their guidelines do not include specific ones for child residency case assessments. Each association's ethical principles and guidelines are slightly different; but the APA's are the most extensive and specific. A limitation of the guidelines set forth by the different psychological associations is that they are an ideal and psychologists are not required to follow them.

The APA (1994) guidelines on child residency evaluations provide only minimal guidance on what psychologists should include in their reports to the court. The APS and the BPS provide much more detailed guidelines concerning the contents of psychologist's psychological assessment reports, but none of the previously mentioned psychological associations provides assistance concerning the amount of test data detail that ought to be included in forensic reports, for both general court proceedings and the family court. There is a need for guidance on this issue because the court is a different type of client from the usual clinical or counselling client (where the client is the person being assessed rather than the person seeking the assessment data as is the case with a court). The court has the right to test a psychologist's expertise and the psychologist's
interpretation of the test data. Psychologists need to find the balance between abiding by their association's ethical principles, protecting the integrity of tests (not providing too much information concerning what the test does or the purpose of the test), and following guidelines that advise psychologists to fully explain the tests used and the purpose of these tests.

While the APS does not provide specific guidelines for the reporting of test data in a forensic setting, Section A of the APS Code of Professional Conduct provides nine principles for assessment procedures designed for psychologists to follow (APS, 1995). While all of the principles are important to forensic report writing, three of the principles are particularly important to psychologists when writing reports for the Family Court. They are as follows: Principle 2, psychologists must supply clients and persons being assessed with explanations of the nature and purpose of the procedures used, in language the recipient can understand, unless an explicit exception to this right has been agreed upon in advance; Principle 5, psychologists offering scoring and interpretation services must be able to produce appropriate evidence for the validity of the programs and the procedures used in arriving at interpretations; and Principle 6, psychologists must not compromise the effective use of psychological tests, nor render them open to misuse, by publishing or otherwise disclosing their contents to persons unauthorized or unqualified to receive such data (APS, 1995, p. 3). While the APS Supplement to Guidelines for the Use of Psychological Tests provides guidelines to psychologists on communicating test results to, they do not provide any specific guidelines on the amount of detail that psychologists should include in their reports, it
only states that appropriate detail be provided (APS, Australian Psychological Society, 1997).

The second level consists of guidelines developed for forensic psychologists, which are found in books and journals and are written to provide psychologists with more concrete guidelines. These guidelines are written for psychologists involved in both child residency cases specifically and other cases for which psychological assessments are required (e.g., M. C. Ackerman, 1995; M. J. Ackerman & Ackerman, 1997; Melton et al., 1997). These guidelines build upon those set forth by the different psychological associations. Psychologists who have had experience writing psychological reports predominantly write the guidelines found in the books and journals. These guidelines for psychologists do not provide much more information on the issue of how much detail is appropriate to include in forensic, psychological reports than the professional psychological association’s guidelines. In addition, they are of no assistance in the attempt to discover a balance between test data detail and ethical consideration, other than to state a preference for brief reports. Even the issue of length of report is in debate. Some authors believe that the minimalist approach, a brief report, reduces ambiguity is the most advantageous because it reduces ambiguity and speeds up court proceedings (e.g., Melton et al., 1997). While other authors believe that the maximalist approach, writing lengthy reports, is best, then the report will contain all of the information that the psychologist collected (Amundson et al., 2000).

Different jurisdictions developed the third level of guidelines and set them out in policy documents. The Family Court of Australia created one such document, the Family Law Rules in 2004. These rules include a set of guidelines to control the
conduct and use of expert witnesses within the family court and are tools that the court can use in an attempt to standardize the use of expert witnesses. Section 15.63 contains guidelines for the content of expert witness’s reports for the Family Court (Family Court of Australia, 2003). Some guideline for experts’ reports for the Family Court include: “[stating] the reasons for the expert witness’s conclusions” and “[including] a statement about the methodology used in the production of the report”. Certain guidelines only require the psychologist to write a sentence or two, but others, such as “if there is a range of opinion on the matters dealt with in the report- a summary of the range of opinion and the basis for the expert witness’s opinion”, call for extensive coverage. The Family Law Rules do not contribute new guidelines for psychologists employed by the courts, but because the Family Law Rules are backed by legislation, non-compliance occurs at a cost which ranges from the court refusing to accept parts of the report as evidence to non-payment for the psychologist’s work (Family Court of Australia, 2003). Psychologists do not have the same freedom with the guidelines published by the Family Court of Australia as they have with those developed by psychological associations and those published in books and journals. This and the availability of the different guidelines, to assist psychologists when writing reports for child residency disputes, creates a dilemma for psychologists because although the Rules refer to the reporting of tests and experiments, it is unclear how much detail they expect the expert to provide. Another conflict that psychologists encounter is on the subject of which guidelines and ethical considerations should they follow and are the guidelines developed by the associations helpful to the registrars and judges of the Family Court? This is why it is essential to obtain the judicial system’s range of views on these issues.
The Current Study

All of the previous levels of guidance provide psychologists with guidelines for writing an evaluation report that are similar, but differ in the detail that they provide for psychologists. There is a great deal of literature available on what psychologists' believe are the best guidelines for writing an evaluation report for a child residency case (e.g., APA, 1994; Melton, Petrila, Poythress & Slobogin, 1987; Ellis, 2001), but there is no research available considering how the registrars and judges believe evaluation reports should be written. This study is an attempt to assist psychologists who write forensic reports in the Family Court setting, by obtaining insights into the views of judges and registrars and determining whether the available psychology guidelines are compatible with those views. It would be important to explore the views of judges and registrars separately because they receive expert evidence in two different contexts and so their experiences and views could be expected to be different. Registrars receive the reports at pre-trial conferences, which are exploratory conferences where it is the registrar's task to attempt to assist the parties to agree to terms related to their divorce, without proceeding to a trial. The registrars' role means that they are likely to have a broader range of needs in relation to the psychologist's report than would judges. The judges receive the reports in the context of a trial, where the resolution of the litigation under consideration hinges on a smaller number of issues and the onus is on the judge to determine what is in the best interest of the child.
**Method**

**Design**

This study used a phenomenological design to explore the experience of the judges and registrars of the Family Court of Western Australia in relation to psychologists' reporting of test data and the judges' and registrar's experience of responding to those reports. The experience investigated was of a narrow focus. I was not studying the experience of being a judge or registrar, but the experience of receiving a court expert report and incorporating it into their separate judicial roles. The thematic analysis was separated into the experiences of the judges and the experiences of the registrars, as explained in the introduction. The semi-structured interview technique that was employed, to study the participants' experiences, was grounded in phenomenology. This type of interviewing is utilized so as to determine the meaning of a concept that several individuals share (Marshall & Rossman, 1999).

**Participants**

The participants were four registrars and five judges from the Family court of Western Australia. The other judges (n = 1) and registrars (n = 4) were unable to participate due to work commitments or on leave of absence. The Family Court of Western Australia provided the names of all the potential participants.

**Instruments**

*Interview questions.* Semi-structured interview questions were developed to tap into the judiciary's views in a non-leading manner (see Appendix A). After the first few interviews, comments made by the participants resulted in two questions being added to the interview schedule. They were, "would version 3 have included enough information
for you, if you had not first seen version 1 and 2” and “what do you think about the use of appendices in court expert reports”. The first participants were contacted by e-mail to obtain their views on these questions. The opening interview questions were non-leading, broad questions, which included non-directive prompts; this was an attempt to obtain the most salient experiences of the participants. Subsequent questions were more specific, covering areas related to the reporting of psychometric tests, in the event that the broad questions did not provide enough information. The use of predetermined interview questions was to try to limit the participant’s answer within the domains that I was researching.

_Hypothetical residency case reports._ Each participant was given a copy of a hypothetical residency dispute case derived from a compilation of real residency dispute cases (see Appendix B). A psychologist who writes such reports provided the reports, and I made changes to the length of the report and to make the reports fit into my constructed case. In addition to the case were three different versions of a psychologist’s discussion on the results of the psychometric testing of one of the parents. The hypothetical reports were an attempt to focus the participant’s minds on the amount of detail and volume of information that they require within a report, this includes the amount of detail on the psychological test used, and the degree of importance placed on psychologists’ rationale for their conclusions. The three different evaluation reports discuss the psychologist’s recommendations to the court based on the parent’s test results. Version 1 follows the reporting guidelines found in the literature and those laid out by the Family Court of Australia in the Family Law Rules 2004. It includes an explanation of the test used, the test results, what they could mean, what
they do mean in this case, literature supporting the psychologist’s view, and the conclusions and recommendations of the psychologist (Family Law Rules 2003). Version 2 describes the test results, the psychologist’s recommendations and why the psychologist came to his conclusion; this version was derived from an excerpt of an actual psychologist’s report, so the amount of detail is a realistic approximation of a real report. Version 3 consists of the name of the test conducted on the parents and the psychologist’s recommendation. The use of three different versions was decided on because I wanted the participants to have enough different comparisons that they were compelled to determine what they did and did not like about each version and relate that to actual reports that they receive.

Procedures

The Family Court of Western Australia provided me with a list of the names of the judges and registrars who might choose to participate in this study. The Family Court set up a three of the interviews with the judges. All of the other participants were contacted by telephone and if they agreed to participate, they received, by e-mail or fax, an information letter (see Appendix C), which described the aims of the research project, discussed issues of confidentiality, and informed them that their participation was voluntary and that they could discontinue at any time. They were also sent the hypothetical case study and the three versions of the psychologist’s report (see Appendix B). Interviews took place in the judges and registrars’ offices at the Family Court of Western Australia, at which time the participants signed a consent form (see Appendix D). Each interview lasted from 20 to 30 minutes. A tape recorder was used to record all the interviews. In two interviews the participants began to make comments
that I thought were relevant to the study after the tape recorder was put away; I recorded those comments in written form. The interviews were transcribed verbatim, and any additional comments were recorded at the end of the participant's transcripts. Two registrars were contacted by e-mail regarding the question concerning the use of appendices, because I added it after their interviews, and their answers were included at the end of their transcripts.

Data Analysis

The interviews were transcribed and subjected to thematic data analysis. Sarantakos (1993) describes the process of analysis as occurring in three phases. The first phase involved reducing the data. This is done by careful reading of the material, identifying the main themes of the area being studied and then the categorisation of the material for later analysis (Sarantakos, 1993). Miles and Huberman (1994) believe that data reduction allows a researcher to focus and simplify the data that is within the transcribed interviews. Data reduction begins with determining which research question to ask and continues through data collection, through the summarization of the data, coding, teasing out themes and making clusters, which is sorting into categories data with similar patterns and characteristics (Miles & Huberman, 1994). During this phase of analysis, I conducted close and multiple readings of the transcriptions to become immersed within the text.

Phase two involved the organisation of the data (Miles & Huberman, 1994; Sarantakos, 1993). This phase helped in understanding what was happening in the data, as well as in the analysis based on that understanding by assembling the information into an accessible compact form (Miles & Huberman, 1994). Phenomenological reduction
identifies the essence of the phenomena under study (Patton, 1990). This was done by assembling the information around themes (Sarantakos, 1993). Portions of the transcription seen as significant or seen to be related to the research question were highlighted and written down onto a summary sheet. To assist in the analysis of the text pattern coding was used. Pattern coding was used to identify emergent themes by first identifying 1st level codes, which are devices for summarizing segments of data, and then grouping the 1st level codes into a smaller number of themes (Miles & Huberman, 1994). Qualitative data analysis is a continuous process and I continued it through the data collection stage, because as you identify data this automatically leads to its analysis, which in turn identifies data to be analysed (Sarantakos, 1993).

The final phase included conclusion drawing and verification (Miles & Huberman, 1994; Sarantakos, 1993). The transcripts were reread using the themes identified in phase two to look for instances in the text that disconfirmed the themes or suggested new ones to be made (Miles & Huberman, 1994).

Finally, I had two independent people read the transcripts to verify my findings.
Results

Of the different versions of the hypothetical psychologist's report, one judge preferred version one, three judges preferred version two and one judge preferred version three. All of the judges, except for the one who preferred version one, thought that version one contained too much information for them. They believed that if they needed more information then they could bring in the expert for examination. As for version three, all of the judges, excluding the one who preferred version three, thought that there was not enough information within version three to make an accurate judgement on the person under assessment. Although, two of the judges remarked that if there were no serious problems related to the case, version three might have provided them with enough information. The judge who preferred version one liked the fact that it provided examples and alternative explanations to what the client's test results could mean; the judge who preferred version three did so because it allowed quick reference to the information that the psychologist gathered in his assessment. Even though there was a difference of opinions on the version that were preferred, comments regarding the question about the amount of detail they would like concerning the test used, why that test was used and the psychologist's interpretation of the test, were similar among the judges.

Of the registrars, three preferred version one and one preferred version three. The registrar who preferred version three did so because they believed that they do not possess enough knowledge about how psychometric tests function to understand adequately what the results meant. Therefore, they place more emphasis on other factors within a report that they are more familiar with, such as the history of the person
the report is about and questions asked of that person by the psychologist. The registrars who preferred version one did so because in pre-trial conferences the registrars are not always able to talk to the psychologist if any questions about any of the psychologist's comments arose or were challenged by either of the parties. Therefore, the registrars thought it helpful to be provided with as much information as possible.

The objective of this study was to examine judges' and registrars' perception of psychologists' reports for child residency cases, to assist psychologists who write the reports. I examined the transcribed interviews for common themes that emerged from the narratives. The judges and registrars interviews were examined separately and different higher order and first order themes were developed for each. Fourteen main themes, which corresponded with five higher order themes are reported for the judges (see Table 1). Table 2 shows the 11 main themes that fit into the 5 higher order themes for the registrars.

**Judges**

*Brief but informative.* Factors that relate to the amount of information within the report in such areas as the psychologist's interpretation of psychological tests, which test that the psychologist used and why, are included in this theme.

The overall message received from the judges was that they wanted to be informed enough to make a judgement, but not to receive so much information that they were weighed down with it. For example, J5 noted that, "Some of [the reports] are longer than judgements and my judgments aren't short." In addition, J3 stated that:
Well my comment is, make [the reports] shorter....because some of them we’re talking 40 to 50 pages and we have got an enormous amount of work to do. And all of us don’t have time to wade through 40 to 50 pages.

The previous remarks are referring to the amount of technical data that is included within a psychologist’s report. All of the judges commented that they did not need to know much about the nature of the test used and why the psychologist used the test they did, unless the test and its use was being challenged by one of the parties’ counsels. The judges stated, and this ties into another theme that emerged and is discussed below, that because they are not psychologists, they take the psychologist’s use of the test at face value until told otherwise. J3 thought the amount of information on the nature of the test that was included in version two was sufficient. J1 said, “[I need to be] satisfied that you’ve carried out...the appropriate test....I mean I don’t need to know anymore on that...you can be examined on that.” J5 believed that information concerning the nature of the test and why a particular test was chosen, and any other technical data, could be useful if placed in appendices, it would save time for the readers of the report because they would not need to read that particular area if they do not want to. Appendices will also make the reports shorter.

The exception to the “brief but informative” higher order theme, is regarding the psychologist’s interpretation of their findings. Three of the judges believed that the reports should contain plenty of detail regarding the psychologist’s interpretation of the test results. J2 wanted, “A bit [about the interpretation] because that’s important....I might not agree with their interpretation necessarily, so I need to know.” In addition, J3 wants a good solid paragraph because judges have to rely on the psychologist’s
interpretation of the test results. The judges believe that the interpretation of the psychologist’s results is the most important part of the report, and so it needs to be explained in detail. The two judges who did not think more detail was required on the psychologist’s interpretation did so because they are not psychologists, so they accept what the psychologist has written in the report, until told otherwise.

**Creation of the report.** All of the judges agree that a description of the methodology of the construction of the psychologist’s report should be included within the report. Most believe, though, that the name of the test used and the different techniques used to assess the person are enough information for them. For example, one judge explained that, “[Psychologist’s] have to outline what they’ve actually done. Of course the most important thing is who they interviewed, and who was with them when they interviewed them.” J1 noted that, “I don’t need to know anymore than you carried out a particular test full stop.” One judge mentioned that they only needed more information about the test used if it was not one that was used by the majority of psychologists who conduct child residency evaluations.

The Family Law Rules, 2004, includes a section, 15.63, to provide court experts with guidance on what to include in their reports to the court (Family Court of Australia, 2003). I asked the judges how they thought court experts should interpret the instruction to court experts to, “include a statement about the methodology used in the production of the report” (Family Court of Australia, 2003). One of the judges had no comment on this matter; all of the others believed it means that the expert should explain the steps that they took to conduct their evaluation. “It’s meant who they interviewed, and how they interviewed them. Because it is important how long they interviewed them
for...and how they undertook their task.” The judges did not want this instruction to give psychologist’s free rein to include all the information about their methodology, one judge stated, “I would be inclined to be fairly broad in what I have to say in response to that [instruction].” J5 believed that the statement was included in the Family Law Rules so that the methodology is included within the report in the case of a challenge of the report. Including the methodology, the judge noted, allows the reader to be more prepared and permits the person who is reviewing the report to follow the steps that the original author took to prepare the report.

Report is a tool. A common thread from all of the judges’ interviews is that they believed that the psychologist’s report is only one of many pieces of evidence that they have available to them; they possess the whole picture while the psychologist only receives a snapshot. As J5 stated, “In any case I have much more evidence than the court expert.” Judges saying are able to observe the parties for a lot longer than psychologists do and, therefore, are able to base their judgement on their own opinion of the people involved, as well as the different expert reports that they receive. J4 commented that, “[the report is] really only a guide, a general assistance tool, rather than being the [italics added] diagnosis, of the [italics added] problem, with the [italics added] answer.” The judges believed that they did not need to agree with the expert, but they want the psychologist’s opinion on how they see the person under assessment.

This idea that the psychologist’s report is only one tool that judges have available to them is related to the issue that the psychologist is not the judge and so does not have the right to give recommendations on the ultimate issues. One judge commented that they believed that sometimes the ultimate issues recommendations
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provided by psychologists are based on untested information told to the psychologist by one of the parties. J1 thought that the role of the expert is to give their opinion on how they see the person under assessment, not to judge or confuse. J5 believes that there is a danger that court experts and not the judges are controlling the court; J2 seconded this by stating, “We have to remember that it’s not trial by psychologists, which a lot of the people think it is, its trial by me...with the psychologist assisting me in assessments they’ve made about something.”

*Judges are not psychologists.* The reasons that the judges did not want a great deal of information concerning the tests used in a psychologist’s evaluation of a person involved in a child residency case, and that kept coming up, was that judges are not psychologists and can not be expected to know the difference between one psychometric test and another. Regarding the psychologist’s interpretation of the test results, “Well you take what is given, because I don’t know what else...I just accept it at face value. I am not a psychologist,” as one judge noted. Another noted that, “We don’t for the most; don’t even really have any in depth appreciation of what the tests are all about.” The judges expect that the psychologists will tell them everything the judges need to know to make an informed decision, without going into too much technical detail.

*Terms of Reference.* The terms of reference are the legal orders that psychologists receive from the court describing which areas the court wants the psychologist to enquire into and provide a report. The terms of reference are essentially the same for every case because they are printed off and given to the psychologist without any consideration to whether all of the orders are relevant to the case at hand. One judge noted that neither the judges nor the registrars have the time to sit with
psychologists for every case and ask them what they think of the terms of references and what terms of references the psychologist believes are relevant. So, "what [the court] tend to get is standard sort of questions, which produce, to some extent repetitive reports, sometimes they are quite long, sometimes they contain...repetitive information that you don't need."

Three of the judges believe that the terms of reference creates the need for psychologists to make comments that could be considered common sense. J2 noted that psychologists should not comment on matters considered common sense:

But sometimes you can't blame [psychologist] because they're asked the questions in...the order that appoints the expert to do the [report]...But I think where they can, they should avoid that and...just comment on things that are part of their expertise.

Another judge used an example from version one where it states that, "it is likely that Ms Smith's drug use will bring her in contact with people who might pose a risk to the child." J4 thought that this is more common sense than in need of an expert opinion, and that "If [the comment is] something that the judge really should be able to conclude, or any sensible person could conclude without [putting it] in the report, why bother?"

However, J4 acknowledged that because the reports are written for so many different sets of readers that it is hard to know where to draw the line, just because it seems common sense to one person, it may not be to another.

Registrars

_More detail the better._ The registrars all agree that the psychologist's interpretation of the test results should be explained as fully as possible. According to
R2, "the role of the court expert is to interpret data and to express opinion." The registrars believe that the conclusions that psychologists reach must include the reasons behind the conclusions. One reason for this is that the judiciary are not psychologists, so in their reports psychologists should emphasise the interpretation of the tests used in their assessments. R3 noted that when psychologists provide their interpretations that they are moving from fact to interpretation and so it is helpful for registrars to be provided with as much information as possible.

If a registrar finds some of the material within a psychologist's report unhelpful or irrelevant then they can ignore it, as R2 states, "The [psychologist's] opinion doesn't bind the court... but it educates the court and assists the court to form its own opinion."

**Common sense.** Two of the registrars believe that psychologists should deal with comments that may be seen as common sense, in a short way. One of those registrars, R4, believes that sometimes the terms of reference necessitate comments drawn from common sense, but, as much as possible, psychologists should report only on their expertise. The other two registrars thought that common sense within a report might be very useful in two ways. One is that what may be common sense to the writer of the report may not be to the parties involved, so if it is relevant, even if it is common sense, then it should be included within the report; two, the reporting of common sense sometimes assists in the presentation of the reporting of the psychologist's conclusions.

**Terms of reference.** Some of the registrars have the same view on the terms of references that the judges hold and believe that they lead to repetitiveness within reports. As R2 noted:
The court expert's hands are often tied by the terms of reference. And in [the Family Court of Western Australian] there is an alarming trend for the terms of reference to be generated off a word processing machine...lawyers tend to use the same precedent, so they're adopting...sets of terms of reference...which draw on the basis that one size fits all and there is not enough specificity in the terms.

The terms of references, according to the registrars, determine whether psychologists should comment on the ultimate issue, and according to one registrar, psychologists should only do so if the terms of reference require them to. Regarding the psychologist’s choice of test to use in their assessment, one registrar would like enough information to be satisfied that the test addresses the terms of reference.

Appendices. The four registrars were split on the issue of the use of appendices within a psychological report. Two of the registrars believed that the use of appendices in the report would be of no consequence to them. R3 thought that the, “inclusion of the information in appendices would be a good idea. The information is available if it needs to be checked but otherwise the report and the reading of it remains simpler which is very desirable.” However, R4 did not want psychologists to use appendices as a place to include psychological terms that non-professionals could not understand.

The other two registrars did not think that the use of appendices was helpful. Both registrars believed that the information that would most likely be included within appendices (e.g., technical information about the test used) would become buried away and both registrars believe that the information should be included within the main body of the report. R1 thought that the psychologist’s reports “have to be reasoned like
[registrar's] judgments have to be reasoned, so also does [psychologist's] presentation have to be reasoned."

Education of the judiciary. This theme is related to the understanding of the psychologist's reports. The registrar who preferred version three did so because they were not familiar with the psychological tests, and they believed that this lack of knowledge affected their understanding of the whole report. Even though they were provided with the psychologist's interpretation of the test results this registrar thought that still did not provide them with enough understanding. Another registrar, R1, thought that there was no reason for psychologists to include large amounts of detail on the nature of the test and the reason that the psychologist chose the particular because, "most of the people for whom these [reports] are prepared would not have the skills to know very much about the different tests...criticisms of the different tests would be beyond most of the readers." R4 thought that the judiciary should be educated in psychological tests so that they have more understanding of the tests when they read psychologist reports that contain information on them.
Discussion

The focus of this study was to determine registrars and judges views on the reporting of psychological test data within the context of child residency cases. While some of the data that I received from the participants speaks to more general psychological forensic reports, I am focusing on the issues of psychological testing.

As I expected, the different roles and experiences of the registrars and judges produced different views on several of the issues under study. The main difference found between the judges and registrars was the amount of data each group required regarding the psychologist's interpretation of the psychological testing conducted on the parties involved in the child residency dispute. Because registrars do not have the psychologist available to them when they first receive the psychologist's report in pre-trial conference, they wanted an in-depth description of what the psychologist's interpretation of the test results were, how the psychologist reached those conclusions, and how they affected the parent's ability to care for their children. The registrar's task is to try to assist the contesting parties to come to an agreement on the residency of the child, as well as other issues, so that the case does not progress to trial. To achieve this aim registrars require as much information as possible. So that they are well informed about the parties involved and about any issues (e.g., mental problems, personality issues, drug problems) that could affect any of the parties parenting abilities.

Alternatively, judges want to be informed what the conclusions are that the psychologist has drawn from the psychometric test results, and how those conclusions will affect the parenting issues under consideration. They will then make up their own mind on what is in the best interest of the child, and if they have any questions they can call in the
psychologist to be examined during trial. The APS *Code of Professional Conduct*, Section A, Principle 5, asserts that psychologists must be able to present the procedures they used in arriving at their conclusions, but there is no reference to how much detail must be included about the procedures (APS, 1995, p. 3). If psychologists were to follow the registrars' views on the amount of information to include on the psychologist's interpretation of the test results, psychologists would be well within the guidelines. And if psychologists followed the judges' views, they would still be well in the bounds of the APS guidelines, as long as the psychologist is able to produce the information, if asked to do so, during a trial (APS, 1995; 1997).

All of the judges noted that they did not need psychologists to explain the steps that they took to conduct their assessment or why they chose the particular steps that they did, because judges are not psychologists. This was an interesting discovery because the new Family Law Rules, 2004, instructs court experts to explain themselves, and to prove that the methods that they used were the right ones and were justified (Family Court of Australia, 2003). The APS guidelines on the reporting of test data suggests that psychologists place more technical data about the test into appendices, and some of the participants also made that suggestion (APS, 1997, p. 17) Again, the registrars' views on the amount of technical data about tests used in psychologists' reports were varied. One registrar wanted as much detail as possible, but the other three registrars were in agreement with the judges' view on this issue. Most of the judges and registrars want to be informed about what tests were used in the assessment, a sentence or two about what the test does, in basic language, and then in broader terms describe what the tests disclose about the persons under evaluation. For psychologists to be in
accordance with Section A, Principle 2 of the APS' code of conduct, they have to include a sentence or two on the nature of the test, even if the judges and registrars are not interested in it (APS, 1995, p. 3). The judiciary views are in agreement with Principle 6, because the judges and registrars are not asking psychologists to reveal information that would compromise the use of the psychological tests used (APS, 1995, p. 3).

Another difference in the views of the judges and registrars was on the issue of common sense. The judges did not want psychologists to comment on issues that are considered common sense; they want psychologists to only comment on matters within the psychologist's expertise. Judges believe that comments considered common sense are part of their job, and they may include such comments in their final judgements. A problem that arises is that the line between common sense and a psychologist's expertise is very fine. What side of the line do psychologists err on, common sense or expertise?

While the judges were in agreement about most of the issues discussed, the registrars produced a variation of views. Some of the registrars commented that they would not have a problem with psychologists commenting on matters that would be regarded as common sense and outside their expertise. This surprised me because common sense could be considered contrary to the rules of evidence that the Family Court is required to adhere to due to legislation.

Most of the views that the judiciary expressed seem to be consistent with the reporting of test data guidelines set out by the APS, both in the Code of Professional Conduct and the Supplement to Guidelines for the Use of Psychological Tests, to enable psychologists to please both the judiciary and their psychological association.
(APS, 1995, p. 3; 1997, p. 17). While not all of the views expressed were the same, I
think that there is enough similarity to achieve a compromise between the judges’ and
the registrars’ needs. The use of appendices to include information that registrars
require, but that judges do not believe is as important, could be one way to compromise.
A drawback of appendices is they may interrupt the flow of the report for the registrars
if they have to flip back and forth from the main body of the text to the appendices.
Alternatively, psychologists could write a summary of their results for the judges and
then below include the detail about how they reached their conclusions, but this
approach would create more work for the psychologists because they would be writing
two reports.

I believe that it is possible for psychologists to write reports on psychometric
testing that will satisfy both the APS guidelines and the judiciary. While the judiciary
views were similar to those of the APS guidelines, a rigid interpretation of the
subsections within Section 15.63 of the new Family Law Rules, 2004, would not be
consistent with what I discovered in my data (Family Court of Australia, 2003). The
Rules call for more detailed information on all the steps the psychologist took in their
evaluation, and more information than the judiciary deems necessary for their needs
(Family Court of Australia, 2003).
Conclusion

This study explored judges' and registrars' views on psychological test reports to try to improve the value of psychologists' reports. While there are many different guidelines available to psychologists, produced by associations, other psychologists, and legislations, the individuals who utilize the reports have been largely ignored. The data indicated that while the registrars' and judges' views on the amount of information needed on the psychologist's conclusions vary, neither group needs a lot of information about the specific tests used to reach those conclusions.

Limitations

While I interviewed four out of five judges, I only interviewed half of the registrars. Because both groups are very busy, I would have needed a larger period of time than was available to me to conduct interviews of all of the potential participants. While not all of the registrars and judges were interviewed, because of common views that emerged, I am confident that the information I received was representative of the judiciary of the Family Court of Western Australia.

Implications and Future Directions

Several implications came out of this study point to future directions for research that will assist psychologists writing forensic reports for child residency evaluations. First, the line between common sense and psychologist's expertise needs to be clearly defined. Resolving where the line is drawn will clear up any confusion for psychologists writing reports on psychometric testing, and make the reports more functional for judges, without exceeding their orders and going against the rules of evidence. Another implication to come out of this study is that while the same report is
being prepared for the registrars and judges involved in the child residency case, and both groups are important, the registrars are the ones who predominantly use the report. Judges only use the report if the case progresses to trial. Reports should be tailored to the registrars needs, but in such a way that they are practical for the judges' use. Also, because of the increased number of people representing themselves, the reports need to be written in a manner that the average person can comprehend, but gives them enough information that they can understand where from that the psychologists obtained their conclusions.

The amount of detail that should be included within psychologists' reports requires further study. I believe that it would be valuable for the forensic college of the APS to develop report writing guidelines for all of Australia, and maybe even specific guidelines for the family court. To develop these guidelines the APS should meet with the judiciary to find a compromise between the judiciary needs and the APS ethics. By educating psychologists about the amount of detail that the judiciary desires to have about psychometric tests and their conclusions, both psychologists and the judiciary will be furthering the best interest of the child. Having the APS meet with the judiciary may be a step towards resolving where the line between common sense and expertise lies, as well as developing a report that would be satisfactory for all those involved in child residency cases.
References


**Table 1**

Higher and First Order Themes for Judges

<table>
<thead>
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<th>Themes</th>
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Brief But Informative

Wants only the psychologist's conclusions in the report
Do not want too deep an analysis into the reasons behind the psychologist's interpretation of test results
Need information concerning the interpretation of the tests because judges are not trained in psychometric tests and are not provided with the raw scores from the test
Some information can be set out in appendices

Creation of the Report

Want to be able to understand the steps taken to create the report
Need to understand the methodology used when the report is being challenged or critiqued

Report is a Tool

The report is not the only evidence used when determining the outcome of a case
Because the judges can observe the participants in the case in court, they have other ways of assessing the people involved in the case
Judges do not always follow the recommendations in the report

Judges Are Not Psychologists

Judges assume that the most appropriate test is used within the report unless told differently
Trust the interpretation of the test unless it is challenged
Terms Of Reference

Creates repetitiveness within reports by repeating information that is not needed

Creates a need for psychologists to comment on matters that could be considered common sense

Generate psychologist's opinions
### Table 2

**Higher and First Order Themes for Registrars**

<table>
<thead>
<tr>
<th>Themes</th>
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<tbody>
<tr>
<td><strong>More Detail the Better</strong></td>
</tr>
<tr>
<td>Can get rid of or ignore any information that they do not want or need</td>
</tr>
<tr>
<td>Want to know as much detail as possible concerning the psychologist’s interpretation of the test results</td>
</tr>
<tr>
<td>Do not have an expert available in pre-trial conferences for cross-examination</td>
</tr>
<tr>
<td><strong>Common Sense</strong></td>
</tr>
<tr>
<td>Leave it out of the report</td>
</tr>
<tr>
<td>If it is relevant to the case then include it in the report because what is common sense to the psychologist might not be to the parties involved</td>
</tr>
<tr>
<td><strong>Terms of Reference</strong></td>
</tr>
<tr>
<td>The same terms are given to psychologists across different situations, rather than being case-specific terms of reference for the report.</td>
</tr>
<tr>
<td>Repetition within the terms of reference leads to repetitiveness in the report.</td>
</tr>
<tr>
<td><strong>Appendices</strong></td>
</tr>
<tr>
<td>Information is available if it is needed, but makes the reading of the report easier</td>
</tr>
</tbody>
</table>
Acknowledgments

My thanks to the Family Court of Western Australia; their assistance was vital to this study. I am especially grateful to the generosity of the busy judges and registrars who agreed to be interviewed and who volunteered their time and energy to share their experiences and views with me. My appreciation to Greg Dear, whose expertise with child residency cases facilitated my understanding of the Australian family court system, and whose comments and advice were invaluable to the writing of this thesis. Also, thank you to Alfred Allan for allowing me to practice my interview strategies on him, and for his comments and suggestions for the interview schedule.
Appendix A

Interview Schedule

1. Tell me what you thought about the reports.

2. Which version would you prefer to see within a court expert report? Explain why.

3. What did you not like about the other two reports?

4. Do you have any more thoughts on report 1?

5. Do you have any more thoughts on report 2?

6. Do you have any more thoughts on report 3?

7. How much detail do you need to be given regarding the nature of the test that the psychologist used?

8. How much detail do you need to be given regarding the psychologist's decision to use the particular test that he/she chose to use?

9. How much detail do you need to be given regarding the psychologist's interpretation of the test results (e.g., what the results could mean and what they most likely mean in this case and why)?

10. If you wish to, I would be very interested in hearing your thoughts about the format of court expert reports more generally. For example:

   - the balance between page length and detail
   - the degree to which court experts should comment on matters that might be regarded as common sense rather than as requiring psychological expertise (often the issues listed in the orders appointing court experts include such matters, so the court expert might be seen to not have any discretion but to enquire into and report on those matters)
   - the degree to which court experts should provide specific recommendations on ultimate issues
   - the degree of detail that reports should contain on matters such as social and developmental history of the parties (often forms part of psychological reports because it helps tell the story about who this person is psychologically)
   - how should court experts interpret section 15.63 of the new Family Law Rules in which it is stated, "include a statement about the methodology used in the production of the report"?
11. Would version 3 have included enough information for you, if you had not first seen version 1 and 2

12. Registrars only
   What do you think about the use of appendices in court expert reports?

13. The reports that you have are completely made up reports, are they realistic approximations of reports that you receive?
Appendix B

Hypothetical Residency Case Reports

Preamble:

While psychologists have always been trained to (and ethical codes have required them to) explain the purpose and limitations of the tests that they use, opinions vary widely as to how much detail is appropriate for court reports. As you would be aware, section 15.63c(v) of the new Family Law Rules states that an expert's report must include "details about any tests, experiments, examinations or investigations relied on by the expert witness and, if they were carried out by another person, details of that person's qualifications and experience". What remains unclear is the level of detail about psychological tests that the Court regards as appropriate. This issue of the appropriate level of detail is the focus of this study.

The Case:

Sally Smith and John Jones were in a defacto relationship for four years which ended one year ago when John left Sally following significant conflict over her drug use. Mary Smith, now aged two years and one month, is the only child of that relationship. Mary has been residing with her mother since her parents separated. John has had regular contact with Mary over the past 12 months. He has made an application for residence stating in affidavits that Sally is emotionally unstable and using drugs to excess and is therefore unable to adequately provide for Mary's needs.

The following are three versions of an excerpt from the Court Expert's report that is to be submitted to a pre-trial conference. The excerpt pertains to that section of the report where the expert reports on the psychological testing of Sally. The implications of the test findings for Sally's capacity to provide for Mary's needs are contained in the excerpt. Of course, the expert would not rely on test results alone to form opinions regarding residence and contact, but would weigh such data against other information (e.g., the father's test results, interview material, the quality of the relationship between the mother and child and the likely impact of moving the child to reside with her father). The test named in the excerpts does not exist. You are to assume that it is a commonly used, appropriate test for the case. It was decided to refer to a made-up test rather than name an existing test, because the focus of the study is not on the expert's choice of test, but on how test data are reported. You can assume that the expert will be available to give oral testimony.

Three versions of the excerpt are provided. They vary in terms of the detail provided but should be of equal quality in terms of writing style. The excerpts are not intended to reflect the pinnacle of report-writing, but do hopefully reflect an acceptable style and quality. When you are interviewed you will be asked to indicate which version you would prefer to see used in an expert's report. You will be asked to explain your
preference and to comment on various aspects of each excerpt. You will also be asked to comment more generally on issues pertaining to the reporting of psychological test data in Family Court reports. The interview is likely to take about 20 to 25 minutes, although we are happy to take as long as you think necessary to express your views on the topic under study and on the broader issue of psychological expert reports.

Version One:

The Multidimensional You-Beaut Personality Inventory (MYBPI) was administered to Sally Smith. The MYBPI is a 250-item self-report test that measures 15 aspects of personality that are indicative of disturbed psychological functioning and problematic social behaviour. Individuals' scores on the 15 dimensions of psychological functioning are compared with the scores that are obtained from the average person and are evaluated in terms of the degree to which they exceed the normal range. This test is not, on its own, diagnostic of psychological disturbance but indicates areas of likely disturbance that need further evaluation. The MYBPI also contains several validity scales that are designed to detect various misleading response styles such as minimising one's problems, exaggerating one's problems, random or inconsistent responses, and attempting to create a socially desirable impression.

Ms Smith's results indicate that she attempted to create a socially desirable impression. Such a response style is not uncommon when the test is administered for forensic purposes, particularly in Family Court cases, and it does not, on its own, invalidate the test results. The main implication of this finding is that Ms Smith's test results might slightly underestimate her degree of psychological disturbance, but the finding will not alter which areas of functioning will be seen to be disturbed. It is also possible that this scale elevation indicates Ms Smith's true perception of herself; as someone who is responsible, upstanding, likeable, diligent, and friendly. In any event, this response style did not preclude the test from identifying several areas in which Ms Smith's psychological functioning is likely to be disordered.

Ms Smith was assessed as having three areas of personality disturbance: an extremely high score on the borderline scale, and less extreme elevations on antisocial features and histrionic personality. The main feature of borderline personality disorder is emotional instability, impulsiveness, and significant disturbance in the coherence of the underlying personality structure. The main feature of antisocial personality is a focus on meeting one's own needs, even if at the expense of others, and of a preparedness to break social conventions and laws in order to gratify oneself. The main feature of histrionic personality is a pathological need to be the centre of attention and a general emotional neediness. In addition, the MYBPI shows that Ms Smith has a significant drug problem and is prone to both anxiety and depression.

Indications of a vulnerability to both depression and anxiety suggest a general emotional vulnerability, although elevated anxiety levels are often found in depressed persons and so the findings could also be indicative of a current depressive episode (although the clinical assessment did not detect this). The drug abuse scale indicates
that Ms Smith acknowledged her drug use problems when undertaking this test. The profile of personality patterns suggests that Ms Smith is likely to be moody, emotionally unstable, competitive, attention-seeking, manipulative, prone to feelings of resentment, more focused on her own immediate needs than on the welfare of others, and to have a low frustration tolerance. Her profile also indicates a propensity for impulsive and antisocial behaviour, or at least limited constraints against such behaviour. This personality profile, together with the cluster of anxiety, depression and drug abuse indicators, is consistent with the extremely high score on the borderline scale. The findings from this test strongly suggest a diagnosis of Borderline Personality Disorder. Since a diagnosis cannot be made on the basis of test scores alone, further diagnostic interviewing was conducted (see later section of the report).

The test findings raise several concerns about Ms Smith's parental capacity. First, her profile suggests she has great difficulty coping with the routine stresses of day-to-day life, particularly those that involve interpersonal situations. This means that Ms Smith is likely to become overly preoccupied with her own distress and problems and might have few psychological resources to devote to parenting. Second, people with this profile have considerable difficulty controlling their emotions (e.g., managing her anger, coping with frustration and anxiety) and Ms Smith is therefore unlikely to provide a calm and stable environment for her child or to manage her child's behaviour with sufficient consistency. For example, she would be prone to responding to problematic behaviour (e.g., tantrums, risky behaviour such as playing with dangerous objects) in an emotional rather than planned manner. She is less likely than the average parent to provide consistent rules for behaviour or to adopt a consistent approach to disciplining. Her child is likely to be unsure as to the limits and the consequences of going outside those limits. Third, Ms Smith is unlikely to provide an acceptable role model for her child with respect to social interactions and self-regulation. She is likely to behave in inappropriate ways toward other people (poor anger control, limited frustration tolerance, aggressiveness, and impulsive responding) in front of her daughter, not out of disregard for her daughter but as a result of poor self-regulation skills when emotionally aroused (anxious, angry, or depressed). Fourth, her antisocial tendencies are likely to preclude her from being adequately focused on the child's needs, particularly when these conflict with her own emotional needs. People who show elevations on the MYBPI scale that measures antisocial features tend to be more self-centred and to be less inclined to anticipate the needs of others. This feature makes it difficult to enact good parenting practices which require planning, preparation, and anticipation of the child's needs. A common expression of this personality feature is to respond to the child's needs as they become apparent and to experience irritation, if not more pronounced annoyance, at the consequential disruption to one's own comfort when the child's needs become apparent. Of most concern, Ms Smith's emotional instability is likely to preclude her from having sufficient psychological resources to cope with this circumstance (unanticipated needs of the child becoming apparent) in an appropriate and effective manner. The principal risk here is that Ms Smith might be prone to inappropriate and harsh disciplining of the child because of a limited capacity to manage her own anger. While the personality data from the MYBPI suggest this possibility, many people with this pattern of psychological disturbances manage their anger sufficiently well when it is their children's behaviour that is frustrating them. In short, there is an elevated risk of physical
abuse, but this increased risk is slight. Finally, Ms Smith's drug use is of concern and her emotional disturbance is likely to make it difficult for Ms Smith to desist from further drug use because it is likely to be her main coping strategy (research shows this as a common pattern in people with Borderline Personality Disorder). There are three concerns that follow from Ms Smith's pattern of regular use of illegal drugs. First, her emotional instability and inconsistent parenting might be exacerbated. Second, when intoxicated from drug use, Ms Smith is likely to be less able to monitor her child and otherwise be protective (e.g., fail to notice when the child is beginning to engage in dangerous activities, fail to ensure routine household safety such as ensuring that the child is blocked from entering the front yard and street). Third, it is likely that Ms Smith's drug use will bring her in contact with people who might pose a risk to the child.

Importantly, the types of psychological disturbance suggested by the MYBPI results are treatable and there are several programs available in the public health system through which Ms Smith could be treated (although they have long waiting lists). It is also important to note that these psychological disturbances increase the likelihood of the types of poor parenting that I have outlined, but this does not mean that such poor parenting is inevitable. Research with personality disordered individuals, and with drug users, indicates poorer developmental outcomes, on average, for their children than for other children, but it also shows that many children of those parents are functioning well, and that many parents with those problems care adequately for their children. Notwithstanding this, it is important for Ms Smith that she seek professional help (psychological counselling and treatment) to address these problems.

Version Two:

The Multidimensional You-Beaut Personality Inventory (MYBPI) was administered to Sally Smith. The MYBPI is a 250-item self-report test that measures 15 aspects of personality that are indicative of disturbed psychological functioning and problematic social behaviour. This test is not, on its own, diagnostic of psychological disturbance but indicates areas of likely disturbance that need further evaluation. The MYBPI also contains several validity scales that are designed to detect various misleading response styles such as minimising or exaggerating one's problems, random or inconsistent responses, and attempting to create a socially desirable impression.

While Ms Smith's results indicate that she attempted to create a socially desirable impression, this is not uncommon in Family Court cases and does not invalidate the test results. This finding suggests that the test results might slightly underestimate the degree of psychological disturbance, but it is also possible that this scale elevation indicates Ms Smith's true perception of herself (as socially appropriate and likeable). In any event, it did not preclude the test from identifying three areas of disturbed personality functioning. The first area was an extremely high score on the borderline scale, indicating emotional instability, impulsiveness, and poor integration of personality structure. Second, Ms Smith showed antisocial features: a focus on meeting her own needs, even if at the expense of others, and of a preparedness to break social
conventions and laws. Third, she showed some histrionic features: a pathological need to be the centre of attention and a general emotional neediness. In addition, the MYBPI shows that Ms Smith is prone to both anxiety and depression, consistent with the general emotional instability indicated by the three areas of personality disturbance. Finally, Ms Smith acknowledged her drug problem when answering questions related to that area of psychological functioning. The findings from this test strongly suggest a diagnosis of Borderline Personality Disorder. Since a diagnosis cannot be made on the basis of test scores alone, further diagnostic interviewing was conducted (see below).

The test findings raise several concerns about Ms Smith’s parental capacity. First, her profile suggests she has great difficulty coping with the routine stresses of day-to-day life, particularly those that involve interpersonal situations. This means that Ms Smith is likely to be too often preoccupied with her own distress and problems and will have few psychological resources to devote to parenting. Second, people with this profile have considerable difficulty controlling their emotions (particularly anger) and Ms Smith is therefore unlikely to provide a calm and stable environment for her child or to manage her child’s behaviour with sufficient consistency. Third, Ms Smith is unlikely to provide an acceptable role model for her child with respect to social interactions. She is likely to behave in inappropriate ways toward other people (aggressiveness, and impulsiveness) in front of her daughter, not out of disregard for her daughter but as a result of poor self-regulation skills when emotionally aroused. Fourth, her antisocial tendencies might prevent her from being adequately focused on the child’s needs. People who show elevations on the MYBPI scale that measures antisocial features tend to be more self-centred and less inclined to anticipate the needs of others. This makes it difficult to engage in good parenting practices which require planning, preparation, and anticipation of the child’s needs. Such people tend to respond to the child’s needs as they become apparent and to experience irritation, if not more pronounced annoyance, at the disruption to their own comfort. Of most concern, Ms Smith’s emotional instability is likely to preclude her from having sufficient psychological resources to cope with this circumstance (unanticipated needs of the child becoming apparent) in an appropriate and effective manner. Finally, Ms Smith’s drug use is of concern and her emotional disturbance is likely to make it difficult for Ms Smith to desist from further drug use because it is likely to be her main coping strategy (research shows that drug use commonly forms a key part of the coping style adopted by people with Ms Smith’s personality profile).

The types of psychological disturbance that the test findings indicate are amenable to treatment and there are several programs available in the public health system through which Ms Smith could obtain appropriate treatment with moderate prospects for a successful outcome.

Version Three:

Sally Smith was administered the Multidimensional You-Beaut Personality Inventory (MYBPI) which measures 15 aspects of disturbed psychological functioning. Her results indicate that she attempted to create a socially desirable impression although her
profile is valid and interpretable. Ms Smith was assessed as having several areas of personality disturbance: emotional instability, impulsiveness, a poorly integrated personality structure, antisocial tendencies, attention-seeking, and a general emotional neediness. In addition, the MYBPI shows that Ms Smith has a significant drug problem and is prone to both anxiety and depression. This pattern of findings suggests a diagnosis of Borderline Personality Disorder with histrionic and antisocial features. Since a diagnosis cannot be made on the basis of test scores alone, further diagnostic interviewing was conducted (see below).

These test findings raise several concerns about Ms Smith's capacity to provide for the physical and emotional needs of the child, Mary. First, Ms Smith can be expected to have difficulty coping with stress and will have considerable difficulty controlling her emotions (e.g., managing her anger, coping with frustration and anxiety) and is therefore unlikely to provide a calm and stable environment for children under care or to be consistent in the way that she manages children (e.g., inconsistent rules for behaviour, inconsistent disciplining). She is also unlikely to provide an acceptable role model for her children with respect to interpersonal behaviour and self-regulation. Her antisocial tendencies are also likely to preclude her from being adequately focused on the child's needs. Of most concern, Ms Smith's emotional instability is likely to preclude her from having sufficient psychological resources to cope with the routine aspects of childcare. Finally, Ms Smith's drug use is of concern and her emotional disturbance is likely to make it difficult for Ms Smith to desist from further drug use because it is likely to be her main coping strategy (research shows this as a common pattern in people with Ms Smith's type of personality).

On the positive side, Ms Smith's psychological problems are treatable and there are several programs available in the public health system through which Ms Smith could be treated.
Appendix C

Information Letter to Participants

Forensic Psychological Reports: Bridging the Gap Between Psychologists and the Family Court

The study that you are being asked to participate in is designed to identify the main features that judges and registrars in the Family Court of Western Australia require psychologists to discuss in relation to a parent’s psychological test results; and how judges’/registrars’ views match with the available psychological guidelines. This research project is being undertaken as part of the requirement of an Honours Degree, in the School of Psychology, at Edith Cowan University. The researcher is Kate Pratsides (student) and the project supervisor is Dr. Greg Dear, senior lecturer in the School of Psychology. The study conforms to the university’s ethical guidelines and has been approved by the Ethics Committee of the Faculty of Community Services, Education and Social Sciences.

In this research project you will be asked to examine three brief pieces of writing (excerpts from a hypothetical Court Expert’s report) and then engage in a brief interview. A brief overview of the dispute before the Court is also provided to place the report excerpts in context. The three written pieces depict different versions of the section in a Court Expert’s report in which a parent’s test results are described along with the psychologist’s opinion as to the meaning of those results for parenting. After you have read the case and the reports, we will set up a time to conduct an interview. The interviews will be audio-taped and consist of several questions on your views on the strengths and weaknesses of each of the three versions of how a psychologist might report test results.

At present, guidelines for psychologists who prepare forensic reports in Family Court matters have been developed by psychologists with little research data on the views of the judiciary to assist them in that process. Your participation in this project will be a step towards bringing the Family Court’s needs into closer focus for the psychologists who undertake forensic work in matters pertaining to parenting orders.

Please be assured that any information that you provide will be held in strict confidence by the researcher and supervisor. Your name will not be reported along with your responses. After the audio-tapes have been transcribed your answers will only be identified by a number and an R (for registrar) or a J (for judge). The de-identified data will be stored in a locked filing cabinet in the supervisor’s office and on computer disk. Those anonymous data will be maintained after the project is finished in the event that other researchers would like to reanalyze the data.

At the conclusion of this study, a report of the results will be available upon request. The results of the study will be written as a research report that will be available through
Edith Cowan University, School of Psychology. A copy will also be provided to the Chief Judge of the Family Court of Western Australia. We also plan to publish a paper on the study.

If you would like to participate in the study, an interview time will be set and you will need to sign the accompanying consent form. We are hopeful that all judges and registrars of the Family Court of W.A. will participate so that we can be sure that the full range of views on this matter are reflected in the research findings.

Any questions that you have can be directed to Kate Pratsides (Principal Researcher) on 0438106636 or Dr. Greg Dear (Supervisor) on (08) 6304 5052.

If you have any concerns or complaints about the research project and wish to talk to an independent person, you may contact:

Dr. Craig Speelman  
Head of School of Psychology  
Edith Cowan University  
100 Joondalup Drive  
JOONDALUP WA 6027  
Phone: (08) 6304 5724
Appendix D

Informed Consent

Please understand that your participation in this research is totally voluntary and you are free to withdraw at any time during this study without penalty, and to remove any data that you might have contributed.

Any questions concerning this project can be directed to Kate Pratsides (Principal Investigator) of the School of Psychology on 0438106636 or Dr. Greg Dear (Supervisor) of the School of Psychology on (08) 6304 5052.

I (the participant) have read the information above and any questions I have asked have been answered to my satisfaction. I agree to participate in this activity, realising that I may withdraw at any time. I agree that research data gathered for the study may be published, provided that I am not identifiable.

______________________________  ______________________
Participant                             Date

______________________________  ______________________
Investigator                           Date
Author Guidelines

INFORMATION FOR CONTRIBUTORS

The journal will normally consider only material which has not been previously published and is not currently being considered for publication elsewhere. All articles will be subject to peer review.

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Title Page containing title of paper; name(s) and affiliation(s) of author(s); a note, if applicable, of the conference at which the paper has been presented; running head and, at the bottom of the page, the name and address of the person to whom proofs and reprint requests should be sent.
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Abstract of about 150 words indicating the nature of the paper, where appropriate the research methodology and findings, and conclusions.

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Text should include an indication of approximate placement of tables and figures.
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ii. That described in the instructions to authors of the Medical Journal of Australia; or

iii. That described in the instructions to authors of the Australian Law Journal.

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