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Forensic Report Checklist

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Abstract: Reports are a major work product of forensic psychologists. Although some cases lead to testimony, almost all cases result in a forensic report. Recent work in other areas, such as medicine, has indicated that the use of a simple checklist can reduce errors. In this article, the author relies on a recent empirical study of common errors in forensic reports to generate a brief checklist for writing reports.

Keywords: forensic psychology, reports, evaluations

Introduction

In a recent book, *The checklist manifesto: How to get things right*, Atul Gawande (2009) makes a persuasive case that simple checklists can reduce errors in a wide range of complex tasks. Gawande, a general and endocrine surgeon, has written extensively on how to improve outcomes in medicine, particularly in his own specialty, surgery. Many, although not all, of his examples in *The checklist manifesto* come from medicine. Drawing on the work of Peter Provonost, a Johns Hopkins critical care specialist, he cites research demonstrating how simple checklists reduce infections from intravenous lines (Berenholtz et al., 2004), decrease the presence of untreated pain in patients (Erdek & Provonost, 2004), and reduce the length of time that patients needed to stay in the intensive care unit (Provonost et al., 2003). He discusses at some length a World Health Organization (WHO) project to reduce surgical mortality and morbidity worldwide, a project that found that a simple surgical checklist significantly reduced these factors (Haynes et al., 2009).[1]

Gawande does not limit himself to medicine, however, in demonstrating the usefulness of checklists in helping professionals deal with demanding, complex tasks. He notes that checklists are used extensively in the airline industry. Pilots have checklists ranging from preflight procedures to management of emergencies. He reviews the use of checklists in the construction industry, where checklists help construction companies deal with enormously complex construction projects.

In this engaging book, Gawande demonstrates how experience with well conceived and well executed checklists almost always overcomes the typical initial objection—"How can a simple checklist help me, a skilled professional, do my job better? Checklists

[1] The interested reader can access the actual WHO safe surgery checklist at http://whqlibdoc.who.int/publications/2009/9789241598590_eng_Checklist.pdf.

might be useful, but only for a novice." He differentiates brief checklists from more comprehensive manuals:

> It is common to misconceive how checklists function in complex lines of work. They are not comprehensive how-to guides, whether for building a skyscraper or getting a plane out of trouble. They are quick, simple tools aimed to buttress the skills of expert professionals. (2009, p. 128)

Gawande (2009) proposes the following as an explanation for the effectiveness of simple checklists:

> In a complex environment, experts are up against two main difficulties. The first is the fallibility of human memory and attention, especially when it comes to mundane, routine matters that are easily overlooked under the strain of more pressing events. . . . A further difficulty, just as insidious, is that people can lull themselves into skipping steps even when they remember them. In complex procedures, after all, certain steps don't *always* matter. . . Checklists seem to provide protection against such failures. They remind us of the minimum necessary steps and make them explicit. (pp. 35-36)

The use of simple checklists can assist our own work, much of which consists of complex tasks. Forensic reports, in particular, are a critical product of forensic psychologists. Numerous authors (e.g., Melton, Petrila, Poythress, Slobogin, 2007; Heilbrun, Marczyk & DeMatteo, 2002) have emphasized the centrality of report writing to a forensic psychologist's work. Although testimony is important, not every case leads to testimony, whereas almost all cases lead to a report. The integration of observations, review of records, information from third-party sources, psychological testing, and statute or case law into a coherent forensic report—frequently written under time pressure—seems exactly the sort of complex task for which a checklist is well suited. Use of a checklist can help the evaluator insure that he or she has followed the minimum steps needed to produce a competent forensic report.

Checklists differ from templates. Many evaluators use templates—structuring their reports and interviews, for example, around a list of standard topic headers. Checklists are different. Checklists do not necessarily focus on specific topic areas, although some may be included. Checklists, rather, include steps and procedures necessary to generate a competent report. These steps should be written in a simple, concise manner—clear enough to be read aloud, if needed.[2]

Method

How then could one construct a checklist for forensic reports? The trick is to distill a complex task into its essential elements, from which one can construct a checklist.

[2] Some of the characteristics of checklists are derived from the Checklist for Checklists of Project Check: http://www.projectcheck.org/checklist-for-checklists.html.

What are the minimum necessary steps required to write a forensic report? On the one hand, the checklist should include these essential elements; on the other hand, the checklist must be short enough that it will be used, rather than ignored. One approach is to determine what errors are commonly made in the task, focusing the checklist on these errors. In this way, the checklist user can at least ensure that he or she is not making one of the common errors.

In a recent article, Grisso (2010) reviews the literature on forensic reports. He notes that thinking regarding forensic report writing has evolved in the past few decades, as forensic psychology as a specialty has matured. For example, currently most commentators indicate that forensic psychologists should describe in their reports how their clinical data lead to their forensic conclusions—that is, the explicit connection between their observations and inferences. This recommendation was not always made in the past.

Fortunately, Grisso's article provides a roadmap in developing a forensic report checklist. Grisso analyzed a sample of 62 reports written by 36 forensic psychologists submitted as practice samples in their candidacy for the diplomate examination of the American Board of Forensic Psychology (ABFP). All 62 reports were not approved (that is, essentially rejected) by two independent reviewers of the ABFP. All were found to contain errors or deficiencies serious enough to make failure likely if the candidate was given an oral examination on these reports. With these non-accepted reports, Grisso examined the feedback letter sent to each candidate and performed the following analysis (p. 107): "Each discrete fault or problem described in the letter was identified for each of the one or two non-approved reports to which the letter referred, and these faults were tallied across all of the non-approved reports. This produced (a) a non-redundant list representing the domain of faults mentioned by the reviewers, and (b) a tally of the frequency with which each fault was mentioned across all reports."

Grisso found 30 discrete deficiencies in these report that led to their non-acceptance. He organized these 30 factors into five areas:

Introductory material

Organization and style

Data reporting

Psychological test reporting

Interpretations and opinions

As useful as these 30 factors are, they are far too numerous to form the foundation for a checklist. Fortunately, Grisso went further. He then identified the ten faults most

frequently found by the practice sample reviewers.[3] It is these ten faults that will form the basis for our forensic report checklist, with the faults recast in checklist format. I have organized these faults in a manner consistent with the flow of report writing, beginning with faults related to introductory materials, continuing with faults related to overall report style, and concluding with faults related to conclusions.

Regarding these ten checklist items, there is no claim that these items include the entire universe of possible report writing faults. Grisso himself (p. 112) wrote: "It is possible that other factors did not arise in this process because they were satisfied even by these reports that were not approved for use in ABFP oral examinations." However, as Grisso notes (p. 112) many of these faults are among those elements mentioned as important by previous commentators, as well as found among the common errors in the relatively few other empirical studies of forensic reports. Consequently, there is reason to feel confidence in the centrality of these checklist items.

Results and Discussion

In this explanatory section, I will review the checklist elements, all derived from Grisso's study. Noted in parentheses after the checklist item is the percent of non-passed forensic diplomate practice samples in which the particular fault underlying that checklist item was found.

1. Forensic referral question stated clearly (53%).

   One primary distinction between clinical reports and forensic reports is that forensic reports have a specific psycholegal question to be addressed. Frequently, this question is defined by relevant regulations, case law, or statute within the jurisdiction where the report is written or being used. The forensic question should guide the entire evaluation and, especially, the report. If the evaluation strays too far from the forensic question, it risks being considered irrelevant. Nonetheless, in over half the non-passed reports submitted by forensic psychology diplomate candidates, the forensic question was not clearly articulated.

2. Report organized coherently (36%).

   The forensic report serves to communicate technical psychological information to a non-technical audience—courts, lawyers, and quasi-legal agencies (such as probation or child-protection agencies). As such, the forensic evaluator should organize the report to guide the reader in understanding what forensic question was considered, what information

[3] Interestingly, some forensic report characteristics frequently said to be essential, such as explicit statement of informed consent, were not among the ten most common reasons for non-acceptance. It is possible, of course, that all reports contained these elements, so they did not discriminate between accepted and non-accepted reports.

the evaluator used, and how the evaluator reasoned from this information to reach his or her forensic conclusion. The flow of the report is typically from the concrete (sources of information, observations) to the abstract (inferences and conclusions).

3. Jargon eliminated (19%).

   Virtually every authority on forensic psychology report writing recommends removing jargon from one's reports, so it comes as some surprise that the presence of jargon is still one of the top 10 faults found in forensic reports submitted by forensic psychology diplomate candidates, whom one would presume to be advanced practitioners. Jargon simply stands in the way of clear communication in a forensic report. Some report writers have become so inured to the jargon they use in their daily work and conversations that they do not even identify their frequently used terms as jargon. Examples include failing to explain to the lay reader what a particular medication is used for, or expecting everyone to know what "oriented times three" means.

4. Only data relevant to forensic opinion included (31%).

   Grisso notes that traditional clinical reports sometimes stray widely from the initial referral question. Forensic reports, however, need to limit themselves to answering the forensic question. There are due process and self-incrimination issues relevant in forensic reports that do not apply to clinical reports.

5. Observations separated from inferences (26%).

   Forensic authorities generally agree that, for clarity, observations should be separated from inferences in forensic reports. If this is not done, it is all too easy for a lay reader to confuse the two, mistakenly assuming that an evaluator’s inference is really an established fact.

6. Multiple sources of data considered, if possible (22%).

   Use of multiple sources of information allows the evaluator to corroborate (or not) information received from one source—for example, the clinical interview—with information from another source—for example, the file. In some cases, multiple sources of information may not be available. In criminal cases in many jurisdictions, discovery materials are not available to the defense (or defense expert) until after indictment; in sexually violent predator civil-commitment evaluations, the individual is likely to have been

incarcerated for many years, making witness and family member accounts less accessible.

7. Psychological tests used appropriately (15%).

   Addressing forensic questions with psychological testing requires some thought. General psychological tests were not developed with specific forensic questions in mind, so there is always an inferential leap involved in interpreting general psychological tests to answer forensic questions. The evaluator needs to carefully consider what information can be drawn from psychological test results and how this information applies to the specific forensic question at hand.

8. Alternate hypotheses considered (30%).

   Alternate hypotheses are always possible in forensic evaluations. At the least, there is always the contrary hypothesis with regard to the answer to the forensic question. That is, if the question is, "Is this defendant competent to proceed to trial," then the two obvious hypotheses are that he either is or is not competent. Systematic consideration of competing hypotheses, and the evidence for and against both, makes the evaluator's reasoning clear.

9. Opinions supported by data (28%).

   Unfortunately, over one-quarter of forensic psychology diplomate candidates provided reports in which, in the diplomate examiners' opinions, their findings were not supported by the underlying data. Evaluators need to ensure that their findings are firmly grounded in the data; otherwise, the reports will be unpersuasive.

10. Connection between data and opinions made clear (56%).

    As Grisso notes in his article, at present there is broad consensus among forensic psychology authorities that forensic psychology reports should clearly describe the reasoning that leads the evaluator to his or her conclusion. Despite this broad consensus, lack of clarity regarding the reasoning that connects the data to the forensic opinion was present in over half those work samples not passed. Providing the reasoning can serve to make the report more understandable and persuasive to its reader.

Appendix

Forensic Report Checklist

1. □ Forensic referral question stated clearly.
2. □ Report organized coherently.
3. □ Jargon eliminated.
4. □ Only data relevant to forensic opinion included.
5. □ Observations separated from inferences.
6. □ Multiple sources of data considered, if possible.
7. □ Psychological tests used appropriately.
8. □ Alternate hypotheses considered.
9. □ Opinions supported by data.
10. □ Connection between data and opinions made clear.

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