The Forensic Psychiatry Section of the World Psychiatric Association has developed this position paper to provide guidelines for the conduct of Independent Medical Examinations.

GENERAL ISSUES

A psychiatric report may be requested by lawyers representing a plaintiff, lawyers representing a defendant, a judge, an insurer or others. Psychiatric reports are produced either by treating psychiatrists (TPs) or independent forensic psychiatrists (IFPs). These guidelines refer to reports produced by IFPs. They should be forensic psychiatrists or psychiatrists with subspecialisations in Forensic Psychiatry. In (complicated) asylum cases additional transcultural knowledge is a condition sine qua non.

ETHICS

1. Medico-legal assessments carry an inherent potential for conflict and misunderstanding.
2. As a consequence, they must be undertaken within an ethical framework. That ethical framework rests in the IFP's training and registration as a medical practitioner.
3. The assessment should therefore be guided by principles of medical ethics espoused by medical associations and the body of psychiatric specialists.
4. The IFP should be satisfied that any request for a medico-legal report is: appropriate, made by an appropriate party; and not liable to breach the principle of duty of care.
5. The IFP should obtain the agreement of the examinee to provide the report to the requesting body, ensure that the examinee understands the purpose of the report and that any relevant information will be included.
6. The IFP should also state whether the assessment is compulsory or not and provide information about possible consequences of non-cooperation.
7. Sufficient information should be gathered and all relevant information should be disclosed.
8. The report must be unbiased and the IFP must not act as an advocate. A psychiatrist who is engaged in the treatment of a person should not be appointed as an forensic expert for the same person.
9. The IFP should adhere to principles of honesty and make every effort to achieve objectivity.
10. It is desirable to obtain third party information where possible.
11. The report should be provided in a timely manner and the IFP must maintain the confidentiality of the report to the extent possible in a legal context.
12. The “Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” also known as the Istanbul Protocol (www.ohchr.org/documents/publications/training8rev1en.pdf) should be used whenever an alleged victim of torture or ill treatment is being examined.

CONDUCT OF THE EXAMINATION

1. IFPs should ensure they have the qualifications and expertise to perform the assessment and provide the expert opinion.
2. The assessment should be undertaken in person and in a setting that provides the greatest practical confidentiality.
3. The IFP should clearly explain the purpose of the consultation and note that it is not a therapeutic consultation and that no help, suggestions, treatment, or even feedback, will be offered, with the exception that intervention is appropriate if the examinee is at immediate and serious medical risk. If the examinee is an alleged victim of torture or ill treatment the IFP might, in line with the Istanbul Protocol, make recommendations - amongst others - for medical or psychiatric treatment, or a need for security or asylum.
4. Examinees may ask to record the interview. They may insist that they be accompanied in the interview. It is the IFP's prerogative to refuse either request. Often a compromise can be reached whereby the examinee is invited to take notes, such as the IFP is doing.
5. The consent of the examinee should be sought prior to an interview being recorded and a copy of any recording should be offered to the examinee.
6. If interpreters are required, they should be professionally trained and consideration should be given to religious, gender and cultural compatibility.
7. Questions should be asked in a way that indicates the IFP is not biased. The use of rapport building in a forensic evaluation is an ethical issue in itself, but will assist information gathering.

CONTENT OF REPORT
The report should be written in plain language. The use of psychiatric terminology should be avoided in an effort to make the information comprehensible for non-medically trained readers. Fact and opinion should be clearly distinguished. The following information should be included:

1. Qualifications and experience of the IFP.
2. A statement about who commissioned the report and the issues instructed to address.
3. A statement regarding the examinee’s consent to the preparation of the report.
4. Socio-demographic data, including the name and date of birth of the examinee, the domestic situation, marital status and number of children.
5. Personal history, including developmental, educational, occupational, sexual development, relationships.
6. A description of the examinee’s personality, interests, hobbies and coping style.
7. History of the present complaint from the examinee’s report and the reports of informants.
8. Full psychiatric history, including substance misuse, previous admissions, treatment and self-harm.
9. Family history of psychiatric or medical illness, substance misuse and offending.
10. Medical history.
11. Full offending history, including index offence.
12. Mental State Examination including a description of appearance and behaviour, speech, mood, thoughts: form and content, perception, cognitive functioning; insight and judgement.
14. If the examinee is an alleged victim of torture or ill treatment, where possible, colour photographs of all injuries should be provided.
15. A summary and formulation, or synthesis of the case, and diagnosis should be recorded. The formulation takes the form of a biopsychosocial explanation of the presumptive causative factors in the examinee’s condition.
16. Inconsistencies between reported symptoms and observed mental state or physical examination should be noted. A determination of malingering, however, is best left to the decision-making body to make.
17. Finally, an opinion is offered, in relation to questions posed by the requesting body. The report itself should clearly demonstrate how conclusions were reached. Limitations to the examination should be explained in the report and mention made of investigations or other data that are required to reach a concluded opinion.
18. Comments on special issues may be required, including prognosis, management, impairment, disability and legal concepts such as competency.

CONCLUSION

To be considered an expert, an independent forensic psychiatrist need to be expertly qualified and have current or recent practice experience in the subject area. He or she should be independent, adequately briefed, make a comprehensive assessment and provide a complete, unbiased opinion within his or her area of experience and expertise, within a framework of medical ethics.