In this module, you will learn about the controversies surrounding psychological testing and specialized evaluations.

There are times when the expertise of psychology professionals and mental health professionals is used to protect both clients and society. This use of expertise calls for sensitive evaluation procedures fraught with risk for psychology professionals and mental health evaluators. The risk arises because opinion may be mistaken for fact, and this can result in unfair sentencing or lawsuits against the evaluator if the sensitive information is misused or misinterpreted in any way by third parties.

In a forensic setting, recommendations are made to assess and determine dangerousness, risk for recidivism, and the potential for future violence. These specialized evaluations require appropriate training and the administration of psychological tests designed to measure specific traits. The instruments designed to measure violence and dangerousness are surrounded by controversy because of their limited ability to assess risks beyond reasonable certainty. While they are often useful in yielding information about specific personality traits, no test can conclusively predict how and when an individual will act in any given situation. Therefore, these instruments are often the center of controversy in courts, particularly among defense attorneys. Psychological evaluations are defensible only to a certain degree. No matter what types of or how many valid instruments psychology professionals or mental health professionals use in the forensic assessment, the results will likely be viewed as the opinion of the examiner in a court of law. This leaves room for holes to be punched into theories of both the defense and the prosecution. It also reinforces the fact that you must obtain expertise through experience and training if you plan to conduct evaluations for use in the court or the legal system. The instruments will not be subject to a cross-examination as much as the evaluators who use them.

An additional factor subject to scrutiny in the legal system is the appropriateness of tests used on clients fitting certain racial, cultural, ethnic, and sexual orientation demographics if they are not represented by the norms on which the psychological tests were developed. While increasing efforts have been made recently by most test publishers to establish norms better matching race, culture, ethnicity, and sexual orientation, most major psychological instruments are still interpreted using standard norms and outdated representative populations. In addition, there is a controversy concerning what parameters of intelligence and developmental disability should be admissible in court. For example, if someone with moderate mental retardation commits murder and knows right from wrong, it is argued that the low intelligence of the individual is irrelevant in the case and should not influence sentencing. These scenarios are difficult to address with psychological testing.

In addition, you will be introduced to the different types of reports used in various forensic settings and you will be guided about what to include, what not to include, and how to present information.



* Explain the major methods and instruments in forensic assessment and apply the use of those methods and instruments to appropriate forensic client populations and relevant decision points in criminal and civil legal proceedings.
* Identify and differentiate the diagnostic and legally-defined offender categories that are commonly assessed in forensic practice including *DSM-5* disorders, organic syndromes, the mentally disordered offender, dangerousness, the potential recidivist, and pre-release inmates and patients.
* Analyze forensic cases and scenarios appropriately assessed by the clinical interview, mental status examination, behavioral observations, and standard and accepted psychological tests as they apply to clients in forensic settings.
* Identify and provide a brief description of how it might affect your findings if any potential issues with offender behaviors associated with malingering and deception exist.
* Synthesize individual assessment and evaluation data, reports, and third-party information to create appropriate reports and recommendations to the court and other relevant parties regarding the disposition of cases.

**Presentation of Information**

Now that you have learned how to identify the referral question, select appropriate psychological tests, conduct the interview and the mental status examination, and formulate ideas about recommendations and treatment, you will have to present this information to the designated third party. This presentation will require you to refer to the initial reason for referral. You have to tailor your report to the needs of the third party, the relevant legal standards of the case, and the type of legal proceedings or process. While you may have enough appropriate information to develop reports useful in determining competence or incompetence, treatment needs, or malingering, you will have to decide which information is most appropriate and how to present it to your audience. Will you include statistics and numbers? Will you use clinical and intellectual terminology? Will you make definitive statements? These are all questions you will have to consider during the production of your final report.

This module will introduce you to the different types of reports used in various forensic settings and advise you about what to include, what not to include, and how to present information. A competence evaluation probably will not require the presentation of statistics beyond what would be necessary to make your point. However, if you want to present your information to a third-party psychology professional, including more statistical data may be more appropriate. A treatment evaluation can be presented to the courts and a third party if it is to serve the purpose of determining the diagnosis and treatment needs of your client. The not-guilty-by-reason-of-insanity (NGRI) report is suitable for the court and does not highlight the treatment needs of the individual. There are many things to consider in the process of a forensic assessment. This final stage is where you will use your judgment and combine it with the data you have collected to develop your report.

**Specialized Assessments**

**The Assessment of Risk and Dangerousness: Violent Offenders, Sexual Offenders, and Mentally Disordered Offenders**

When it comes to the assessment of dangerous offenders, risk is undoubtedly the most prominent concern. Invariably, these evaluations occur to assess whether an individual with a clear history of dangerous criminal behavior is capable of being safe if released into the community. In other words, they address the level of risk of recidivism, which is the term for repeat offending. A risk-of-dangerousness evaluation would not occur for a person who has never committed any crime. In other words, a risk-of-dangerousness evaluation could not predict future crime risk for a nonoffender.

Most commonly, risk-of-dangerousness evaluations are conducted in cases where an incarcerated offender is being considered for release into the community on probation or parole. Sometimes, a risk-of-dangerousness evaluation is conducted at the time that someone is initially sentenced to determine whether he or she might be able to serve out his or her sentence in the community with monitoring, such as with an ankle bracelet. This scenario would apply in cases where an offender has done a violent yet nonheinous offense, such as a simple assault. Often, a risk-of-dangerousness evaluation is used when an offender with serious violent behavior or violent sexual behavior charges becomes eligible for early release from prison. (Nearly all judicial sentences come with the possibility of early release based on an offender's behavior in prison.) A risk-of-dangerousness evaluation would be needed to determine whether the offender can conduct himself or herself safely in the community. Essentially, an evaluation of this type is needed because it would be unwise to assess an offender’s potential behavior in the community on the basis of his or her behavior in a prison setting. Due to the structure and level of monitoring in prisons, it can be quite possible for a dangerous offender to behave nonviolently, even for years, yet upon return to the community after the regimen of a correctional setting, his or her violent or sexual behavior can easily return. However, it is not uncommon for an offender who has engaged in violent behavior or violent sexual behavior even in a prison setting to still be up for early release at some point, and an objective risk-of-dangerousness evaluation can unequivocally document how dangerous the offender truly is in order to ensure that he or she is not granted early release when it is clearly not warranted.

It is important to note that risk-of-dangerousness evaluations do not provide a definitive yes or no on whether an offender will recommit crimes in the future. Instead, these evaluations assess whether an offender is at a low, moderate, or high risk of recidivism. This system of categories of risk rather than a dichotomous risk or no-risk determination helps to make it slightly easier to quantify the degree of risk that an offender has. Nonetheless, even categories cannot fully encapsulate an offender's level of risk. For example, an offender in the low-risk category may be less likely than an offender in the high-risk category to recommit a serious offense, yet it is still possible for an offender in the low-risk category to commit a serious crime in the future. Similarly, it is possible for an offender in the high-level-of-risk category to not recommit any crimes, yet that outcome would be unlikely.

**Specialized Forensic Assessment Instruments**

A number of specialized forensic assessment instruments have been developed to determine the degree to which it is likely that an offender will be a danger to the community. Unlike competency to stand trial and insanity evaluations, in which an offender might be motivated to malinger by attempting to present himself or herself as more impaired than he or she actually is, the malingering issue in risk-of-dangerousness evaluations is that an offender is often attempting to make himself or herself appear much more positive or "good" than he or she actually is. Sophisticated risk-of-dangerousness assessments are generally able to detect false presentations among offenders.

The challenge with a risk-of-dangerousness assessment is that it is not possible to determine with 100% certainty whether someone will reoffend. Hence, the previous term of "prediction of risk" has been modified to reflect the inability for an evaluator to make a certifiable prediction. So the more commonly used term nowadays is "assessment of risk" in order to clarify that the evaluator is making an assessment rather than an actual prediction.

**The Assessment of Victims of Crime and Violence**

The assessment of victims of crime and violence is very different from a risk-of-dangerousness evaluation. An assessment of a victim of crime is unrelated to his or her risk of experiencing future crimes. Instead, such an evaluation would assess the degree to which he or she is experiencing the aftereffects of the violent act. So the assessment would attempt to determine his or her levels of posttraumatic stress, depression, and anxiety and any other reactions or psychological conditions that might be connected to the victimization. Typically, these assessments are done in the context of identifying the psychological needs of an individual in order to then share that information with a therapist who could target his or her treatment to the identified needs. The therapeutic focus for a victim of violence is generally on how the individual is a survivor rather than a victim.

**Individual Factors in Risk Assessment**

A number of individual factors can impact a risk-of-dangerousness evaluation, such as age, gender, developmental disability, culture, and sexual orientation. For example, the risk assessment of an adolescent would be different from the risk assessment of an adult. Adolescents are not yet fully developed in terms of their full cognitive capacity, which means that they may inherently have a decreased risk of reoffending as their brains mature and they are better able to inhibit themselves from making poor decisions. So predicting in adolescence behavior in the future has a number of unique challenges. Offenders who also have developmental disabilities may be difficult to assess, simply because they might not understand the testing material. So, many testing instruments might not be appropriate for this population. Similarly, they might not even understand the nature of their offenses, which would make discussing their offenses with them difficult. Many risk-of-dangerousness measures have been developed using Caucasian males with a majority sexual orientation. Because these risk-of-dangerousness tests have not been normed (developed) on many members outside of that group, such as females, African Americans, Hispanics, or homosexuals, the testing results on members of those populations might be misleading. For example, African Americans might appear more dangerous than they actually are. Females might appear less dangerous than they actually are. Either of those misperceptions could have serious adverse consequences. So an evaluator must absolutely take individual differences into account when conducting a risk-of-dangerousness evaluation.

**Assessment Report Writing**

Many people say that report writing for psychological evaluations is both a science and an art. It is scientific because factual data is presented. It is also an art in the sense that the information must be clearly written and well organized to convey the maximum amount of professionalism. Reports that are informally or poorly written may inadvertently lessen the credibility of their content. When writing a report, it is important to keep in mind that the reader will know its author because it will be prominently displayed at the top of the report. Therefore, it is not necessary to use "I" in the report. For example, consider the difference between the following two statements:

"I think this individual meets the criteria for antisocial personality disorder for the following reasons."

"This individual meets the criteria for antisocial personality disorder for the following reasons."

What's the difference between the sentences? The first one conveys a modicum of uncertainty about the diagnosis. The second one conveys greater confidence and also allows the information to not appear as merely an opinion. Yes, every written report will have some element of the evaluator’s subjectivity. However, the goal of any report is to state factual information and make appropriate conclusions and recommendations about it. The term "I" automatically connotes subjectivity and should be avoided.

To further illustrate in the report the reasoning behind the recommendations and conclusions, as much test data as possible should be included. While specific test items themselves cannot be included due to copyright laws, the precise results of every measure that is administered must be clearly delineated. It is important to include every test that was used in the report, even tests whose results did not support the evaluator's hypotheses about the case, as it would be unethical to include some test results while leaving out others.

Whether a report is at the request of the court, the client, or an attorney, forensic evaluations need to convey professionalism and respect. Even when a report is being written on an offender who has committed very heinous crimes, the evaluator needs to refrain from describing his or her own reactions. Using words such as "disgusting" or "reprehensible" in a formal report, particularly one for the court, can sound subjectively judgmental. In a court setting, technically only the judge should be making judgments. Of course, conclusions and recommendations are still an essential part of any forensic report, but care must be taken to provide them as professionally as possible. For example, consider the following statement that might be used at the conclusion of a risk-of-dangerousness evaluation:

"Based on the offender's extensive history of serious violent and sexual criminal behavior, objective test data, clinical interview, and collateral information, this offender is in the high-risk level of reoffending, which means that he has a high likelihood of posing a danger to the community if he were to be returned to it.”

The statement conveys the gravity of the matter without unneeded hostility, because in the courtroom, the judge will make the final decision (judgment) about what is to happen with the offender. In other words, a judge may or may not follow the recommendations and conclusions of the evaluator. However, in most cases, a judge can clearly see the danger that an offender poses to the community and is grateful to have an objective report to rely on when making decisions regarding the initial or continued sentencing.

**Treatment for At-Risk Offenders**

When a risk-of-dangerousness evaluation is used in sentencing, it also might include information on the treatment needs of the offender. If the offender is returned to the community, he or she may be mandated to participate in therapy as a condition of probation. It would be essential for any probation officer or therapist to be aware of the specific treatment needs that have been identified. If the offender remains in custody, treatment information can still be valuable because many prisons offer some form of therapeutic treatment, such as individual therapy, group therapy, and even a milieu treatment environment in which everyone on a particular unit receives therapy and attends the same groups.

An offender who has been mandated to treatment upon return to the community must be monitored to ensure that he or she completes any stipulations as required. Occasionally, a question arises regarding whether the mandated treatment for an offender is appropriate or ethical. However, offenders are only required to complete treatment that they agree to. For example, an individual who has assaulted his or her domestic partner may be offered probation in conjunction with group therapy for batterers instead of six months in prison. Most offenders readily agree to serving out their sentences in the community rather than in prison. However, sometimes, probation might be for a longer time than what the prison sentence would be, which is still something that offenders are typically eager to agree to. For example, in some states, an offender is required to complete a minimum of fifty-two weeks of batterer treatment for charges of domestic violence.

Risk-of-dangerousness evaluations often raise the issue of false positives and false negatives, which are terms used to describe potential errors in assessment. A false positive is when an evaluator has rated an offender as dangerous when he or she in fact is not. A false negative is when an evaluator has rated an offender as not dangerous when he or she in fact is. Although every effort is made by a forensic evaluator to mitigate the chances of any errors, they can still happen. One way to reduce errors is for forensic evaluators to keep track of their report findings. For example, if a forensic evaluator determines everyone he or she evaluates as extremely dangerous, it may be that he or she has been given many of the most serious offenders to evaluate. Alternatively, it may be that the evaluator is viewing offenders through a particular lens that makes all the offenders seem similarly dangerous. Consultation with colleagues in the field and perhaps having a trusted colleague or supervisor review a report might be a way to obtain a second opinion on the findings.



**Future Trends in Forensic Assessment**

Can an assessment of someone's genetic makeup reveal whether he or she is likely to become a pedophile? Is it possible to precisely predict someone's likelihood of reoffending with a 99% accuracy level? Should social policy allow only psychological testing to influence which offenders receive probation, which offenders receive treatment, and which offenders are incarcerated indefinitely? These are some of the recent questions that have been raised in the evolving field of forensic psychology. As genetic testing becomes more precise, objective tests become more advanced, and social policy focuses more on the protection of the public, in particular children, forensic evaluations will continue to increase in exactness, which will only serve to benefit the field, the offenders, and the community. Just as the tests used currently in forensic assessment are different now than they were fifteen years ago, the tests and procedures that will be used fifteen years from now could very well be just as different. As the field evolves, it is the ethical responsibility of a forensic evaluator to use the most up-to-date and well-researched methods of assessment. Outdated measures should be avoided, and measures that are so new that they lack adequate reliability and validity should be used with caution.

**Conclusion**

A risk-of-dangerousness assessment is an intricate process of integrating in a meaningful way data from a number of sources, such as objective test data, collateral data, historical data (offense history, prison behavior, and medical records), and clinical interview. The information in the report must be presented factually and meaningfully. While adhering to the recommendations and conclusions in a forensic evaluation is at the discretion of the judge, a professional, a well-written report is typically well received in the courtroom.