MEDICAL–LEGAL FORENSIC REPORTING BY INDUSTRIAL PSYCHOLOGISTS: A QUALITATIVE ENQUIRY INTO REQUIRED SKILLS AND KNOWLEDGE

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REMARKS

The reader is reminded of the following:

- The referencing, as well as the editorial style as prescribed by the Publication Manual (6th edition) of the American Psychological Association (APA), was followed in this mini-dissertation. This practice is in line with the policy of the Programme in Industrial Psychology of the North-West University (Potchefstroom Campus) to use APA style in all scientific documents.

- The mini-dissertation is submitted in the form of a research article.

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SUMMARY

Title: Medical-legal forensic reporting by industrial psychologists: a qualitative enquiry into required competencies

Keywords: Industrial Psychologist, medical-legal, forensic psychology, forensic work, forensic investigation, report writing, competencies, Health Professions Act, Road Accident Fund, fatal injury, non-fatal injury, workers compensation, dismissal

With the proposed new registration category for South African forensic psychologists, it is becoming very important to gather and publish information that is specific to the field. It is important to investigate how forensic work relates to the industrial psychologists that are at present doing this type of work, and not only generally applicable to practitioners in the medico-legal field. Very little is available about the practical application of industrial psychology in the medical-legal setting. The main action taken by industrial psychologists is writing a medical-legal report for court use. No current guidelines or courses - which focus on this aspect - seem to exist or are presented specifically for industrial psychologists.

The aim of this study was to gain further understanding in the field of medico- or psycho-legal work as performed by industrial psychologists. The researcher gathered information to determine what the characteristics are of a medico-legal report that is deemed suitable for court, and the underlying competencies demanded of the industrial psychologist to create such a report.

This study provides information around the content of the forensic medical-legal report for use in court by attorneys. A thorough explanation of all the aspects is given to create a better understanding of the detail that should be addressed by such a report. An indication of the concomitant knowledge and skills needed to compile the medical-legal report is discussed.

The research highlights the need for formal training of industrial psychologists who want to enter this field. Lastly, the research suggests that the proposed new forensic category is expanded to include the acts of the forensic industrial psychologist

CHAPTER 1

INTRODUCTION

This mini-dissertation focuses on the role of the industrial psychologist in the process of medical-legal reporting. The content of the medical-legal report, as well as the underlying skills and knowledge to write such a report, are investigated.

The first chapter introduces the problem statement and provides a background to the main themes touched on by the research. The general and specific objectives for the research are stated. The research method is discussed and an overview of the division of chapters is given.

1.1 PROBLEM STATEMENT

Work-related injuries cost companies millions every year. A staggering 3.6 million workers suffered non-fatal injuries in America during 2006 (Bush & Iverson, 2012). A 2007 report by the Minister of Labour states that R168 million was paid for claims received from the construction sector in South Africa in 2005. This number increased to R201 million in 2006 and represented 9.4% of all claims paid by the Compensation Commissioner. Incidents in the construction sector alone totalled more than 130 fatalities in 2007. These figures do not include statistics from the mining, manufacturing and farming industries (Department of Labour, 2007). Another aspect of this problem is that no recent South African data is available, other than those quoted above. Those figures are almost a decade old.

South African laws are very clear on the procedures that should be followed once an injury has been sustained. The Compensation for Occupational Injuries and Diseases Act 130 of 1993 (South Africa, 1993), provides for compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment, or for death resulting from such injuries or diseases; and to provide for matters connected therewith. Section 79 of the Act explains the procedure that should be followed when medical personnel are asked to provide evidence. It states that the commissioner may consult the South African Medical and Dental Council, the Medical Association of South Africa, the Chiropractic Association of South Africa, and any other representative medical authority, concerning matters connected with any claims (Medical, Dental and Supplementary Health Service

Professions Act 56 1974 (South Africa, 1974a). It is usually at this point where medical professionals and psychologists are asked to assist.

The Labour Relations Act 66 of 1995 (South Africa, 1995, as amended in 2000), provides clear guidelines on procedures to be followed before workers can be dismissed, for incapacity, as explained by Makalipi (2002). Incapacity in this instance usually refers to accidents and safety that impact on workers to such an extent that they are unable to continue working. The code of good practice on dismissals sets out guidelines on what is necessary for a dismissal to be substantively and procedurally fair. The law states that the employer must first investigate all possible ways of avoiding dismissal. If the incapacity is permanent, the employer should try to find alternative work for the employee, or adapt the work so that the employee is still able to do it. Makalipi (2002) states that the employer will be even more liable to accommodate the employee, should the injury be due to an incident in the workplace.

It is clear from the legislation that some form of intervention is asked from both the employer and the medical personnel once an accident has transpired. The role of the industrial psychologist as the professional that deals with both employee and employer can be difficult. This role often expands to the forensic specialist that will assist in an advisory capacity from outside the organisation (Bush & Iverson, 2012). In South Africa a large number of industrial psychologists work in private practice and a fairly large portion of the forensic work during the last 20 years relates to Road Accident Fund claims (Olukoga, 2004). The Road Accident Fund is a government agency that evaluates third party claims after injury relating to road accidents. There are, however, not many guidelines available for the forensic aspect of industrial psychologists' work and their scope of practice in the area of assessment of workplace injury, incapacity, and claims due to road accidents.

1.1.1 Scope of practice for industrial forensic psychologists

The Health Professions Council of South Africa is responsible for determining the scope of practice for all categories of Psychologists. The scope of practice, as well as the actions associated with that of an industrial psychologist, is regulated by the Health Professions Act 56 of 1974, (South Africa, 1974) under section 61, and should be regarded with section 33 of the Health Professions Act 56 of 1974 (amended 2 September 2011). These regulations

determine that the following acts fall within the scope of practice of industrial psychologists, and are deemed within their competency and skill set:

1. Planning, developing, and applying paradigms, theories, models, constructs, and principles of psychology in the workplace in order to understand, modify, and enhance individual, group, and organisational behaviour effectively.
2. Performing psychometric and other assessments in order to determine the potential and/or suitability for training, development and employment and to determine individual, group and organisational effectiveness; referring clients to appropriate professionals for assessment or intervention; designing, developing, standardising, and implementing assessment tools and procedures related to the work environment.
3. Facilitating individual, and group processes for effective organisational functioning; designing, and implementing training programmes for effective organisational functioning; designing, and developing strategies in consumer behaviour; developing interventions to ameliorate poor performance in work settings; designing, and implementing programmes based on understanding ergonomics.
4. Advising on the development of policies, based on psychological theory and research; designing, managing, and evaluating industrial psychology intervention programs.
5. Training and supervising other registered psychology practitioners in industrial psychology.
6. Conducting psychological practice and research in accordance with the Ethical Rules of Conduct for Practitioners registered under the Health Professions Act, 1974; adhering to the scope of practice of industrial psychologists.
7. Designing, managing, conducting, reporting on and supervising the industrial psychology research.
8. Providing expert evidence and/or opinions. (Government Gazette, 2011, p. 11)

It is under this last point where most of the forensic work resorts. When evaluating the list of study material available for board examinations as an industrial psychologist, the following laws and acts are included in the study material: Criminal Procedure Act 43 of 1977, Child Act of 2004, Child Justice Act of 2010, Basic Conditions of Employment Act of 2007 and Health Professions Act of 2003 (Health Professions Council of South Africa, 2012)

When the role of the industrial psychologist is investigated in these laws, it becomes very difficult to find a clear cut guide that indicates what their role in forensic matters would be.

Often the only references made in the various acts are to the "medical practitioner" or "health care professional," followed by various boards of registration. A good example is the Basic Conditions of Employment Act of 2007, chapter 3 Sections 22 and 23 (Basic Conditions of Employment Act 2007, South Africa, 2007) that refers to the inability to work caused by an accident or occupational disease. In this Act, reference is made to the medical practitioners that will make such an assessment and advise in accordance to the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (South Africa, 1993), or the Occupational Diseases in Mines and Works Act 78 of 1973 (South Africa, 1973).

What complicates matters further is that very little is available from sources in other countries. The United States of America's system for classifying psychologists is very specific: The American Psychological Association (APA, 2013) currently contains 53 separate divisions, each devoted to a specific area within psychology. Their understanding of a clinical, neurological or industrial psychologist will be very different with regards to scope of practice when compared to South Africa. The Health Professions Council of South Africa (2013) currently identifies five registration categories for psychologists, and two proposed new categories: neuropsychology and forensic psychology.
In light of the above, it is important to gain an understanding of the specific knowledge and skills that will enable the forensic industrial psychologist to effectively function as a forensic expert.

1.1.2 Knowledge and skills required by industrial forensic psychologists

The common denominator in explaining what forensic psychologists do, is their assistance to law professionals for instance lawyers, prosecutors and the police service (Huss, 2009; O'Donohue & Levensky, 2004; Roos & Vorster, 2009;). It is, however, difficult to determine the exact nature of this assistance in the field of Industrial Psychology, as these authors discuss the field from a clinical and criminal point of view. Matthew Huss discusses the tasks of the forensic psychologist as the study of human behaviour and the application of those principles in assisting the legal system (Huss, 2009). He furthermore defines two broad areas of law in which psychologists work. In criminal law the focus is put on criminal acts against society, and this usually falls under the auspices of the clinical forensic psychologist. In civil law the areas of personal injury, worker's compensation and competency at are included in related forensic fields.

An interesting observation by Huss (2009) is that the law and psychology are often, by nature of their basic science, at odds because the same questions will be answered differently from each point of view. The way to bridge this divide is therapeutic jurisprudence. This term refers to the impact of psychology on the legal system and seeks to apply psychological research to the legal system in order to promote the psychological and emotional well-being of the individual that comes into contact with any aspect of the law (Huss, 2009). Roos and Vorster (2009) share Huss's view regarding the different areas of the law in which psychologists are involved and add, from a South African perspective, that industrial psychologists will often work on cases relating to accidents in the work place, or on the road, as well as any legislation where work-related aspects are addressed.

From the authors mentioned above, three broad areas of work can be identified for forensic psychologists. Firstly, the forensic psychologist assesses the client/patient in order to assist the law in executing its duties. This assessment can take a number of forms and can include reports from other experts in the field (O'Donohue & Levensky, 2004). Huss (2009) emphasises that very specific ethical considerations accompany assessment if those assessments are conducted in the context of possible legal procedures. Apart from high proficiency in assessment tools, compliance to ethical standards is essential. Secondly, the forensic psychologist will either prescribe treatment or give treatment as deemed necessary. This can be applicable to settings in industrial psychology where, for example, debriefing and trauma counselling after an accident in a factory is coupled with an assessment of fitness to continue a specific job (Bush & Iverson, 2012). Thirdly and finally, the forensic psychologist must have a thorough and clear understanding of how the case/patient fits in with the relevant legislation. For example, an argument for diminished capacity must be guided by the legal definition. The forensic psychologist must be able to accurately assess the case or patient. This will include evaluating emotional, behavioural and mental capability. From this assessment the practitioner should be able to predict future ability and mental fitness (Huss, 2009).

At present, the forensic actions of psychologists, all medical personnel and the legal fraternity are under the auspices of The Medical-legal Society of South Africa and membership to this organisation is voluntary. This association has links to the American Medical-legal Society and adapted their code of ethics as a guideline. This is a fairly recent development, but should lead to more information pertinent to South Africa. With the proposed new registration for forensic

psychologists, it is becoming very important to gather and publish information that is specific to the field of the industrial psychologist and not only generally applicable to practitioners in the medico-legal field.

At present, some attempts are made to expand the knowledge of industrial psychologists prospectively interested in forensic work, and to institute training programmes that will focus on specific skills. Roos and Vorster (2009) defined forensic psychology as the applications of psychological knowledge to the legal field. They stated that the industrial psychologist will provide parameters by which these opinions can be quantified. In order to execute this properly, a sound understanding and detailed knowledge of all the reports of all the others is needed, usually including the reports of various medical and allied health professionals (such as an orthopaedic surgeon, occupational therapist, and/or clinical psychologist). The purpose of the industrial psychologist's report is to quantify the other reports in order to establish a monetary value to injury. Although this action would seem straight-forward, it involves not only the interpretation of expert medical reports from outside the discipline and realm of industrial psychology, but often also a subjective interpretation and assessment of a clients' work ability. Finally, this all needs to be translated into various financial scenarios for affected individuals, based on a case-by-case assessment. Clearly, this demands a very specific set of skills and competencies from the industrial psychologist. Little or no guidance, however, exists, whether formal or popular. The medical-legal report written by the industrial forensic psychologist includes a summary of all the above. There is very little information specifically pertaining to the forensic report written by the industrial psychologist. There are, however, guidelines for writing a forensic report. Roos and Vorster (2009) suggest the proper format for a report is the following:

- The title and demographics of the psychologist. This should include address, telephone numbers, practice number and registration number of the psychologist.
- The title and demographics of the client(s). Here the full names and surname (including a maiden name if appropriate), ID number or date of birth, age gender, marital status, highest qualification, employment status and date of consultation.
- The purpose of the evaluation or reason for referral, the person requesting the evaluation must be included as well.

- Sources of information. Here all sources and the reasons for inclusion should be included as well. Possible sources can be consultations, biographical questionnaires, third party information (medical reports, lawyers' reports etc.)
- Background information should include all the possible aspects that can influence a report for example family history, education, medical background etc.
- Behavioural observations
- External sources of information, where all the possible sources of information were listed before, now only documentation specific to the person being evaluated should be discussed.
- Psychometric assessment results, usually only the integration of the findings.
- Detail in the report regarding the reason for the referral, here aspects like pain, emotional and physical changes can be explained.
- The summary or discussion. Here a logical pattern should be followed through all the information. It should culminate in specific recommendations.
- Recommendations should be short and to the point. The feasibility of recommendations is very important (Roos & Vorster, 2009).

Few journals and text books focussed on the specific actions and knowledge required by the forensic industrial psychologist actions and knowledge. As such, the researcher proposes to do an exploratory study to gather expert opinions by means of qualitative investigation on the subject of the industrial psychologist as a forensic expert. The research will be able to provide much needed information abound the writing of medical-legal reports and the knowledge and skills required to do so.

1.2 RESEARCH OBJECTIVES

The research objectives are divided into a general objective and specific objectives.

1.2.1 General objective

The general objective of this research is to establish criteria for sound reporting, and the skills and knowledge needed for an industrial psychologist in forensic reporting and evaluation.

1.2.1 Specific objectives

The specific objectives of this research are:

- To summarise the current available research on medical-legal work.
- To compile a list of aspects needed in a forensic report that will be suitable for court.
- To identify the skills and knowledge that an industrial psychologist needs to compile a forensic report for courts or industry.

1.3 RESEARCH METHOD

The research method consists of a literature review and empirical study. The findings obtained from the research will be presented in the form of a research article (Chapter 2).

1.3.1 Research Design

The research approach that was followed is qualitative and exploratory. Qualitative research, according to Struwig and Stead (2001), is any research that cannot be reported in the form of numbers. The nature of the research is exploratory and is conducted in natural settings. Terre Blanche and Durrheim (1999) stated that this approach is flexible and should be followed if the goal is to gain new insights into a phenomenon. The research is conducted to record the meaning of the individuals' understanding and evaluation of an aspect. This study is conducted with the theory-generating design derived from Glaser's Grounded Theory (Witzel, 2000). Grounded theory proposes that, where very little theory exists, theory is generated "in vivo" through a process of information gathering that is totally free of pre-conceived ideas or theory through, for example, one-on-one theory generating interviews (Barbour, 2008). It is important to realise that this does not imply that a thorough literature review should not be conducted. Grounded theory should only be utilised when very little to no theory exists that can illuminate the research question (Barbour, 2008; Struwig & Stead, 2001). Based on this definition, this approach is deemed particularly suitable to investigating the research questions of the current study.

1.3.2 Qualitative Research

The research was conducted using qualitative, exploratory methods.

1.3.2.1 Research Setting

The data was collected by means of interviews at the participants' offices in order to minimise inconvenience to them. The subject matter is not highly confidential or personal. The use of different settings will not influence the data. The objectives of the research and the participants' unique contribution will be explained to them. The interviews was transcribed and permission will be obtained to record them as well.

1.3.1.2 Entry and establishing researcher roles

Where possible, participants were contacted directly by the researcher and the purpose of the research will be explained. Their participation will be voluntary, and if participants prefer, anonymous. Where this process is impossible, a regular appointment will be scheduled and paid for, according to normal fee schedules.

1.3.2.3 Participant selection

This study will be conducted among participants who are psychologists in forensic settings, industrial psychologists who practise in the field of forensics, and lawyers who utilise industrial psychologists. The participants who will be asked to participate will be experts in their respective fields. Two research questions will be asked and the answers will be written down and recorded, provided that consent is given.

1.3.2.4 Sampling

A combination of two sampling methods will be used. Purposive snowball sampling (Devers & Frankel, 2000; Struwig & Stead, 2001) entails that the initial respondents will be obtained by probability samples and these respondents will then refer the following respondents to the researcher. This technique will suit the research well as experts in a field tend to know each other well, and this section of the professional community is rather small. Purposive sampling strategies are specifically aimed at obtaining better understanding of specifically selected individuals' or groups' experience(s) when the aim is to develop theory or new concepts. For the purpose of this study the researcher seeks new and rich data. In this regard Devers and Frankel (2000, p. 265) explain that "information rich" cases must be selected that provide the greatest insight into the research question.

This process will be repeated until the same themes are repeated. This technique is called sampling to redundancy and the cut-off is achieved when no new information can be gained from increasing sample size (Terre Blanche & Durrheim, 1999). In this study three populations will have to reach redundancy: psychologists in the field of medico–legal work, industrial psychologists, and law practitioners.

1.3.2.5 Data collection methods

The semi-structured, problem centred interview (PCI) will be used. Methodologically, this approach borrows largely from the theory-generating procedure of Glaser's Grounded Theory (Witzel, 2000). This approach facilitates faster interviews that can be more easily analysed and compared (Campion, Campion & Hudson, 1994). The advantage of the semi-structured interview is that it allows multiple and detailed responses to the questions. This method will be well suited to the research, as it will allow the discussion of issues beyond the confines of the questions (Struwig & Stead, 2001). There are different ways to conduct semi-structured interviews. The PCI is a "discursive dialogue procedure" (Witzel, 2000, p. 1) in which respondents are considered experts. This view should be clear from the start of the interview so that participants will be confident to express their own views and be at liberty to correct their own or the interviewer's views and comments. This is a flexible procedure that combines listening and repeated questioning. The aim is to ensure that the interviewer's view of the problems being addressed does not simply overlap the respondent's, and that the theory is not simply superimposed upon the collected data (Witzel, 2000). During the interview two questions will be put to the participant:

- What should be included in the forensic expert industrial psychologist's medical–legal report that will satisfy the needs of the legal system, or ultimately, the court?
- Which concomitant knowledge and skills are considered critical for forensic expert industrial psychologists to compile such a medical–legal forensic report for the legal system and/or court use?

Participants will be free to answer in either Afrikaans or English, depending on their individual preference.

1.3.2.6 Recording of data

The data will be transcribed by the interviewer during every session. Permission will be asked to record the interview as well. These interviews will be typed immediately after the interview and compared to the audio recording to make sure no data is lost. An effort will be made to record all the interviews, but careful field notes will be kept as a backup. Copies will be printed and the data will be kept as backup on both Dropbox (a secure password protected cloud hosting service) and a memory stick. This will ensure the integrity of the data when the coding is done and triangulated by other experts.

1.3.2.7 Data analyses and strategies employed to ensure quality data

The Grounded Theory of Glaser (Barbour, 2008) involves the researcher simultaneously in both data collection and analysis. Theories are developed from the research and not from preconceived ideas (Charmaz, 2003). The coding of qualitative data entails assigning unique labels to text passages that contain references to specific categories of information (Campion, Campion & Hudson, 1994). The qualitative researcher achieves validity by generating valid observations. This validity is determined by the believability of observations made by the researcher, for both the participants of the study, as well as the readers of the research (Terre Blanche & Durrheim, 1999). All the data will be transcribed to prevent some information getting lost (Witzel, 2000), or to ensure that the researcher, as a part of the process, does not prematurely impose their own views on the data. Once the data has been transcribed, the process of analysis will begin. First the themes will be extracted. In this regard, Terre Blanche and Durrheim (1999) advise that themes should be extracted with the end goal of the study in mind and should aim to be optimally complex in order to extract valuable content. Qualitative reliability assessments involve two or more researchers independently coding non-numeric data and coming to an agreement about the nature of the codes and the data therein (Cook, 2011). There are different ways to ensure reliability, according to Cook (2011) and Charmaz (2003), including multiple coders that confirm a coding framework. In this study, an industrial psychologist with experience in coding will triangulate the findings in order to make sure that the themes that were extracted correlate with their findings and declare those findings valid.

1.3.2.8 Reporting

Grounded theory implies that no theory will be imposed on the data, and all the themes and codes that are extracted will be found directly from the transcribed interviews (Medjedović &

Witzel, 2005). Data will be classified according to the themes and a coding system will be used to ensure that all the data can be used (Struwig & Stead, 2001). The data analysis process will be initiated by constructing a data classification system. Medjedović and Witzel (2005) advise that all the themes and/or categories should be inspected to make sure that the richness of the data is not lost.

Once the themes are determined, the information from the research can be coded. In order to achieve this, the data must be cleaned. Charmaz (2003) suggests that line-by-line coding will serve this process best. In that way, none of the essential critical data falls away. This will prevent codes and meaning are being tainted (Basit, 2003) by the subjective experiences or assumed theories the researcher may possess. The coding will be done by two psychologists to ensure that the integrity of meaning stays intact. Findings will be recorded in Microsoft Excel. Researchers using qualitative methods often find themselves lost in a sea of data. Meyer and Avery (2009) found analysing with Microsoft Excel a useful tool to establish and record the richness and interconnections between the data. Excel is very powerful as a qualitative tool. It can handle large amounts of data and provides multiple attributes. As a final method to ensure quality findings, a third psychologist will be used to check the findings. In this way, inter-coder reliability can be established. Inter-coder reliability is the widely used term for the extent to which independent coders evaluate a characteristic of a message and reach the same conclusion (Basit, 2003; Lombaard, Snyder-Duch & Bracken, 2005).

All the procedures followed and actions taken by the researcher will be carefully recorded in field notes in order to ensure that the study can be replicated by other researchers. Van Maanen in Wolfinger (2002) describe field notes as little notes by the researcher that can be seen as reconstructions of all the events, observations and conversations that took place in the field. They are composed as notes during the process of research, often as little notes to oneself.

1.3.3 Ethical considerations

The ethical issues concerning this study are that participants will participate on a voluntary basis. Due to the nature of the sampling method, the participants will know one another and the purpose of the research is to establish expert opinion. Confidentiality and privacy will be guaranteed should any personal information be disclosed during the interviews. A full explanation of the nature and purpose of the research will be given to ensure informed consent.

The freedom of the participants' viewpoints and beliefs will be guaranteed and they will be free to withdraw from the study at any time should they want to.

1.4 OVERVIEW OF CHAPTERS

The objectives of the research were set out in Chapter 1, as well as the proposed qualitative methodology outlined. The empirical study will be conducted and reported on in Chapter 2. Finally, Chapter 3 will provide the conclusions, limitations and recommendations based on this investigation.

1.5 CHAPTER SUMMARY

This chapter discussed the problem statement and research objectives. It explained the research method that will be followed and provided a brief description of the chapters to follow.

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CHAPTER 2

RESEARCH ARTICLE

ABSTRACT

Orientation: With the proposed new registration category for South African forensic psychologists, it is becoming very important to gather and publish information that is specific to the field. It is important to investigate how forensic work relates to the industrial psychologists that, at present, are doing this type of work, and not only generally applicable to practitioners in the medico-legal field. Very little is available about the practical application of industrial psychology in the medical-legal setting. The main action taken by industrial psychologists is writing a medical-legal report for court use. Yet, no current guidelines or courses seem to exist or are presented with focus on this aspect, specifically for industrial psychologists.

Research purpose: The aim of this study was to gain further understanding in the field of medico or psycho legal work as performed by industrial psychologists. The researcher gathered information to determine what the characteristics are of a medico-legal report that is deemed suitable for court, and the underlying competencies demanded of the industrial psychologist to create such a report.

Motivation for the study: It is clear from the literature that very little research is done in this field and few publications are available giving guidelines and direction to practitioners in the field.

Research design, approach and method: A qualitative study with interviews was used in this study. The target population was psychologists practicing in the medico-legal field and lawyers that specialise in third party claims.

Main findings: This study provides information around the content of the forensic medical-legal report for court use by attorneys. A thorough explanation of all the aspects is given to create a better understanding of the detail that should be addressed by the report.

Practical/Managerial implications: An indication of the concomitant knowledge and skills needed to compile the medical-legal report is discussed.

Contribution/Value-add: The research highlights the need for formal training of industrial psychologists that wants to enter this field. Lastly the research suggests that the proposed new forensic category is expanded to include the acts of the forensic industrial psychologist, as better regulation is needed.

Keywords: Industrial Psychologist, medical-legal, forensic psychology, forensic work, forensic investigation, report writing, competencies, Health Professions Act, Road Accident Fund, fatal injury, non-fatal injury, workers compensation, dismissal.

INTRODUCTION

World-wide work related injuries cost companies millions every year. Bush and Iverson (2012) reported in 2006 that 3.6 million American workers suffered nonfatal injuries from a population estimated at around 280 million (www.census.gov), representing 1.2% of the population (Bush and Iverson, 2012). In 2005 in South Africa (Department of Labour, 2007), R168 million was paid for claims received from the construction sector. This number increased to R201 million in 2006 and represented 9.4% of all claims paid out by the Compensation Commissioner. In 2007, incidents in the construction sector alone totalled over 130 fatalities. These figures did not include the mining, manufacturing and farming industries' statistics; other sectors that also make a contribution to total fatalities (Department of Labour, 2007). Milly Ruiters, the director responsible for Occupational Health and Hygiene for the Department of Labour, stated in 2012 almost R3 billion was paid out in claims during the 2009-2010 financial year. (Ruiters, 2013).

Once injuries are sustained, a rigid process of validation and treatment is followed, as governed by the Compensation for Occupational Injuries and Diseases Act, no. 130 of 1993 (South Africa, 1993). The law provides for compensation when an employee is disabled during the course of their employment. This includes the whole scope from occupational injuries, diseases contracted and/or for death resulting from such injuries or diseases. It also serves as a guide of the processes that needs to be followed during the course of establishing the validity of the claim and establishing appropriate treatment and/or compensation.

During this process, qualified professionals are usually asked to provide evidence. Section 79 of the Act explains the procedure that should be followed when medical personnel are asked to provide evidence. It states that the commissioner may consult the South African Medical and Dental Council, the Medical Association of South Africa, the Chiropractic Association of South Africa, and any other representative medical authority, concerning matters connected with any claims (Medical, Dental and Supplementary Health Service Professions Act 56 1974, see South Africa (1974a)). It is usually at this point where medical professionals and psychologists are asked to assist.

When industrial psychology is compared to other, more traditional disciplines like clinical psychology; it is still an evolving discipline (Schreuder & Coetzee, 2012). Scientific research is ongoing in the field due to the changing nature of the workplace and need for ever expanding knowledge in order to apply behavioural expertise to various organisational contexts.

Established sub-disciplines of industrial psychology, together with their respective practices, include personnel psychology, career psychology, organisation psychology, consumer psychology, psychological assessment, and ergonomics (Barnard & Fourie, 2007). As a result, advances were made in building relationships with professionals and linking competencies from other contexts (van Lill, 2013).

The field of Industrial Psychology has long extended past the mere world of work. It is known that a number of psychologists work in various areas that are not well defined by the HPCSA's Scope of Practice of Psychologists (Richter, 1998). This study is aimed specifically at the work of the industrial psychologist practicing in the medical-legal field. New registration categories are being proposed by the Health Professions Council, one of these categories being that of the *forensic psychologist*. According to a discussion document regarding the new proposed category, forensic psychology is defined as psychologists that work within the legal and judicial system to assess, diagnose and intervene with people in order to develop an understanding of criminal behaviour using psychological principles (admin@psyssa.com, 2015).

In light of this, it is becoming very important to gather and publish information that is specific to the field of the industrial psychologist and not only generally applicable to psychologists in the medico-legal field, or specifically to forensic psychology.

LITERATURE REVIEW

A large number of industrial psychologists in South Africa work in private practice and focus on forensic psychology. During the last 20 years a portion of this related to Road Accident Fund claims, the government agency that evaluates third party claims after citizens suffer disability (realised and potential) in road accidents (Olukoga, 2004). Another area relating to forensic industrial psychology is the assessment of workplace injury and resulting incapacity. Unfortunately, this area of industrial psychology is not clearly defined by the Health Professions Council of South Africa (HPCSA, 2013).

A key factor that distinguishes forensic psychology is the application of psychology in legal context. The American Psychological Association defines forensic psychology as the application of clinical specialties to the legal arena (Ward, 2013). Ward (2013) also discusses the definition by Christopher Cronin, who defines forensic psychology as all application of

clinical specialties to apply to legal institutions and people who come into contact with the law. In her discussion she queries the one-sided referral to the clinical psychology field. She states that the definition is too narrow and that a broad definition will emphasize the application of research and experimentation in other areas of psychology (e.g., cognitive psychology, social psychology) to the legal arena. This implies the rigorous application of scientific precautions to ensure that any finding will stand in a court of law. In order to achieve this, a strong evidence-based approach to psychology needs to be followed.

Forensic psychologists take rigorous scientific precautions to ensure fair and objective evaluations (Allen, 2008). Modern-day forensic psychology is applied in both the criminal and civil contexts (Huss, 2009), a classification that is used both internationally and in South Africa. A determination of the current guidelines and scope of practice will be made in the following pages, as well as the prevailing ethical principles influencing the current status quo. Swanepoel (2010) stated that, in clinical and forensic practice, situations may present itself that have no ethically clear-cut right course of action. The psychologist should then be guided by a set of ethical principles that can be focused on, for example utilitarian ethics, where the consequences of actions are evaluated, or virtue-based ethics, where the possible actions of the fictional 'good and reasonable man or woman' in the same circumstances may be considered.

Scope of practice.

The HPCSA is responsible for determining the scope of practice for psychologists. The scope of practice and the actions associated with that of an industrial psychologist are regulated by the Health Professions Act 56 of 1974 (South Africa, 1974) under section 61 and read with section 33 of the Health Professions Act 56 of 1974 (South Africa, 2011). These regulations determine that the following acts fall within the scope of practice of industrial psychologists, and are deemed within their competency and skill set:

1. Planning, developing, and applying paradigms, theories, models, constructs, and principles of psychology in the workplace in order to understand, modify, and enhance individual, group and organisational behaviour effectively.
2. Performing psychometric and other assessments in order to determine the potential and/or suitability for training, development and employment and to determine individual, group and organisational effectiveness; referring clients to appropriate professionals for assessment or intervention; designing, developing, standardising and implementing assessment tools and procedures related to the work environment.

3. Facilitating individual and group processes for effective organisational functioning; designing and implementing training programmes for effective organisational functioning; designing and developing strategies in consumer behaviour; developing interventions to ameliorate poor performance in work settings; designing and implementing programmes based on understanding ergonomics.
4. Advising on the development of policies, based on psychological theory and research; designing, managing and evaluating industrial psychology intervention programmes.
5. Training and supervising other registered psychology practitioners in industrial psychology.
6. Conducting psychological practice and research in accordance with the Ethical Rules of Conduct for Practitioners registered under the Health Professions Act, 1974; adhering to the scope of practice of industrial psychologists.
7. Designing, managing, conducting, reporting on and supervising the industrial psychology research.
8. Providing expert evidence and/or opinions (Government Gazette, 2011, p. 11).

The area of forensic work will resort under point 8. As is clear from the above-mentioned, not a lot of clarification has been provided and further guidance should be sought. In light of this problem, the emphasis moves to more information provided by the HPCSA. The Board of Psychology publishes a list of guidelines when preparing for Industrial Psychology board exams. This list sheds some light on the underlying competencies and knowledge needed to register as an Industrial Psychologist. The following laws and Acts are included: Criminal Procedure Act 43 of 1977; Child Act of 2004; Child Justice Act of 2010; Basic Conditions of Employment Act of 2007 and Health Professions Act of 2003 (Health Professions Council of South Africa, 2012). Although all the legislation included to obtain this qualification is related to some medical-legal action, clarification is not provided about the possible role of the forensic industrial psychologist in the medical-legal field. In fact, the forensic category is still only in proposal phase with no clear descriptions in place as yet.

The current proposal from the Board of Psychology on 15 September 2011, as discussed in the HPCSA newsletter of August 2013 by the executive board (Sodi, 2013) is to include the following aspects to the scope of practice, in addition to the scope as prescribed in the registration regulations. The following acts fall within the scope of practice of Forensic psychologists:

1. Conducting psychological assessments, diagnoses and interventions; referring patients to appropriate professionals for further assessment or intervention.
2. Providing expert evidence and/or opinions.
3. Providing therapeutic interventions.
4. Advising on the development of policies, based on forensic psychological theory and research.
5. Designing, managing and evaluating forensic psychology-based programmes and interventions; designing, managing, and conducting research; reporting on and supervising research in Forensic Psychology.
6. Training and supervising students, interns and other registered psychology practitioners in forensic psychology.
7. Conducting psychological practice and research in accordance with the Rules of Conduct for Practitioners registered under the Health Professions Act, 1974, adhering to the scope of practice of forensic psychologist (Sodi, 2013).

Lewis (Roos & Vorster, 2009) provides a description of the typical tasks of the industrial psychologists in terms of the scope that was discussed above. Firstly, the industrial psychologist must be able to quantify loss. This includes quantifying damages that the individual may suffer linked to the future earning potential and future earnings. In this regard Diedericks (2014) summarised that, internationally, industrial psychologists often practise in the forensic context. The main aim is to quantify the loss suffered by a road accident victim on three levels. Loss can be determined by loss of earnings, loss of capacity and future loss of earnings. Loss of earnings is defined as the direct loss of income a person sustains because of an occurrence. Loss of work capacity refers to a persons' inability to continue with the work that they are trained to do. Lastly, future loss of earnings refers to the earnings a person could have earned had it not been for the occurrence. This is linked to the loss of earning potential including potential, motivation and ability to adapt in order to progress in their careers (Diedericks, 2014). Lewis (Roos & Vorster, 2009) states that the role will also require involvement in litigation where the industrial psychologist will be required to help determine appointment of blame (the percentage of blame a defendant had in the incident that lead to the injury) and integrating other expert reports from medical practitioners to determine loss. In divorce cases they will have to determine potential earning or capacity of one of the parties. In the case of employment relationship litigation, the industrial psychologist may be required to

determine the effects of dismissal on an employees' future earnings, marketability and overall fitness to work.

Swanepoel (2010) refers in this regard to the public's perception that "professionals" are adequately governed by so-called professional institutions. However, when the Act and the laws referring to psychological medico-legal actions are investigated, it becomes very difficult to find a clear-cut guide pertaining to best practice. Reference is often only made to "medical practitioner" or "health care professional", followed by various boards of registration.

If the scope of practice are focused on the world of work, it will follow that reference should be found in the laws that govern the world of work. Makalipi (2002) referred to The Labour Relations Act 66 of 1995 (South Africa, 1995, as amended in 2000). He states that the law provides clear guidelines for procedures to be followed before workers can be dismissed for incapacity. The code of good practice on dismissals sets out clear guidelines on what is considered to be substantively and procedurally fair in the process of determining incapacity. The law states that the employer must avoid dismissal at all costs. Should incapacity be permanent, the onus on the employer will be two-fold: firstly, the current work environment and tasks should be adapted to enable the employee to do the work; secondly, the employer should find the employee an alternative position. Makalipi (2002) further explained that the employer will be even more liable to accommodate the employee, should the injury be due to a workplace incident.

Legal implications

From the above-mentioned legislation it is clear that some form of intervention is asked from the employer once an accident has transpired. There are also strict laws and procedures that should be followed by any health practitioner that attends to an accident in the workplace, according to the Occupational Health and Safety Act (South Africa, 2007). These aspects are often related. The industrial psychologist, as the professional that deals with both employee and employer, can be put in a precarious position, ethically speaking. Ethics guiding the profession on the one hand and the role of the forensic specialist (who will assist in an advisory capacity from outside the organisation) on the other, can lead to role confusion and questioning the ethical focus (Bush & Iverson, 2012).

A further complication that arises is that very little information is available in terms of guidelines from sources in other countries. The United States of America's system for classifying psychologists is very specific: The American Psychological Association (APA, 2013) currently contains 53 separate divisions, each devoted to a specific area within psychology. Their understanding of a clinical, neurological or industrial psychologist will be very different with regards to scope of practice when compared to that of South Africa. The Health Professions Council of South Africa (2013) currently identifies five registration categories for psychologists, as well as two proposed new categories: neuropsychology and forensic psychology.

The common denominator in explaining what forensic psychologists do is their assistance to law professionals, for instance lawyers, prosecutors and the police service (Huss, 2009; O'Donohue & Levensky, 2004; Roos & Vorster, 2009). It is, however, difficult to determine the exact nature of this assistance for the industrial psychology field, as the noted authors discuss the field from a clinical and criminal point of view. Matthew Huss (2009) regarded the tasks of the forensic psychologist as the study of human behaviour and the application of those principles in assisting the legal system. He also defined two broad areas in law in which psychologists work. In criminal law, the focus falls on criminal acts against society and this usually falls under the auspices of the clinical forensic psychologist. In civil law the areas of personal injury, worker's compensation and competency at work become areas that fall under related forensic fields.

An interesting observation by Huss (2009) is that the law and psychology are often, by nature of their basic science, at odds because the same questions will be answered differently from each point of view. The way to bridge this divide is therapeutic jurisprudence. The term refers to the impact of psychology on the legal system and seeks to apply psychological research to the legal system in order to promote the psychological and emotional well-being of the individual that comes into contact with any aspect of the law (Huss, 2009). Roos and Vorster (2009) shared Huss's view regarding the different areas of the law in which psychologists work and add, from a South African perspective, that industrial psychologists will often work on cases relating to accidents in the workplace or on the road, and any legislation where work-related aspects are addressed. Lewis (Roos & Vorster, 2009) provides a description of the typical tasks of the industrial psychologists in terms of the scope that was discussed above. Firstly, the industrial psychologist must be able to quantify loss. This includes quantifying

damages that the individual may suffer linked to the future earning potential and future earnings. In this regard Diedericks (2014) summarised that, internationally, industrial psychologists often practise in the forensic context. The main aim is to quantify the loss suffered by a road accident victim on three levels. Loss can be determined by loss of earnings, loss of capacity and future loss of earnings. Loss of earnings is defined as the direct loss of income a person sustains because of an occurrence. Loss of work capacity refers to a persons' inability to continue with the work that they are trained to do. Lastly, future loss of earnings refers to the earnings a person could have earned had it not been for the occurrence. This is linked to the loss of earning potential including potential, motivation and ability to adapt in order to progress in their careers (Diedericks, 2014). Lewis (Roos & Vorster, 2009) states that the role will also require involvement in litigation where the industrial psychologist will be required to help determine appointment of blame (the percentage of blame a defendant had in the incident that lead to the injury) and integrating other expert reports from medical practitioners to determine loss. In divorce cases they will have to determine potential earning or capacity of one of the parties. In the case of employment relationship litigation, the industrial psychologist may be required to determine the effects of dismissal on an employees' future earnings, marketability and overall fitness to work.

Areas of work in forensic psychology

According to the authors mentioned above, three broad areas of work for forensic psychologists can be identified:

Firstly, the forensic psychologist assesses the client/patient in order to assist the law in executing their duties. This assessment can take a number of forms and can include reports from other experts in the field (O'Donohue & Levensky, 2004). Huss (2009) emphasised that very specific ethical considerations accompany assessment that may lead to legal procedures. Apart from high proficiency in assessment tools, compliance to ethical standards is essential.

Secondly, the forensic psychologist will either prescribe treatment or give treatment as deemed necessary. This can be applicable to settings in industrial psychology where, for example, debriefing and trauma counselling after an accident in a factory is coupled with an assessment of fitness to continue a specific job (Bush & Iverson, 2012).

Thirdly and finally, the forensic psychologist must have a thorough and clear understanding of how the case/patient fits in with the relevant legislation. For example, an argument for diminished capacity must be guided by the legal definition (Van Lill, 2013). The forensic psychologist must be able to accurately assess the case or patient. This will include evaluating emotional, behavioural and mental capability. From this assessment the practitioner should be able to predict future ability and mental fitness (Huss, 2009). Forensic psychologists take rigorous scientific precautions to ensure fair and objective evaluations (Allen, 2008). The distinguishing factor between forensic psychology at large and the application of industrial psychology to the field is the specialisation of the industrial psychologist in the world of work.

At present, the forensic actions of psychologists, all medical personnel and the legal fraternity are under the auspices of The Medical-legal Society of South Africa; membership to this organisation is voluntary. They adapted the American Medical-legal Society's code of ethics as a guideline. This is a fairly recent development, but should lead to more information pertinent to South Africa (South African Medico Legal Society, 2013). Swanepoel discusses the role of the psychologist as expert reporter of the individual's ability to adapt in society, as well as writing a multi-disciplinary report (Swanepoel, 2010). With the proposed new registration for forensic psychologists, it is becoming very important to gather and publish information that is specific to the field of the industrial psychologist and not only generally applicable to practitioners in the medico-legal field.

Some attempts are made to expand the knowledge of industrial psychologists prospectively interested in forensic work, and to institute training programmes that will focus on specific skills. Roos and Vorster (2009) defined forensic psychology as the application of psychological knowledge to the legal field. The role of the industrial psychologist is sketched as the expert that makes a final assessment regarding the ability to work in the process of assessment after an injury. The industrial psychologist will provide parameters by which these opinions can be quantified. In order to execute this properly, a sound understanding and detailed knowledge of all the other experts' reports is needed, usually including the reports of various medical and allied health professionals (such as an orthopaedic surgeon, occupational therapist, and/or clinical psychologist). The purpose of the industrial psychologist's report is to quantify the other reports in order to establish a monetary value to injury. Although this action would seem straight-forward, it involves not only the interpretation of expert medical reports from outside the discipline and realm of Industrial Psychology, but often also a subjective interpretation and

assessment of a clients' ability to work. When guidelines on medico-legal reporting are sought, some reference is found regarding related professional reporting for legal purposes (Bauman, 2007; Kaliski, 2006; Roos & Vorster, 2009).

Roos and Vorster (2009) cover the writing of the forensic psychology report. Although specific reference is not made to the Industrial Psychologist report, their guidelines can be applied to the writing of reports for court use. They suggest that the report includes a full updated CV to verify the credentials of the expert. The purpose of evaluation as per the instruction of the retaining legal council should be clearly stated. The suggested format that should include:

- The title and demographics of the psychologist. This should include address,
- Telephone numbers, practice number and registration number of the psychologist.
- The title and demographics of the client(s). Here the full names and surname (including a maiden name if appropriate), ID number or date of birth, age gender, marital status, highest qualification, employment status and date of consultation.
- The purpose of the evaluation or reason for referral, the person requesting the evaluation must be included as well.
- Sources of information including consultations, biographical questionnaires, observations, information from third party evaluators or parties and own psychometric evaluation. With regards to assessment it is important to ensure that all ethical guidelines is followed, as the role of the psychologist here, is not in alliance with the client, but in service of the court. This, however, does not remove the principles of establishing rapport, respecting dignity, unconditional positive regard and congruence (Roos &Vorster, 2009).
- Background information should include all the possible aspects that can influence a report for example family background, education, medical background etc.
- Behavioural observations
- External sources of information, where all the possible sources of information were listed before, now only documentation specific to the person being evaluated should be discussed.
- Psychometric assessment results, usually only the integration of the findings.
- Detail in the report regarding the reason for the referral, here aspects like pain, emotional and physical changes can be explained.

- The summary or discussion. Here a logical pattern should be followed through all the information. It should culminate in specific recommendations.
- Recommendations should be short and to the point. The feasibility of recommendations is very important (Roos & Vorster, 2009).

The current body of published material in journals, text books and popular books is limited to discussions around forensic psychologist actions and knowledge. As such, the researcher proposes to do an exploratory study to gather expert opinions by means of qualitative investigation on the subject of the industrial psychologist as a forensic expert. The research will be able to provide much needed information abound the writing of medical-legal reports and the knowledge and skills required to do so.

Bauman (2007) states all the aspects that should be included in a psychiatry report for the SA legal context. This includes that the report should be written on a letterhead (it should include all the clinician's details), the purpose of the report should be clear from the onset and all the possible sources of information that were utilised in the report must be clearly stated (for example interviews, other medical practitioners' reports, medical records, etc.) It should also explain what the practitioner's role was in the process, thus it should indicate if the evaluation was done with a legal context in mind from the onset, or if another relationship, such as primary caregiver, existed beforehand.

The statutory requirements of informed consent should be clearly stated and included. Expert opinion should be sought if needed and included in the report (the credentials of these professionals, their roles and their interest must be clearly stated). Professional recommendations can be included as well. Special reference should be made to the concept of informed consent. Disclosure of confidentiality is vital as the aim is to protect the client and others from harm. Apart from the ethical obligations to clients and or patients, the requirements of the law, as well as the interests of the general population, should be taken into account (Kaliski, 2006).

It is vital that practitioners adhere to the Health Professions Act in acquiring informed consent from their clients. The guidelines that were discussed all focus on the forensic psychologist report. There are some differences in the content of the industrial psychologist report. In the case of a civil or road accident fund claim, all the information needs to be translated into various

financial scenarios for affected individuals, based on a case-by-case assessment. This clearly demands very specific skills and competencies from the industrial psychologist. As previously stated, little or no guidance, whether formal or informal, currently exists to guide these professionals.

The current body of published material in journals, text books and popular books is limited in clearly guiding industrial psychologists in the performing of forensic work. As such, the researcher proposes to do an exploratory study to gather expert opinions on the subject of the industrial psychologist as a participant in the forensic investigation. The aim is to add to the current knowledge base and to generate new information,

RESEARCH DESIGN

Research Objectives

The following are specific objectives of this research:

- To compile a list of aspects needed in a forensic report that will be suitable for use in court.
- To identify the skills and knowledge that an industrial psychologist needs to compile a forensic report for use in courts or industry.

Research Approach

The research approach that was followed is qualitative and exploratory. Qualitative research, according to Struwig and Stead (2001), is any research that cannot be reported in the form of numbers. The nature of the research is exploratory and is conducted in natural settings.

Generating theory

Terre Blanche and Durrheim (1999) stated that this approach is flexible and should be followed if the goal is to gain new insights into a phenomenon. The research was conducted to record the meaning of the individuals' understanding and evaluation of an aspect. This study was conducted by means of the theory-generating design derived from Glaser's Grounded Theory (Witzel, 2000).

Grounded theory proposes that, where very little theory exists, theory is generated "in vivo" through a process of information gathering that is totally free of preconceived ideas or theory

through, for example, one-on-one theory generating interviews (Barbour, 2008). According to Glaser and Strauss (1999) generating theory should, among other things, build on theoretical knowledge and be usable in practice by means of prediction or explanation. It is important to realise that this does not imply that a thorough literature review should not be conducted. Grounded theory should only be utilised when very little to no theory exists that can illuminate the research question (Barbour, 2008; Struwig & Stead, 2001). In this study the research aim was to expand on the available information by means of interviews, thus hoping to generate new information to add to the existing information.

Intermediate coding and advance coding

Charmaz and Glaser emphasize that the most important basic rule for a grounded theorist is to study your data (Smith & Van Longenhove, 1996; Glaser & Strauss, 1995). By studying your data you implicit meanings will emerge. They advise that the researcher start by transcribing the audio-recordings by themselves, rather than, dictating them to someone else. This enables you to define the directions in which your data can take you. The next step is writing memos where you start looking at emerging themes before moving on to coding. Coding is the deciphering or interpretation of data and includes the naming of concepts as well as explaining and discussing them. In qualitative grounded theory coding means creating the codes as you study your data (Flick, Kardorff & Steinke, 2004). The codes emerge as you study your data. It is advisable that data is coded by more than one person as the researcher may be subjective in identifying emerging themes and patterns. This will ensure that resulting themes are reliable and objective. (Charmaz, 2003; Glaser & Strauss, 1995).

Research Method

The research method used was an explorative-qualitative design. The qualitative analysis of data gathered has the advantage of rendering rich information (Silverman, 2010; Terre Blanche & Durrheim, 1999). Due to the aims of the study the researcher wanted to gather all the possible thoughts and insights from the participants without prejudice. As a result the research recorded both the meaning of the individual's understanding and evaluation of an aspect. A theory-generating design, as derived from Glaser's Grounded Theory (Witzel, 2000), was chosen with this purpose in mind.

This study was conducted among participants who are psychologists in forensic settings, industrial psychologists who practise in the forensic field, and lawyers that utilise industrial psychologists. The participants that were asked to participate are experts in their respective fields. Two research questions were asked and the answers were written down and recorded where consent was given.

Two sampling strategies was combined, snowball sampling and sampling to redundancy. Tucket (2004) stated that the sampling process is vitally important in determining research success. Snowball sampling is a technique where participants will refer the researcher to other possible participants, in this case, to other specialists in the field (Silverman, 2010). As soon as the same information is repeated, further sampling will be stopped. Sampling to redundancy follows a procedure where sampling continues until the researcher can establish that no new data is presented, thus, a point of data or information redundancy (Tucket, 2004). In this research, the researcher continued with snowball sampling until a point of redundancy of data was reached.

Individual interviews were conducted in person, or if a personal interview is not possible, telephonically. These interviews were in either Afrikaans or English, depending on the language preference of the interviewee. All interviews, with the exception of three instances, were recorded with the consent of the participants. In the cases where recordings are not viable, written notes was used.

All data gathered was stored by the researcher and cannot be accessed by a third party. Confidentiality was maintained in order to ensure that no participant is harmed during the process (Silverman, 2010). All interviews were transcribed and the responses categorised according to themes. In order to establish inter-coder reliability, the coding was conducted independently by the researcher and a psychologist. This process of triangulation insures inter-coder agreement and limit subjective skewing of the data (Silverman, 2010; Charmaz, 2003).

Participants

The qualifying factor was that all candidates had to be active in the field of forensic psychology, or work with forensic psychologists (in the case of attorneys) in the course of their daily tasks. The total participants from both groups were N=9, five psychologists active in the field of

forensics and four attorneys. Demographic data was also gathered. Personal and professional characteristics of the participants in the sample are presented in Table 1 below.

Table 1

Biographical, Educational and Professional Characteristics of Participants (N=9)

Participant	***Gender***	***Age***	***Language***	***Highest Educational level***	***Profession***	***Years of experience***
1	Female	60+	Afrikaans	PhD Psychology	Clinical and counselling psychologist working in the forensic practice	48
2	Male	40-50	Afrikaans	MCom Industrial Psychology	Industrial Psychologist in a forensic practice	22
3	Female	40-50	Afrikaans	MCom Industrial Psychology	Industrial Psychologist in a forensic practice	25
4	Female	40-50	Afrikaans	MCom Industrial Psychology	Industrial Psychologist lecturing in forensic psychology	20
5	Female	30-40	English	MCom Industrial Psychology	Industrial Psychologist in a forensic practice	13
6	Female	30-40	Afrikaans	LLB	Attorney working with medical-legal cases	14
7	Male	20-30	English	LLB	Attorney working with medical-legal cases	5
8	Female	20-30	Afrikaans	LLB	Attorney working with medical-legal cases	5
9	Male	30-40	English	LLB	Attorney working with medical-legal cases	14

As indicated in Table 1, the female participants were only one more than the male participants. With regard to age, the majority were younger than 40 years old. Six of the participants were Afrikaans speaking, compared to the three English-speaking participants.

All the participants are working in the field of forensics, although in different capacities according to their profession. The group consisted of 4 industrial psychologists, one clinical and counselling psychologist and four attorneys who work with cases requiring industrial psychologists' input. The educational level of the participants varied; with 11.1% having a PhD, 44.4% a Masters- degree in Industrial Psychology and 44.4% an LLB. The table describes the years working experience in the field. From the table it can be seen that nearly half (more than 45%) of participants had more than ten years working experience.

Ethical Considerations

The participants in the study were informed of the purpose of the study and the way in which the findings would be used. They signed a consent form to release the data for the purpose of this study. All participants were insured that only the researcher will have access to the details of their identity, as well as the organisation they work for (where applicable). Further to this, the researcher agreed not to publish any information that can be deemed to trespass any non-disclosure rules of a specific organisation.

Measuring Instruments

The qualitative data were acquired by asking structured, close-ended questions in one-on-one interviews. The questions were predetermined from previous research and were aimed at providing expert information regarding the topic. The following questions were asked:

A. What should be included in the forensic expert industrial psychologists' medical–legal report that will satisfy the needs of the legal system, or ultimately for use in court?
B. What concomitant knowledge and skills are considered critical for forensic expert industrial psychologists to compile a medical–legal forensic report for the legal system and/or court use?

In the research consent form biographical and educational data were included to provide details about qualifications and years of experience. Aspects regarding age, gender and language preference were asked, in person, during the interview.

Qualitative Data Analysis

The researcher used the memos in the first phase of analysis (Charmaz 2003; Glaser & Strauss, 1995). There after line by line coding was done to extract the first possible themes that exist in the script. The researcher read through the interviews, line by line, and provided each response with a code. This was done with Excel. Each line or cluster of lines was isolated. Next to these lines, codes were identified. Some of the codes that emerged were "in vivo" codes, thus codes that were the words the interviewee used. This method, also known as initial coding, is regarded as suitable for interview transcripts (Charmaz, 2003; Glaser & Strauss, 1995).

Conceptual codes, or *in-vivo* codes, refer to the language or terms that were used by the participants. Initially the process renders many different codes and will need further refinement. This process can be very subjective as the researcher may lose objectivity due to the level of involvement with the data. In an attempt to remove purely subjective analysis by the researcher, these codes were refined by involving peers analysis of the same data. During this process the codes that were subject to questioning, were clarified or removed (Terre Blanche & Durrheim, 1999). According to Attride-Sterling (2001), applying thematic networks to qualitative data is a way of organising the themes into logical separate levels. These levels will move from the most salient to the less salient. The levels will often be inter-connected in some way. Effective analysis into themes will clarify the raw data effectively. The data were analysed through thematic analysis. The report patterns and themes were extracted. According to Attride-Sterling (2001), the next phase of adding meaning to the data is to determine networks. As such the data will have main themes and sub-themes with interlinking aspects that will create a network.

During the thematic analysis phase the answers to the two questions posed were treated separately. In the end, data can be presented into basic themes (lowest-order premises from text), organising themes (more abstract summative principles), and global themes (super-ordinate, more holistic themes) (Attride-Stirling, 2001). These interrelations can then be represented in a mind map to increase visualisation. The questions were used as predetermined clues to the possible themes that would result from them. The questions were treated separately during data analysis. The main categories for each question were:

Question1: What should be included in the forensic expert industrial psychologists' medical-legal report, that will satisfy the needs of the legal system or ultimately for use in court?

A. Medico-Legal report content

Question 2: What concomitant knowledge and skills are considered critical for forensic expert industrial psychologists to compile a medical-legal forensic report for the legal system and/or court use?

A. Knowledge
B. Skills
C. Medical-legal report

D. Court use

Strategies employed to ensure quality data

Firstly the sampling strategy employed and described above ensured that a relatively small 'inner-circle' of experts, as daily practitioners of industrial psychology forensic work, was reached. In this way the achievement of in-depth and detailed data that could directly add to the body of knowledge was insured (Tucket, 2004).

The criteria of credibility, transferability, dependability and confirm ability (Silverman, 2010) were adhered to in order to further ensure that the qualitative research data are of a high standard. As mentioned earlier, peers acted as independent coders and provided feedback to ensure further credibility. Transferability was obtained by using respondents who are actively involved within the medical-legal field or work with industrial psychologists and the medical-legal report. The qualitative research processes were carefully described in order to enhance the study's dependability.

FINDINGS

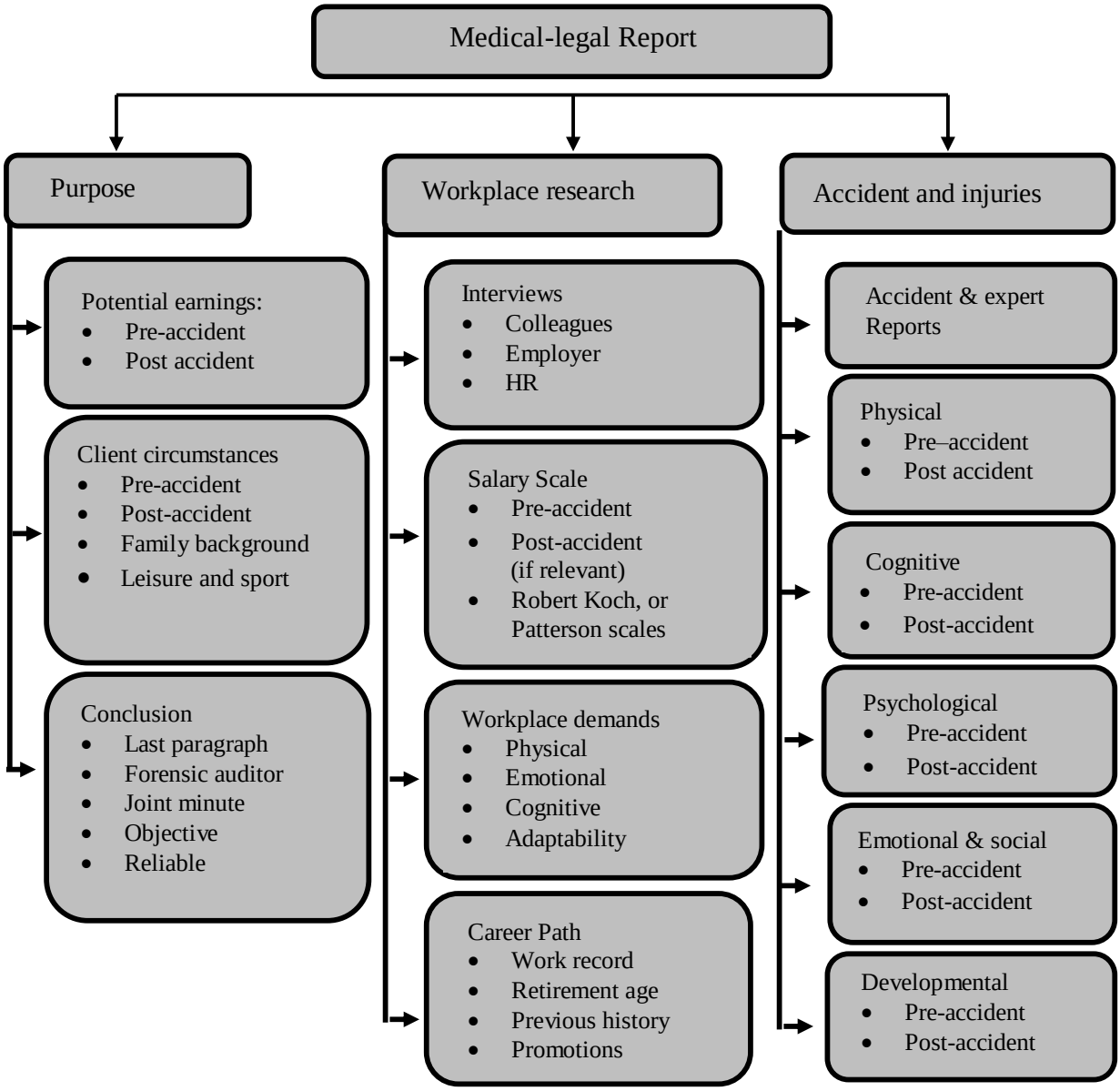
The interviews were transcribed and main themes, as well as sub-themes were extracted. The qualitative data will be reported in two separate sets as per the two guiding research interview questions.

Findings from the research Question 1: What should be included in the forensic expert industrial psychologists' medical-legal report, that will satisfy the needs of the legal system or ultimately for use in court?

The information obtained from the research participants was very detailed and contained a wealth of themes and sub-themes. In the interest of clarity, each main theme will be discussed and defined in the context of the research findings. Three main subthemes emerged from the research about the content of the medical-legal report as can be seen from Figure 1. The three main subthemes were the purpose of the medical-legal report, the aspects that should be considered when conducting workplace research and finally, a description of the accident as well as all the relevant injuries sustained. Figure 1 provides an overview of the data.

Figure 1

The Content of the Industrial Psychologists' Medical-legal Report



Firstly, the purpose of the medical legal report was discussed. The medical-legal report differs from other expert industrial psychology reports not only in the nature of the content, but in terms of the need to be used in a court or legal setting as well. The purpose of the report, as clarified by the research, is a full discussion about the client's situation. It follows up on the client from before the accident up to the current situation, spanning the injuries, as well as the emotional and social environment. It needs to build up to a logical conclusion that will give an indication of the projected loss of earnings by the client. As the medical-legal report determines the loss suffered by the client after an accident, a thorough investigation needs to be conducted

into the current and previous work situation. Conducting thorough workplace research is the next main theme that came from the data. This research consists of interviews and following paper evidence and will encompass the salary scale of the client, the possible career path, as well as the workplace demands that on the client. The last sub-theme that emerged was that the accident itself must be described, accompanied by a comprehensive description of all the injuries sustained. This aspect must evaluate the impact by considering the premorbid state with the post morbid state and cover all the relevant areas.

The specific findings will now be discussed in detail, by focussing on each of the identified main themes separately.

1.1 Purpose

The medical-legal report is written for a specific reason and will be used in a specific context. Several aspects will be covered by the report that will typically be used in a legal setting. The respondents' responses highlighted the following subthemes about the purpose of the medical-legal report.

Potential earnings and loss thereof

The first subtheme that was mentioned by the respondents was the determination of potential earnings before and after the accident.

One of the main purposes of the report of the industrial psychologist is to determine what the person earned before he/she was injured. The responses varied in this regard, but all six respondents that specifically mentioned this theme being the purpose of the report, considered this element as the most important aspect of the report. It seemed, from the responses, that the industrial psychologist should ascertain between earnings before the accident took place and the potential earnings that the client could reasonably expect after the accident. The calculation of the discrepancy between the two amounts will then lead to the potential loss of earnings (discussed in more detail later). This information can be demonstrated by the following extracts from the interviews:

"The purpose of the industrial psychologist is to track a career path and to determine if the person would have received promotion and what potential earnings would have been". (Participant 2)

"I sometimes see in other industrial psychologists' reports that they indicate that it is imperative that salary information is obtained. The reality is that this is our job to get that information and it reflects on us when we do not get the paperwork and proof. We have to get it from the industrial psychologist'. (Participant 4)

Client circumstances

The next aspect that was discussed was the circumstances of the client before the accident and how that changed as a result of the accident.

The respondents that discussed the importance of a comprehensive overview of the client circumstances, varied in their responses. The subthemes that emerged were the pre-accident and post-accident situation, the general family situation or circumstances, and the current and pre-accident extra-curricular activities.

Three respondents discussed the importance of obtaining a sense of how the candidate functioned before and after the accident. The responses that were included in this subtheme were general statements and not the statements that referred to specific areas of functioning. An example of this from the interviews is:

"*I look at family history, educational and work experience. This provides current information on the social and economic circumstances."* (Participant 5)

Five respondents mentioned the importance of gathering information about the family and their circumstances. One respondent specifically mentioned the role of the breadwinner before and after the accident. Another aspect that was mentioned was the use of family and sibling characteristics and career paths to demonstrate the possible future of the client if the accident had not occurred and no injuries had been caused. This aspect can be demonstrated by the following abstract:

"Biographical information is vitally important because we postulate the premorbid possible career path and income on the extended family's qualifications. I had a young man that got hurt in Matric and the parents as well as the seven brothers and sisters all had Honours and Masters Degrees. I can safely predict that this person could have obtained at least an Honours degree. Now, due to the accident and a brain injury, he cannot pass matric. The work history of the parents and siblings can then also help predict the future trends in terms of the future possibilities." (Participant 4)

The last aspect that was mentioned by two respondents is that they like to get an idea of activities that the client enjoyed before the accident, of which participating in sport is an example. This would give an indication of the amount of damage the client suffered in the accident should he/she be unable to participate any longer. An example of this is:
"I like to look at extra-curricular activities to get an indication of the client's full abilities." (Participant 5)

The conclusion

A number of the respondents referred to the last paragraph or conclusion as the most important part of the report. The participants touched on several different aspects with regards to the conclusion. The last paragraph of the report is a summary of the findings by the industrial psychologist. The functioning of the client and his/her ability to work is discussed in this paragraph. Here the industrial psychologist determines the monetary loss suffered because of the accident and his/her ability to earn an income, if at all possible. The importance of this paragraph and its content can be seen in the following quote:
"The last paragraph has the past loss of earnings and the future loss of earnings; this is the most important part of our work." (Participant 3)

The next aspect that was mentioned by three participants is the role of the forensic auditor. This aspect of the report will be fully discussed in the conclusion, as one of the participants did not answer the first question, but handed me a copy of a forensic auditor's notes from a recent training session. In these notes (available in Addendum A), the auditor states comprehensively what should be included in the medical-legal report in order for him to complete the process. The report by the industrial psychologist is last in the long line of expert reports. The process from this point is that the report will be sent to the forensic auditor who will use all the information, as well as the monetary determination by the psychologist, and formulate a comprehensive statement of loss in income by the client. This report cannot be concluded by any other expert in the queue. However, should the psychologists not provide thorough research; no determination can be made by the forensic auditor. A lawyer provided the next quote as illustration:
"I do not have a way to establish what a person earned and I know that this is usually part of the industrial psychologists' report. He/she will work with the forensic auditor to estimate what was lost in the future by the injured party". (Participant 1)

Another subtheme that emerged in both questions was the joint minutes. This relates to the next theme, objectivity. The "Joint Minutes" is a meeting where all the parties from both sides (the defence and the claimant) meet. During this meeting all the facts and figures from both sides are discussed and verified. During this meeting it is very important that all statements are verified by hard facts and quality information. At this point the objectivity and reliability of the industrial psychologist's report is very important. This can influence the validity of any information that the opposing party may question.

"Without this information it is very difficult to do a joint-minute. That is where we all sit together and decide what really happened." (Participant 4)

"The other thing is to be objective. They say an expert is an expert for court and there the court should count. If the expert says nothing is wrong then I can't say change the report to suit my client. So I won't do that. But you get experts that say, I write for the claimant, and you can see that it is not based on the facts. Objectivity is very important." (Participant 9)

1.2 Workplace research

The medical-legal report is the only expert report that will look at the monetary value of the loss, as well as the possibility of future income as a result of the accident. The workplace research theme came across very clearly from all the respondents. Four subthemes were identified and will be discussed in detail.

Interviews

It was clear from the data analysis that there is an expectation from all the role-players that information will be verified by a process of interviewing all relevant parties.

It was clear that the majority of the participants felt that interviews are a vital part of gathering and verifying information. Subthemes that were identified by the participants specifically about interviews in the workplace were interviewing colleagues, employers and the human resources personnel. These interviews seem to be used to obtain clues from all the different role-players about the all-round performance of the client on many levels in the workplace. Reference was made to how the client performed his/her daily duties, how he/she came across on a social and

emotional level and lastly, and specific information regarding his/her remuneration package. The following quote illustrates this:

"We rely on the industrial (sic.) to do their own investigation, contacting the manager, colleagues, and maybe supervisors, maybe even ask us to arrange a work site inspection." (Participant 6)

Salary scale

It emerged from the previous subtheme that the salary information of the client is very important in the report. This was also mentioned under the aim of the medical-legal report.

It was clear from the responses that all participants included statements about the remuneration package of the client. Both areas, pre- and post-accident must be researched thoroughly. There seems to be an expectation that this information must be obtained in writing, thus contracts and salary slips or bank statements should be provided. This theme was also linked to the purpose of the report. The participants indicated that, without this information, a proper estimation of the potential earnings and loss cannot be made in the conclusion of the report. This seems to have an influence on the "Joint Minute" proceedings as well. No ultimate conclusion can be reached without proof of income.

"The person needs to prove what they earned at the time of the accident. I need salary slips or statements if the person was self-employed." (Participant 4)

"Secondly contacting the persons' place(s) of employment, confirming historical income, what did they earn…?"(Participant 7)

Three of the participants referred to specific salary scales. A large part of calculating the possible future loss seems to relate to determining a possible career path (full discussion follows below). Some companies adhere strictly to the Robert Koch and Patterson salary scales. There are, however, adaptations and variations across the different industries. Other scales and systems can also apply. All the remarks were made by the participants from the legal field. It seems that there is a need to apply a hard-and-fast rule in this prediction, but it is impossible as all industries and companies have individual systems in place. It is the task of the industrial psychologist as the workplace specialist to do proper research into the relevant scales and future possibilities.

"They will say that the person fell into that Patterson level and would have progressed to that one. They don't always go back and determine if the person really would have gone to the next level. They have to say that for this company the real prospects were this, the client could

*progress to this role. It has to be factual rather than a broad spectrum prediction. The correct scale is important, I don't know if the Patterson scale is really accepted, the scale of Robert Koch is also used, but I don't think it is always acceptable statistic*s." (Participant 9)

Workplace demands

Another part of workplace research that was highlighted by the participants' responses was the importance of determining workplace demands.

Some respondents stressed that researching the demands of the workplace in the previous work situation, as well as the possibility of demands in the future is essential. Emotional and physical demands were touched on. This seemed to have some influence in determining loss of function, the ability to perform in the current work environment after the accident, as well as the predicted loss of income. This can be illustrated by the following statement:

"What I do require is that a thorough evaluation of the workplace must be done. For instance a person that lost hearing cannot work in a factory where sound must alert them that parts are moving around. I prefer that an Industrial psychologist visit the workplace and conduct interviews with co-workers, superiors and HR. I want a detailed report that will explain to the court the possible physical and emotional demands of the workplace." (Participant 1)

Another aspect that was mentioned was the possibility of adapting the work environment to suit the client's needs after the accident. This was mentioned in relation to the previous work environment. The possibility of possible alternative roles within the workplace was discussed as well. These aspects allude to the possible loss of income in the future, as it will determine the client's ability to continue working.

"This report will also have to give some idea of the adaptability of a work environment. If a person is in a wheelchair, would he be able to do his work? And if not, can he be moved into another area to do another job? The aim is always to ensure that the person must be able to function effectively." (Participant 1)

Career path

The last subtheme that emerged was determining the clients' career path before the accident. Four aspects could be identified about the career path theme. Five of the respondents indicated that the work record at the time of the accident is important. This aspect was linked to the conducting of interviews. The work record should include every position held by the client, from the time he/she had become economically active. It should include aspects like reasons

for leaving positions, salary information and collateral from the employers. All these can influence the prediction of loss of income.

"Work history and income is next. This includes all the previous jobs and income that preceded the accident. This process is repeated for after the accident." (Participant 5)

The determination of retirement age was highlighted by 6 of the participants. The calculation of loss of income is directly related to the age a client can be expecting to retire. That age will be used in the calculation of their possible loss of income.

*"Another important aspect is the confirming of retirement age. The guide is somewhere from 60 to 65. Today this rule does not count anymore, some people work till 80.(*Participant 4)

The last aspect that was mentioned under the workplace research theme was the tracking of possible future promotion of the client. Again, this aspect will have a direct influence in the possible loss of earnings calculation.

"The purpose of the industrial psychologist is to track a career path and to determine if the person would have received promotion and what potential earnings would be." (Participant 5)

1.3 Accident and injuries

Different themes which tended to be intertwined were mentioned by the participants. As a result the content will be reported together as the relevant quotes often address more than one aspect simultaneously.

The medical-legal report produced by the industrial psychologist is based on information provided by a number of previous reports by other (often medical) experts. The importance of the industrial psychologist can be seen in the following quote:

"The industrial psychologist is usually the last person in a cue of experts we use. In the end it is the industrial psychologist that has to process the information and determine what the impact of an injury will be on the future of the person in terms as ability to earn and work capacity. Typically in their reports you will see that they discuss the expert's reports in detail, and then they will incorporate the expert opinion in their report." (Participant 2)

The circumstances in which the accident took place and the relevant reports by experts form part of the medical-legal report. The information is integrated by the industrial psychologist

and should lead to an accurate summary of the client's current ability to perform in the work environment.

"That is why we carefully list all the injuries. We get our own view regarding the injuries. This is done with the expert reports. Sometimes the candidate will report later fallouts 3-4 years after the accident and this helps determine if it was due to the accident." (Participant 5)

Injuries on all levels are reported in the medical-legal report. The report usually starts with a complete description of all the physical injuries, for example loss of hearing or being in a wheelchair. The cognitive ability or impairment is also evaluated. Psychological factors like depression and mood swings, as well as the emotional and social impact of the injuries will be discussed in detail. In the case of minors (children), a summation will be made of the possible developmental impact of the injuries. Some of the respondents indicated that they prefer the use of an educational psychologist, but as they are last in the queue of experts to submit a report, they do not always have access to such a report. All the reported injuries will then be compared to the state of the client before the accident in order to determine how he/she was affected or impaired by the incident.

"The expert reports is next, this provide a fuller picture of the current situation. This will give us a full explanation of the injuries, the prognosis and treatment. The current disability is evaluated, for example depression, and how that influences the client. Then we make a distinction between premorbid and post morbid functioning. I will again split this in cognitive, emotional and physical." (Participant 5)

"We need the correct expert reports, the educational, neuro and clinical psychology reports. The attorney doesn't always appoint the correct person. For children we always want an educational psychologist, but we don't always get that because that costs money." (Participant 3)

Findings from the literature that support Question 1 research

Some of the findings in the research can be linked to the available literature. Swanepoel (2010) discusses the role of the psychologist as expert reporter of the individual's ability to adapt in society, as well as writing a multi-disciplinary report (Swanepoel, 2010). In the research there is a link to the subtheme that discussed the purpose of the report. The interviews provided a wealth of information regarding the process of evaluation and gathering of information regarding the clients' ability to adapt and resume work. Roos and Vorster (2009) definition of

forensic psychologists as specialists that apply their knowledge in the legal field were supported by the findings. The legal and psychologist participants mentioned and supported the view that the primary function is that of the expert, that makes a final assessment regarding the ability to work in the process of assessment after an injury.

The industrial psychologist (Bauman, 2007; Kaliski, 2006; Roos & Vorster, 2009) provides a summation of the other experts' reports, In the research more than one reference was made to the other specialists that provide feedback reports ranging from doctors to physical therapists and other practitioners. The research states that (Bauman, 2007; Kaliski, 2006) purpose of the industrial psychologist's report is to quantify the other reports in order to establish a monetary value to injury. This was confirmed in the research by participants from all the different disciplines.

Roos and Vorster (2009) as well as Bauman (2007) cover the writing of the forensic psychology and psychiatry report. Although specific reference is not made to the Industrial Psychologist report, their guidelines can be applied to the writing of reports for court use. The content of the report by the industrial psychologist as forensic expert contains all of these aspects. The one part that were added by the research is the calculation of loss that leads to determination in monetary value. It seems that this aspect, reported by all the participants, is the qualifying difference from the other psychologist forensic reports.

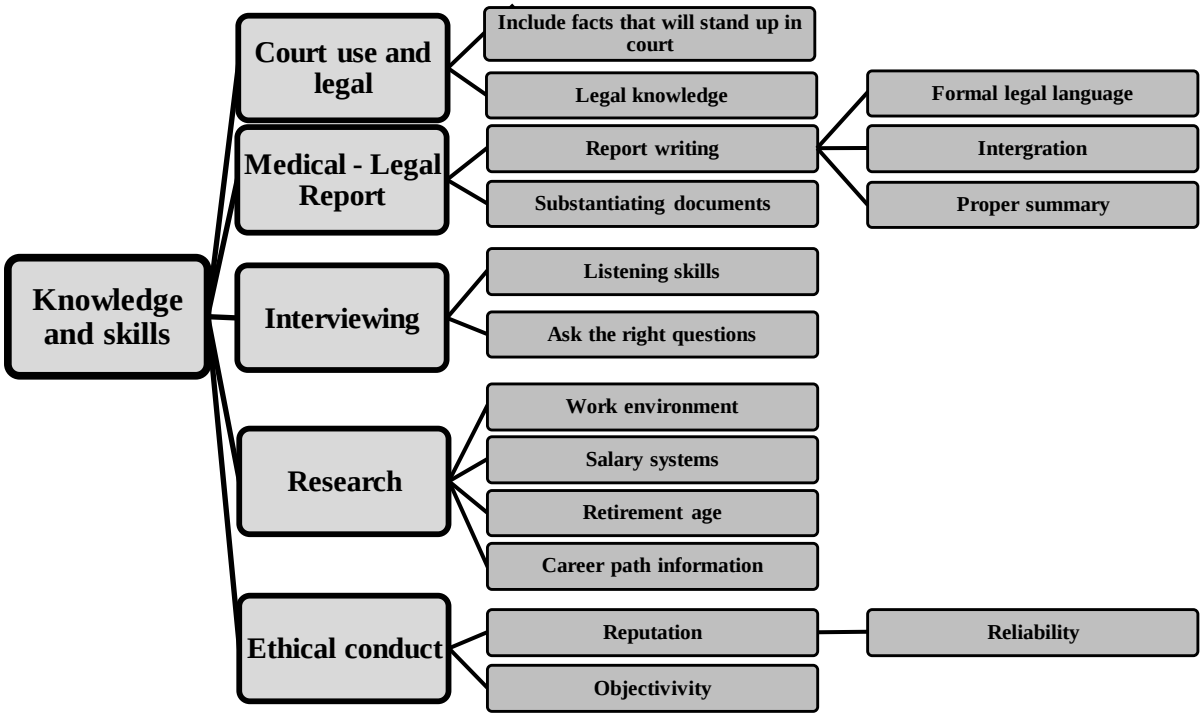
Another aspect that was touched on by Bauman (2007) that the report should clarify the nature of the practitioner's role was in the process. This was discussed by Vorster and Roos (2009) as well. Ethics was a theme that emerged throughout the research. Kaliski (2006) explains that the statutory requirements of informed consent and disclosure of confidentiality must get special attention as well. The participants confirmed these aspects but added another dimension. The research highlighted that ethical conduct should include clarifying the objective role of the psychologist and that bias for any party will influence the reliability of the report.

Findings from Question 2: What concomitant knowledge and skills is considered critical for forensic expert industrial psychologists to compile a medical–legal forensic report for the legal system and/or court use?

The following illustration will illuminate the main themes and subthemes that emerged.

Figure 2

The Knowledge and Skills underlying the Industrial Psychologists' Ability to write a Medical-legal Report



As can be seen from the above illustration, five main themes were identified based on the data generated through interviewing. Each will be discussed separately, although it is important to bear in mind that some themes can be related in some way, or be related to the answers in question two. Where such relationships exist, the researcher will allude to those. It was decided to keep the themes separately so that a clearer structure could be seen in the data.

The subthemes that could be extracted in the interviews span a wide range of topics. The first theme was about knowledge of court and the legal environment. The second theme that emerged from both the attorneys and the psychologists is the need to have knowledge that is specifically aimed at writing the medical-legal report. The knowledge of how to conduct and plan a proper interview in order to extract all the relevant information was another theme that emerged from the interviews. Closely related to this, although a separate theme was the ability

to conduct research. The last theme that emerged was the importance of ethical and reliable reporting by the industrial psychologist.

Court and legal use

One of the themes that emerged was that the medical-legal report should be appropriate for use in court. Two of the respondents referred to some form of legal knowledge. Interestingly enough, this came from industrial psychologists. It seems to suggest that they do feel the need to have at least some legal background. Three of the respondents referred to the report containing facts that would "stand up in court."

All the information in the report should be verifiable as industrial psychologists can be asked to appear in court if a case is not settled beforehand. Here are some comments to illustrate the above:

"A basic understanding of the legal process and the ability to report in court" (Participant 2)

"I would think that they should have a basic understanding of the legal implications of their actions." (Participant 1)

Medical-legal report

Writing the medical-legal report requires some underlying competencies. The themes about the writing of a medical-legal report, namely writing the report itself and gathering substantiating documentation, tended to be clustered together in the quotations. Five of the respondents referred to the use of formal language as the report should be able to scrutinise in court. Three respondents emphasised the need for proper integration skills, specifically with regards to the expert reports and their own findings. Three respondents alluded to the ability to write a proper summary. This aspect is related to the "last paragraph" in question 1. The need for substantiating documents was again emphasised by three participants, as that will give credibility to the findings in the report. The following are some quotes demonstrating these aspects:

"I think legal writing is quite important in terms of, or not necessarily legal writing but formal writing" (Participant 6)

"They need to be able to interpret and summarise. Sometimes I find that people cannot summarise at all and that, together with writing skills is essential. More learning in terms of comprehensive reporting is needed." (Participant 4)

"An Industrial psychologist should record everything, conversations, date and time, etc. We can only go to court on hard solid facts." (Participant 1)

Interviewing skills

The ability to listen and interview clients was highlighted by the research. The ability to listen for information and then to ask follow-up questions were highlighted by a number of the Industrial psychologist participants. This was interesting as they have a good understanding of what is required to extract useful information for their reports.

"*Active listening skills and research abilities."* (Participant 2)

"When you prepare for the interview you need to ask the right questions to get the right answers. If the client sits in front of you, you need to make sure you obtain the information that is important; if you do not get this you will have problems with your report." (Participant 5)

Research

The ability to conduct thorough research was emphasised. This skill relates to workplace research in question 1.

Reporting about this aspect will be clustered as the respondents tended to report on some of the components together. Five respondents mentioned research about the work environment and salary system that was in place before the accident. The retirement age applicable to the client was also mentioned by 4 respondents, and three respondents mentioned career paths, as was mentioned in question 1 as well. It seems that a number of respondents thought that the ability to do research in order to identify information was quite important.

"The full history, verify the salary. If the client say, I earn R5000 per month, get the salary slips to confirm that, don't accept blindly. Consult with others to make sure what is said is correct. Confirm retirement age, make sure what you say is true." (Participant 9)

"They need to canvass the pre-morbid career path and the post morbid career path. They need to compile this in order to provide information to the actuary, they must have collateral information. They will often rely on the word of the plaintiff and not get collateral information. You cannot go on the assumption of the plaintiff that it would have been a reasonable career path for him or her." (Participant 8)

"He would have to be able to do research that will provide information about the industry, for example someone with a foot injury would say he was on the brink of a professional golf career. It is not an area that anyone knows well. So he would have to be able to gather such information." (Participant 7)

Ethical conduct

An aspect that was highlighted as very important by both psychologists and legal experts was ethical conduct. The mentioning of reputation in conjunction with reliable information without bias was highlighted by three lawyers in the research sample. They mentioned that they have to table the report against their opposition and that it reflects poorly on them should reliability be in question. Objectivity was mentioned by both psychologists and lawyers (*n*=4); it seemed that there is a trend among some industrial psychologists to adjust reports in order to expand claims or to favour certain parties. This practice was frowned upon.

"With us in the legal profession everything is about reputation, you are not going to take someone who you have heard take too long with their reports, or who is biased. You get experts that you call typical defendant or typical plaintiff experts. You cannot be like that - you have to be completely objective. With the people we use, I've seen their reports where the defendant has briefed them or where the plaintiff has briefed them, it is not different. They use the same method, they do the same investigations, they do the same hard work, so, in conclusion, they are not biased." (Participant 6)

"Objectivity is vital, as an expert your only interest will and should be to advise the court, not to favour any party; it will influence your credibility and reliability." (Participant 7)

1.3 Emergent information

During the course of qualitative research information can present itself that was, up to that moment, not available to the researcher. During an interview one of the lawyer participants shared a lecture delivered by a forensic auditor. The findings will be included in this research, as they revealed very detailed and specific clues as to the skills required of the industrial psychologist and the content of the forensic report. Polkinghorne (2005) identified the possible data sources of qualitative exploration as interviews with participants, observations, documents and artefacts. The conclusion is reached that any or some of these sources can present itself during any time of the process and cannot be seen as separate from the data collection. Based

on the above-mentioned, the researcher decided to include the document as emergent information in the process of data gathering. The forensic auditor is a vitally important part of the medical-legal process as his/her role is to evaluate and interpret the forensic report presented by the industrial psychologist. Permission was obtained to include the content in the findings. In the course of the final discussion, the related themes from the lecture will be included.

Gregory Whittaker (2012) conducted research to determine the top ten complaints that attorneys have concerning the medical-legal report written by industrial psychologists. He conducted his research by means of a survey sent to 30 respondents, ranging from legal to actuarial respondents. This research is unpublished, but was presented at a training session for medical-legal expert industrial psychologists. In the course of his presentation he presented his findings and provided a checklist (Addendum 2) that should be verified when writing a report. Where relevant, this information will be included. It should be noted that the aspects that were extracted as well as matching the themes, were included in the frequency tables, because one respondent provided the researcher with the information as an answer to question one.

1.4 Findings from Question two that was supported by the research

In terms of legal knowledge and being able to write a report that will be acceptable in court some reference to knowledge of the legal system were found in the literature. Van Lill (2013) states that the forensic psychologist must have a thorough and clear understanding of how the case/patient fits in with the relevant legislation. Accurate assessment is essential. Huss (2009) concludes that from this assessment the practitioner should be able to predict future ability and mental fitness (Huss, 2009). Allen (2008–) adds that forensic psychologists take rigorous scientific precautions to ensure fair and objective evaluations. These aspects were seen as important actions by the industrial psychologist. Once again the ethical aspects were included and the reliability of the report was mentioned by the participants as important skills. Roos and Vorster (2009) further highlights that specific skills is required to summarise and interpret the reports of other specialists. (Bush & Iverson, 2012) concurred with Roos and Vorster that in stating that, in order to execute this properly, a sound understanding and detailed knowledge of all the other experts' reports is needed. This was an aspect that was mentioned by some of the participants as well. Something that did come out of the research was that the industrial psychologists felt that it would be helpful if they were included in the identification of the

specialist needed. Some felt that it will enhance the conclusion as they will be able to influence the choice of specialists. In terms of the inclusion of research around the workplace and the work history, Roos and Vorster (2009) stated that the distinguishing factor between forensic psychology at large and the application of industrial psychology to the field is the specialisation of the industrial psychologist in the world of work. Bush and Iverson (2012) added that the industrial psychologist can for example be involved in debriefing and trauma counselling after an accident in a factory and use an assessment of fitness to continue a specific job. The determination of a persons' fitness to work at present and in the future were mentioned by the participants as well.

DISCUSSION

The role of the industrial psychologist in the medical-legal field is not well documented and very little has been published about their actions and responsibilities. However, a large number of industrial psychologists work in this field. The current training for industrial psychologists also does not include any modules aimed at providing relevant skills to be used in this field. The aim of this study was to shed some light on the problem. In an attempt to generate data that were both useful and detailed, the researcher compiled questions that she hoped would provide clear and rich information.

Question one dealt with the content of the medical-legal report. The research generated a substantial and varied data set that covered a number of themes. Different themes and sub-themes were extracted to elucidate the content. Three main themes emerged, namely the purpose of the report, the importance of conducting workplace research and lastly the need, not only to explain the circumstances of the accident, but to summarise the extent of the injuries as well.

The **purpose** of the medical-legal report is to establish the client's **potential** loss of **earnings** as a result of an accident. It was clear when the responses were studied that the medical-legal report should include a summation of the client's financial situation before and after the accident In order to achieve that, the client's complete employment history and his remuneration package(s) over time should be compiled. The respondents highlighted the fact that proof of this, for example salary slips and bank statements, must be included as supporting documentation. These documents are used to compare the client's situation after the accident.

Relevant income figures from the period after the accident are compared to the preceding the accident. The monetary loss can then be estimated. Other factors play a role in this calculation as well. These include the possible career path, promotional possibilities and retirement age. In this regard, Whittaker (2012) summarises seven points regarding this information and what needs to be gathered. He includes determining salary levels, proof of income, verifying salary information with employers and clarifying job levels.

The **client circumstances** before and after the accident is strongly related to potential loss of earnings. These circumstances include aspects on both a personal and professional level. On a personal level, context about the family and their careers or developmental levels is often used to predict possible post-accident scenarios. Other aspects are used as well, for instance whether the client is the breadwinner or a minor. The circumstances about his/her employment and extra-curricular activities are explored. Was the candidate always employed? Did he/she belong to societies or committees? Did he/she participate actively in sport? All this information can provide context about the influence of the accident and the client's ability to continue a normal life. A part of the industrial psychologist's role is to create a possible scenario of the client's future functioning. With regards to creating possible scenarios, Whittaker found in his research that this is one of the areas that were deemed unsatisfactory. Of the respondents, 88.33% felt that industrial psychologists presented too many scenarios and did not state the *most likely* scenario (Whittaker, 2012).

The content of the report should lead to the most important part, the **conclusion.** The last paragraph of the report is a summary of all the expert reports, salary information and the input by the industrial psychologist about the current scenario and its consequences. The expert industrial psychologist now clarifies and integrates information, reaching a conclusion with regards to the losses the client suffered. This information is then used by the forensic auditor to convert the losses into a monetary value. It is vitally important that this information is without bias and can be deemed objective and reliable. This is another aspect that Whittaker (2012) identified as one of the top ten complaints. A total of 66.67% of attorneys felt that industrial psychologists are generally biased. The information from the report plays a vital role in the "Joint minutes." The psychologists, attorneys and auditors of both parties meet to discuss the probability of the outcome and possible settlement. It is important that the industrial psychologist remains objective; he or she must be able to substantiate the facts in the report and defend those points that he/she feels are valid and important. Whittaker found that 86.67%

of the attorneys felt that there is a lack of clarity by industrial psychologists in the "Joint minute."

Another important theme that was identified by means of the data, **workplace research,** yielded four subthemes. It became clear that it was impossible to fulfil the **purpose** of the report without researching the relevant facts and figures. In Whittaker's' (2012) research, 83.33% of attorneys felt that investigations by industrial psychologists are generally inadequate.

Firstly, it seemed that **interviewing** was very important. All facts, figures and opinions must be verified. Some participants mentioned that one cannot depend on the client's subjective information. Interviews should be conducted with previous and current employers to confirm aspects ranging from the type of worker the client is and was, verifying the salary information, clarifying the possible future career opportunities and determining retirement age. This process should be repeated with colleagues, supervisors and the human resources department to ensure correct information.

The accurate **salary scale** should be used**.** This information will be obtained by doing proper **research** and conducting **interviews**. All information should be related to the pre- and post-morbid situation. An interesting aspect that came to the attention of the researcher is the question about job levels and the appropriate scale that can be applied. The participants mentioned the levels of Patterson and Robert Koch; Whittaker (2012) also noted the use of the Patterson scale. It became clear that the industrial psychologist is seen as the workplace specialist and as such will be the only expert to gather and verify the appropriate scale, career path and possible promotional path of the client. The limitation is that these scales are often adapted and changed across industries. One of Whittaker's' (2012) respondents mentioned that the Government agencies use a completely different scale and that needs to be researched thoroughly before making predictions.

The **workplace demands** should be properly investigated. Every position comes with specific demands on a practical, cognitive, physical and emotional level. A client would have functioned in the workplace, meeting these demands. After the accident this may become impossible due to aspects like severe depression, loss of hearing or being in a wheelchair, to name a few examples. The adaptability of the workplace should also be considered in developing possible post-accident scenarios. Sometimes a wheelchair can be accommodated,

or it may be possible to put the client into an environment that can accommodate his or her needs. This information is vital to writing a plausible **conclusion** and conducting a successful **"Joint minute."**

The last theme that was identified is research regarding the career path of the client. As mentioned previously, the full work history of the client needs to be considered and verified. An indication of the work record is very important as well. One of the respondents mentioned that it influences the report if a client has a history of terminating employment and being without work for periods without reason. During this process the real retirement age should be verified as these figures tend to vary from industry to industry. In terms of the possible career path, the possibility of promotions and role changes should be explored. All the information will become building blocks for the scenario at the end of the report.

The last theme that emerged from the research was that all the details about the **accident and injuries** must be reported comprehensively. From the check lists provided by Whittaker (2012) the detail required on reporting the actual accident, as well as the resulting injuries, becomes clear. The extent of the injuries is usually compiled from the various **expert reports** and the accident particulars can be found in the **accident report**. When the research was done, some participants indicated that part of their frustration is the inadequate reports provided to them. When minor children sustain injuries, industrial psychologists prefer access to an educational psychologist's report as this is an area outside their scope of practice and expertise. This may not be possible due to monetary constraints and a lack of insight by the attorneys. Whittaker (2012) found that the use of these reports should be handled with great caution to prevent plagiarising the report. The content of these reports should merely be summarised and integrated with the industrial psychologist's findings. The areas that were mentioned by the respondents included the **physical, cognitive, psychological, emotional, social and developmental** states of the client. Various specialists were mentioned, for example orthopaedic surgeons, clinical and educational psychologists and neurologists. It seems that both the pre and post morbid state should be highlighted. It should state in the report that Mr X was walking normally but, as a result of the accident, cannot walk anymore. Whittaker (2012) emphasized that it is imperative to make sure that all pre-existing conditions are clearly described so that the injuries from the accident can be isolated and dealt with.

Question 2 dealt with the underlying knowledge and skills that should be acquired by the industrial psychologist who compiles the medical-legal report. Five sub-themes were extracted from the data. Each subtheme will be considered below.

One of the requirements of the medical-legal report is that it will be appropriate for **court and legal** use. This aspect was mentioned by several respondents. Industrial psychologists do not usually graduate in law. They therefore find themselves at a disadvantage when it comes to understanding and fulfilling the needs as stipulated by the legal system. The first subtheme highlighted by the respondents was that all fact or deductions must be verifiable and will bear the **court's scrutiny**. As a result, all supporting documentation should be available. Should cases not be settled before the court date, the psychologist may be asked to appear in court. If we refer to some of the court decisions and comments by judges from Whittaker (2012), it is clear that the court expects a very comprehensive report with all avenues explored and properly documented. Some respondents explained that they would have liked to have some form of **legal knowledge**, not only when writing the report, but if they should be called upon to appear in court. One respondent highlighted this by stating that she did not even know where to stand in court should she be summoned. The last legal aspect was discussions about the "Joint minute." Whittaker (2012) discussed in detail the expectations that must be met by the industrial psychologist. The report should be written in such a manner that all scenarios, fact and figures are clearly visible. This enables the industrial psychologist to be confident when any disputes arise.

In terms of the **medical-legal report** itself, several subthemes were reported. **Report writing** skills were mentioned by quite a few respondents. It seems that the writer should use formal and legal language at all times as it could be used as a court document. Good **integration** skills are needed as all the expert and accident reports will be summarised in the medical-legal report and thus needs to provide a thorough overview of the situation. This will lead to the **summary** at the end of the report. Some participants concluded that the last paragraph is the most important part of the report. This paragraph will provide the material to be used during the "Joint minute" and will form the basis of the forensic auditor's report.

Interviewing skills were mentioned as well. Most of the information that must be obtained by the industrial psychologist can only be collected by means of interviews. Good interviewing skills will assist the industrial psychologists to gather information, and in some cases identify

when clients are not truthful. In this regard the two concomitant skills that were mentioned are the ability to **listen** and pick-up clues during the interview for later verification, as well as the ability to ask the **correct questions** to solicit information.

The ability to conduct proper **research** was mentioned by a number of the respondents. The first aspect that was very important was the ability to **research the work environment**. The industrial psychologist should pay special attention to all the possible scenarios. This includes the current (if applicable) work environment as well as the previous (premorbid) work environment. Aspects that should be looked at were the physical, psychological and mental requirements expected of the client. The industrial psychologist should know who to ask and where to search for the data needed in order to compile a comprehensive report. Research into **salary scales** and appropriate promotion avenues must be very thorough. Whittaker (2012) indicated that inaccurate scales and systems are sometimes used to the detriment of the client. This research should cover the possible **retirement age**. It can be quite difficult to determine, because professionals can often work after turning 60 or 65. An interesting component was the conducting of **career path** research. One respondent clearly stated that a limitation she encounters is the lack of career knowledge. Another referred to the career path of a professional athlete and discussed the problem generating a plausible scenario for that person's future, as information about that specific career path is unclear. It is an area that should be researched well, because the last paragraph should state that the client would possibly have reached certain levels in his or her career.

The last and very important theme that was emphasised was the **ethical conduct** of the industrial psychologist. An attorney mentioned that their **reputation** and that of their firm depended on objective and reliable reporting by their expert associates. The industrial psychologist must remain **objective** and must not be swayed by who they represent and who provides them with work. They must also be objective in their evaluation of the client's' situation. The industrial psychologist may often identify lies and half-truths which should be reported to the attorney as they may influence the findings. Lastly, information should be **reliable**. The accuracy of information will become subject to legal scrutiny should the matter reach the court. One attorney stated that it will reflect badly during the joint minute meeting if the opposition provides reliable information and proof thereof, while it becomes clear that the report his expert submitted is generic without it being verified.

Conclusion

The role of the industrial psychologist in the forensic field was explored in this study. Specific reference was made to the content of the medical-legal report, as well as the knowledge and skills that are essential to its compilation. The value of the information that was gathered serves the industrial psychology medical-legal field as well as the training fraternity as none of these details were comprehensively available at the time of embarking on the present study. The industrial psychologists in this field learn from mentors and experience. This leads to many obstacles and problems, until they finally comply with all the expectations. It seems that there are a large number of gate keepers in this profession and the competition; guarding their methods and reports is a common occurrence. This complicates entry into the market, should there be interest in the field. At the time of writing, none of the information gained by the researcher forms part of industrial psychology training. The perception, however, amongst professionals like attorneys and auditors is that industrial psychologists are fully trained in this area of industrial psychology. The result is that they express some misgivings about their competency levels.

A good starting point is gathering specific information that will be a result of the industrial psychologist actions, and then apply those outcomes to knowledge and competencies. As a redundancy model was used, it can be deducted that most aspects of the industrial psychologist medical-legal report was covered. This information will be of value to new entrants to the field, as well as training institutions interested in expanding their training programmes. Should a course on medical-legal work be included in the curriculum, it may also pique the interest of students that were unaware that such a field exists. It is also hoped that the findings of this explorative study can be used to act as the basis for a more comprehensive research study that will verify and compile information from a larger sample. There is a need for guides and text books that will lead to standardisation and raising the professionalism in the field. At present the researcher experienced a measure of distrust and disrespect from other professionals for industrial psychologists. It is time that the area of industrial medical-legal work be subjected to more control with regards to their professional actions and findings. In the researcher's opinion, it will be a good place to start at training institutions.

Limitations and Recommendations

A limitation to this study was that all the information gathered was based on the opinions of the respondents and therefore cannot be used as facts that can be empirically verified. It can only serve as a pilot study that generates information to be verified by follow-up research. The respondents provided their personal opinions and shared from their personal and professional experience, and as such it is open to response bias and lack of objectivity. The population of respondents was from two different sectors, and although their responses were similar to some extent, a comprehensive study targeting one specific population may generate more specific occupationally-bound data. The research population can be more heterogeneous in terms of years' experience in the field, frequency of doing medical-legal work and overall experience. Such measures may result in a population whose responses can be compared and critically evaluated.

Specific recommendations related to the findings of the research are threefold. The need for professional training and regulation by the HPCSA became apparent during the interview process. It was clear from the findings of the research that no specific forensically-related area of work for industrial psychologists has been defined by the Health Professions Council of South Africa's' Board of Psychology (Government Gazette, 2011). In the current literature there are overlaps between the role of the forensic psychologist and the role of the industrial psychologist in the forensic field. Huss (2009), O'Donohue and Levensky (2004) and Roos and Vorster (2009), described how forensic psychologists will assist lawyers, prosecutors and the police service in their investigations. The current proposal from the Board of Psychology on 15 September 2011, as discussed in the HPCSA newsletter of August 2013 (Sadi, 2013) states that one of the actions that will fall within the scope of practice of forensic psychologists will be providing expert evidence and/or opinions. These guidelines and description in the actions of industrial psychologists in the field are very vague; there are no standard guidelines for actions that can result in uniformity. At this point there are no formal oversight or control measures in place. Structure is not currently provided by universities either.

The research seemed to indicate dissatisfaction with and negative perceptions on the profession of the industrial psychology at large. As it is, the role of the industrial psychologist in the growing number of third party claims involving the Road Accident Fund is well documented (Okuluga, 2004). This expands to the role of advisor in legal matters surrounding the work environment and employers (Bush & Iverson, 2012), and yet the industrial psychologist is a mere onlooker up to the very end of a process. The interviews revealed some generalisation

with regards to professionalism, ethics and work standards from the legal fraternity, and from the research by Whitaker (2012). The comments by the industrial psychologists, however, revealed that very little input is asked from the onset from industrial psychologists. Yet the expectation is that the industrial psychologist should be able to produce a meaningful comprehensive report that will serve as one of the last actions at the end of the investigation into potential loss of earnings. The research revealed that this practice leads to some unfair comments. A good example is the choice of experts in a case. No professional registered with the HPCSA plays an oversight role about the need for specific professional appointments. Yet, the industrial psychologist must be held responsible for providing data if those experts have not been consulted. In the data discussion some reference was made to the use of educational psychologists in cases where minors are involved. The researcher came to the conclusion that, should reports by other relevant experts not exist, the industrial psychologist is forced to interview the client and draw conclusions. The end result is that they, at times, need to draw inferences about the state of mental health of a client and even the degree of injury in children. This implies actions that fall outside their scope of practice and in fact constitute behaviour punishable by the Health Professions Act (Government Gazette, 2011).

Reference to the lack of training and information was made. The need for professional accredited training institutions to develop short courses for industrial psychologists in the field or modules as part of the Masters training curriculum is imperative. The lack of standardisation and the associated risks for malpractice - in the opinion of the researcher – pose a dire threat to the profession. Swanepoel (2010) highlighted the ethical constraints and risk in the actions of psychologists in forensic practice.

The last recommendation that should be highlighted is the process that is followed by the industrial psychologist. As mentioned in the research, the industrial psychologist is the last expert to be appointed. A lot of criticism is levelled at the findings in the medical-legal report. This is often a result of the lack in capacity, as well as time constraints. Workplace research, dealing with gatekeepers, and tracing the correct people to provide relevant information can take time. Without fail the impression was that a report is usually delivered just before the court date. In the opinion of the researcher this process can be managed better. Should the industrial psychologist receive the instruction at the onset of the process, time can be spent doing all the relevant salary research. Expert reports can be reviewed as they become available and

recommendations can be made should the need arise. This may lead to better reporting and minimising risk to the client.

Future research is definitely needed in this field, not only for the sake of the industrial psychologist in the medical-legal arena, but also because these professionals are involved with investigations of workplace or industrial accidents, safety and risk. Resources are limited and at present training and development does not exist. All new information should add value to the current state of knowledge.

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CHAPTER 3

CONCLUSIONS, LIMITATIONS AND RECOMMENDATIONS

The purpose of this chapter is to provide conclusions, limitations and recommendations for the study. Conclusions are firstly drawn according to specific research objectives set at the start of the study. All the limitations to this study are acknowledged. In the last instance, possible recommendations with regards to medical-legal work by industrial psychologists, as well as future possible future research, will be discussed.

3.1 CONCLUSIONS

The general objective of this study was to establish criteria for sound reporting, and the skills and knowledge needed by an industrial psychologist in forensic reporting and evaluation.

The first objective of the study was to summarise the current available research on medical-legal work.

Medical-legal work by industrial psychologists is not well described in the literature. The author could find only three studies that addressed the issue. Van Lill (2013) conducted research on the the psychologist-lawyer dynamic in industrial psychologist's psycho-legal activities. In his research, van Lill (2013) postulated the lawyer–psychologist relationship extracting themes touching on the nature of the relationship, the ethical problems resulting from the relationship and many more. His research was not directed specifically to the process followed by industrial medical-legal psychologists in writing the medical-legal report. Botha (2010) focussed on the purposes for using psychological instruments in loss of income claims. The research did provide some contextual information, but no specific guidelines on the complete process; it just highlighted one aspect: the role of the industrial psychologist in medical-legal matters. She postulated that international industrial psychologists, also known as vocational psychologists or earnings' experts, which practise in the forensic context, focus on quantifying an individual's loss of earning capacity. Lewis (Roos & Vorster, 2009) elaborated that when the ability to work and advance in a career is impaired, the need to quantify the possible loss of earnings, work capacity, and projected loss due to the incapacity in the future

needs to be determined. Swanepoel (2010) focussed on the constitutional and medical-legal issues between law, psychology and psychiatry. In said study the focus was not primarily on industrial psychology, but provided some ethical insight into the role. The researcher could gain some insight in the complexity of the role, but not a lot of information on writing a medical-legal report, or the required knowledge that will enable a specialist to do that. Other avenues were explored such as the various laws and regulations that seem to govern the medical-legal actions of industrial psychologists, such as the Labour Relations Act (No. 66 of 1995 as amended in 2000), the Compensation for Occupational Injuries and Diseases Act, no. 130 of 1993 (2003) and the industrial psychologist scope of practice, as determined by the Health Professions Act (2003) and the Health Professions Council of South Africa (2012). Research was done further afield to gain insight in how other countries regard the industrial psychologist in the medical-legal profession, but it was found that industrial psychology either did not conduct this branch of work, or that the registration categories in other countries differ greatly from those in South Africa (American Psychological Association, 2013; Bush & Iverson, 2012). From the available literature, it was clear that more research should be conducted to provide a more encompassing view.

The second objective of the research was to compile a list of aspects needed in a forensic report that will be suitable for use in court.

The purpose of the industrial psychologists practising in the forensic field is to quantify an individual's loss of earning capacity (Botha, 2010). To achieve this, a medical-legal report must be written. The literature study revealed very little information relating to the content of the medical-legal report. The research generated a substantial and varied data set that covered a number of themes. Different themes and subthemes were highlighted to clarify the content. Three main themes emerged, namely the purpose of the report, the importance of conducting workplace research and lastly the need to, not only explain the circumstances of the accident, but to summarise the extent of the injuries as well. The purpose of the medical-legal report is to establish the potential loss of earnings of a client as a result of an accident. The circumstances of the client before and after the accident are strongly related to potential loss of earnings. These circumstances include aspects on both a personal and professional level. On a personal level, context about the family and their careers or developmental levels is often used to predict possible post-accident scenarios. A part of the industrial psychologist's role is to create a possible scenario of functioning in the future. The content of the report should taper down to

the most important part, the conclusion. The last paragraph of the report is a summary of all the expert reports, salary information and the input from the industrial psychologist about the current scenario and its consequences. Here the expert industrial psychologist clarifies and integrates information, reaching a conclusion with regards to the losses the client has suffered. This information is then used by the forensic auditor to convert the losses into a monetary value. It is vitally important that this information is without bias and can be deemed objective and reliable. The information from the report plays a vital role in the eventual "Joint minutes" where industrial psychologists, attorneys and auditors of both parties come together to discuss the probability of the outcome and possible settlement. Here it is important that the industrial psychologist remains objective, is able to substantiate the facts in the report and defends those points that he/she feels are valid and important.

Another important theme that was identified by means of the data, workplace research, yielded four subthemes. It became clear during research that it was impossible to fulfil the purpose of the report without researching the relevant facts and figures. Firstly, it seemed that interviewing was very important. Interviews should include all role players including employers throughout the work history, family and co-workers. The accurate salary scale should be used. This information will be obtained by doing proper research and conducting interviews. All information should be interpreted against the change from the premorbid to post morbid situation. It became clear that questions about salary scales and what is appropriate to use, can only be answered by the industrial psychologist, here seen as the workplace specialist, and as such will be the only expert to gather and verify the appropriate scale, career path and possible promotional path of the client. The limitation is that these scales are often adapted and changed across industries.

The workplace demands should be properly investigated. Every position comes with specific demands on a practical, cognitive, physical and emotional level. For a client to function in the workplace, these demands should be met. After the accident this may become impossible due to aspects like resultant mental of physical incapacity. The adaptability of the workplace should also be considered in developing possible post-accident scenarios. Some work places can accommodate a wheelchair or the client may be transferred to an environment that can accommodate their needs. This information is vital to writing a plausible conclusion and compiling a successful "Joint minute."

The last theme that was identified is research regarding the career path of the client. As mentioned previously, the full work history of the client needs to be considered and verified. An indication of the work record is very important as well. During this process the real retirement age should be verified as these figures tend to vary from industry to industry. In terms of the possible career path, the possibility of promotions and role changes should be explored. All this information will become building blocks for the scenario outlined at the end of the report.

The last theme that emerged from the research was that all the details about the accident and injuries must be reported comprehensively. The extent of the injuries is usually compiled from the various expert reports, and the particulars of the accident can be found in the accident report. In the case of a minor or child's injuries, the opinion of an educational psychologist is deemed important. The content of all other reports should merely be summarised and integrated with the industrial psychologists' findings. The areas that were mentioned by the respondents included the physical, cognitive, psychological, emotional, social and developmental state of the client. Various other relevant specialists were mentioned, for example the orthopaedic surgeon, clinical and educational psychologist and neurologist. It seems that both the pre- and post-morbid state should be highlighted; change between them should be noted specifically.

The third objective of the research was to identify the skills and knowledge that an industrial psychologist needs to compile a forensic report for use in courts or industry.

Industrial psychologists do not typically obtain law degrees. As such, they find themselves at a disadvantage when it comes to understanding and fulfilling the needs as stipulated by the legal system. The first subtheme that was highlighted by the respondents was that all facts or deductions must be verifiable and will bear the court's scrutiny. As a result, all supporting documentation should be available. Some respondents explained that they would have liked to possess some form of legal knowledge, not only when writing the report, but if they should be called upon to appear in court. This enables the industrial psychologist to be confident when any dispute arises.

In terms of the medical-legal report itself, several subthemes were reported. Report writing skills were mentioned by quite a few respondents. It seems that the writer should use formal and legal language at all times, as the report may be used as a court document, if needed. Good

integration skills are needed as all the other expert and accident reports will be summarised by the medical-legal report and it needs to provide a thorough overview of the situation. This will lead to the summary at the end of the report. Some participants concluded that the last paragraph is the most important part of the report. This paragraph will provide that material to use during the "Joint minute" and will form the basis of the forensic auditors' report.

Interviewing skills were mentioned as well. Most of the information that must be obtained by the industrial psychologist can only be collected by means of doing interviews. Good interviewing skills will assist the industrial psychologists to gather information, and in some cases, to identify when clients are not truthful. In this regard the two concomitant skills that were mentioned is the ability to listen and pick up clues during the interview for later verification, as well as the ability to ask the correct questions to solicit information.

The ability to conduct proper research was mentioned by the respondents. The first aspect than was mentioned was the ability to research the work environment. All the possible scenarios must be properly investigated. This includes the current (if applicable) work environment, as well as the previous (premorbid) work environment. Aspects that should be looked at were the physical, psychological and mental requirements expected from the client. Research into salary scales and appropriate promotion avenues must be thorough. This research should cover the possible retirement age. An interesting component was conducting career path research. It is a sphere that should be researched well because the last paragraph should be able to state that the client would have, in all probability, reached certain levels in his or her career at certain points in their professional lives.

The last and very important theme that was emphasised was the ethical conduct of the industrial psychologists. An attorney mentioned that their reputation and that of their firm depended on objective and reliable reporting by their expert associates. The industrial psychologist must remain objective and must not be swayed by who they represent and who provides them with work. They must also be objective in their evaluation of the clients' situation. They will often identify lies and half-truths which should be reported to the attorney as they may influence the findings. Lastly, information should be reliable. The accuracy of information will become subject to legal scrutiny should the matter appear in court.

3.2 LIMITATIONS

It is important to note that this study was not without limitations. Firstly, the sample size was small and not varied in terms of demographics. The data gained may generate more varied findings should the sample include more gender and ethnic diversity. Furthermore, two different occupational groups were targeted by the research, although they were selected precisely because of their close involvement with the area of investigation. However, this may have led to varied views according to the specific careers of the respondents. Snowball sampling can also lead to a skew population distribution, as this may exclude the views of other contributing specialists in the field, but was excluded simply because of a lack of association. A further limitation of the sampling strategy is that specialists who know one another may all use the same methodology. Expanding the research to other demographic areas such as provinces and economic sectors may lead to whole new insights.

Although several themes were identified, it is difficult to determine the importance and specific detail that should form part of the descriptors and their role in the process. Quantitative methods can generate more specific data. Interviewing is a method that leads to varied data, but the limitation is that it only generates thoughts at a specific time. Respondents may find that they could have added more data if they had had the time to formulate their thoughts in a more structured manner.

The last limitation is that the intention of the exploratory method was not to validate the data generated or to establish the usability of the data in the day-to-day tasks of the industrial psychologist in the medical-legal field. Therefore, the research cannot claim to include all aspects that should be addressed by the medical-legal report, or serve to determine all the skills and competencies required by the role. Lastly, the research pointed out a new field of possible data in the introduction of the research by Whitaker (2012) (Appendix 2 & 3), a forensic accountant, by one of the participants. The target population for the current investigation did not include participants from this occupational group and their inclusion could have added more pertinent data.

3.3 RECOMMENDATIONS

Based on the findings of this study, various recommendations can be made for the organisation and future research.

3.3.1 Recommendations for the Board of Psychology at the Health Professions Council of South Africa

From the literature study and the research data it became clear that the proposed forensic psychology registration should be broadened to include the actions of industrial psychologists that specialise in the medical-legal field. Alternatively, the current scope of practice of industrial psychologists should be broadened to specify and describe the medical-legal actions appropriate to the field. At present the lack of structure and guidance from the Board, findings in a lack of standardisation in the actions and responsibilities of industrial psychologists in the medical-legal field. This will require more research and development into the actions and limitations that should apply to forensic industrial psychologists.

3.3.2 Recommendations for future research

The lack of demographic variation of the sample was already addressed in the limitations. Future research should include a more diverse sample and a sampling strategy that can reach more specialists. Furthermore, the study should be expanded to include data from across South Africa, as this may lead to a more comprehensive picture of the forensic actions by forensic industrial psychologists. The contribution of the accountant was valuable and future research should include this occupational group in order to gain their insight on the content of the medical-legal report.

Further research should be conducted on the competencies required by forensic industrial psychologists with the aim of training and development of specialists who wants to pursue a career in this field. The skills and knowledge needed to write medical-legal reports and presenting evidence in court should be specifically emphasised. This study was explorative in nature and can be utilised to serve as a baseline from which to expand the themes generated into quantifiable guidelines. The researcher proposes a focussed follow-up study to verify the

data, generate more data and to create a comprehensive guide to medical-legal industrial psychologists.

3.3.3 Recommendations for practice

It became clear when the research was completed that the current process in Third Party claims requires medical-legal reports by the industrial psychologist. This process has been established in the legal process and will continue in the foreseeable future. As such, industrial psychology as a profession should apply their collective knowledge and will to acknowledge these actions with the aim of legitimising the forensic actions of specialist forensic industrial psychologists. It is unclear at the moment how many registered professionals work in this field. No data has been collected by the profession to include and describe the scope of practice of these professionals. No ethical or practical guidelines exist to ensure high standards of accountability and continual professional development. The professional societies do not include papers or research on this field in their annual programmes and, as such, do not stimulate research in the field. The current situation leads to a shadow profession as part of the larger community, where the role of the forensic industrial psychologist is not governed or subject to peer review. Some of the criticism levelled at the industrial psychologists in this field relates to the inconsistencies regarding their reports and the unethical behaviour by some practitioners. This damages the image of the profession of industrial psychology. The profession should influence the Board to prioritise the inclusion and description of the role and actions of forensic industrial psychologists.

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APPENDIX 1

Informed Consent

Medical – legal forensic reporting by industrial psychologists: A qualitative enquiry into required competencies

I, _____, hereby give consent to Esther Slabbert to use the information obtained from this interview or written response in her M.Com (Industrial Psychology) article (NWU).

I am aware that my responses will be used, but my name, surname and the organisation that I belong to will remain anonymous.

Position:_____

Qualifications:_____

Years of work experience:_____

Age:_____

Gender:_____

Please complete if you would like to receive an electronic copy of the research:

Email:_____

The following questions were asked. I gave permission to record the answers or use the content of my written feedback:

- **What should be included in the forensic expert industrial psychologist's medical–legal report that will satisfy the needs of the legal system or ultimately for use in court?**

- **What concomitant knowledge and skills are considered critical for forensic expert industrial psychologists to compile a medical–legal forensic report for the legal system and/or court use?**

Signature:_____Date:_____

APPENDIX 2

JOINT MINUTE TEMPLATE FOR ADULTS

Basics

Name of injured: _____
Date of birth: _____
Date of accident: _____

Preamble

Item	Issue	Industrial Psychologist's name:	Industrial Psychologist's name:
A	Do you see it as part of your job to obtain and/or verify factual information?		
B	If your answer to (A) above is no, do you acknowledge that a calculation cannot be performed without someone else obtaining/verifying factual information?		
C	Do you consider yourself to be a remuneration expert?		
D	Do you consider yourself to be an expert on stating what type of career progression the injured party may have enjoyed had the accident not occurred and now that the accident has occurred?		
E	Do you acknowledge that if your answer to (C) above was no, then you cannot express an opinion on likely earnings?		

Had the accident not occurred checklist

Item	Issue	Industrial Psychologist's name:	Industrial Psychologist's name:
1	Was the injured employed at the date of the accident?		
2	As at the date of the accident, please state the injured employer (or whether the injured was self-employed) position and date that he/she commenced employment with the employer:		
3	Please provide a summary of earnings for one year prior to the date of the accident. Please be careful to provide rand values for the basic salary, as well as other benefits such as annual bonuses, overtime, allowances. If the injured belonged to a pension/provident fund, please state the exact name of the fund (refer to the ***Financial Service Boards*** registered active funds database in this regard available on www.fsb.co.za under the retirement funds section); if the injured belonged to a medical aid scheme, please state the exact name of that scheme and whether the employer provided a medical aid subsidy, and any other benefits. If you have been provided with IRP5s, please refer to the ***tax codes document*** attached.		
4	If you have not been provided with proof of earnings whatsoever, please state as such:		
5	Did the injured' s employer make use of a formal salary survey in setting earnings levels?		
6	Please provide the likely earnings progression of the injured had the accident not occurred. Before doing so, please answer the following questions:		
7(a)	Did you have a documented earnings history for the injured prior to the date of the accident and did the injured receive promotions historically?		
7(b)	Did you contact the employer to ascertain whether the injured would have been promoted? If so, when would the promotion or promotions have taken place and what is the likelihood that the promotion(s) would have taken place?		

	Was the injured specifically earmarked for promotion, or would he/she have had to apply along with other candidates?		
7(c)	Did you contact the employer to ascertain what the insured's current earnings package would have been had the accident not occurred? Can you provide documentation confirming the current earnings package, for example a pay -slip of an employee who was in a similar position as the injured)?		
8	Please map out the likely career progression of the injured for each career phase: ***If making use of Paterson/Peromnes levels, please specify:*** ***(a) the money terms of the survey that you use;*** ***(b) whether basic salary, guaranteed package or total annual cost of employment must be used;*** ***(c) which quartile (lower quartile, median or upper quartile) or some other percentile must be used.***		
9	What would the normal retirement age of the injured have been? Did you obtain confirmation from the employer about the normal retirement age in writing or via the rules of the employer pension/provident fund?		

Now that the accident has occurred checklist

Item	Issue	Industrial Psychologist's name:	Industrial Psychologist's name:
1	Has the injured returned to work since the accident?		
2	When did the injured return to work and did he/she receive full sick leave pay during his/her period of absence? Do you have documentary proof of same?		
3	Have you been provided with details of all earnings to date by way of IRP5s and pay slips?		
4	Did you include this in your specification of information required from your instructing attorney?		
5	If the injured has been medically boarded, kindly indicate the exact date of medical boarding.		
6	Please indicate if the injured is in receipt of any disability benefits that have been paid from the injured's pension/provident fund and what the rand value of these benefits are. A copy of the rules governing the payment of any disability benefits must be obtained.		
7	Were you provided with any expert reports indicating a reduction in the injured's life expectancy? If so, please indicate what reduction was indicated.		
8	Did you ascertain if the injured is in receipt of a State Disability Grant?		
9	If the injured is still employed, please map out the likely career progression of the injured for each career phase: ***If making use of Paterson/Peromnes levels, please specify:*** ***(a) the money terms of the survey that you use;*** ***(b) whether basic salary, guaranteed package or total annual cost of employment must be used;*** ***(c) which quartile (lower quartile, median or upper quartile) or some other percentile must be used.***		
10	What will the retirement age be now that the accident has occurred according to expert opinion? If the injured retires early, will any disability benefits be payable by the employer pension/provident fund?		

JOINT MINUTE TEMPLATE FOR MINOR CHILDREN

Name of minor child: _____

Date of birth: _____

Date of accident: _____

Item	Issue	Industrial Psychologist's name:
	Do you see it as part of your job to obtain and or verify factual information?	
	If your answer to (A) above is no, do you acknowledge that a calculation cannot be performed without someone else obtaining/verifying factual information?	
	Do you consider yourself to be a remuneration expert?	
	Do you consider yourself to be an expert on stating what type of work the minor child could have done?	
	Do you acknowledge that if your answer to (C) above was no, then you cannot express an opinion on likely earnings?	

APPENDIX 3

Slide 1: Agenda

•Did they really say that?

•Top ten complaints about industrial psychologists.

•General comments.

•What the courts have said.

•Joint Minutes for children.

•Joint Minutes for adults

Slide 2: Did they really say that? (Part 1)

•Here are a collection of quotes from reports by of industrial psychologists over the past year:

•"At this point in time, I am of the opinion that XXX suffers a complete loss of employability and earning capacity, which should be dealt with via an appropriate increase in her post morbid contingency deduction."

•"….claimant's career path prior to the accident is very similar to his career path before the accident.…"

Slide 3: Did they really say that? (Part 2)

•"….he likely has the potential to reach and even surpass his pre-accident potential…."

•"….had he not been involved in the accident he would not have sustained a loss of income…."

•"As a result of her death in the MVA, she will not be able to earn any income in the open labour market…."

•"Before the accident, he was okay…."

•And then....

•"….the whole family stays in a shack."

Slide 4: Top ten complaints

•1. Bias and inconsistency.

•2. Inadequate or no investigations.

•3. No "value-add".

•4. Opportunism and plagiarism.

•5. Lack of compromise when preparing Joint Minutes.

•6. Lack of clarity.

•7. Too many scenarios.
•8. Unsubstantiated data or assumptions.
•9. Potential earnings instead of likely earnings.
•10. Poor understanding of employee benefit structures

Slide 5: What the end-users say.

•Received feedback from 30 advocates, attorneys and actuaries, including general comments.
•Attorneys included plaintiff firms and defendant firms.
•Results were as follows:

Slide 6: Bias (comments)

•"There are known plaintiffs' experts and known defendants' experts."
•"There are 'hired guns,' but the relevant role players know who they are including judges."
•"Some push for upper quartile packages when working for plaintiff and median when working for defendant."
•"Some use 60 as normal retirement age when acting for defendant and 65 when acting for plaintiff."
•"Some say no loss if acting for defendant or else if acting for plaintiff will argue for a higher post-accident contingency deduction to quantify the loss."

Slide 7: Bias (results)

Are industrial psychologists generally biased?
Yes (66.67%)
No (33.33%)

Slide 8: Inadequate or no investigations (comments)

•"Preferred experts are just too busy to investigate matters properly."
•"Industrial psychologists do not do proper workplace visits/investigations i.r.o. performance or promotion prospects."
•"We find most industrial psychologists do not go the extra mile.' We have found this year that in all cases where we as attorneys conducted work site visits ourselves, that we gained information that significantly increased the award. I feel that this should be part of the investigations done by all IPs before finalising their report–we should not be asking them to do it. I sometimes get the idea that some of them are just pushing out reports."

•"It is not good enough to merely state what the plaintiff told them about their earnings."

Slide 9: Inadequate or no investigations (results)

Are industrial psychologists' investigations generally inadequate?

Yes (83.33%)

No (16.67%)

Slide 10: Lack of clarity in Joint Minutes (comments)

•"Industrial psychologists' Joint Minutes are not clearly spelled out."

•"It is problematic that two experts have an ability to interpret the facts so differently. I am of the opinion that this is caused by the fact that many industrial psychologists no longer conduct comprehensive interviews and testing. We have received feedback from our clients that some IPs does not even see the plaintiff's personally and that interviews are conducted on their behalf, and that the interviews are very short and superficial."

•"100% of the time there is ambiguity."

Slide 11: Lack of clarity in Joint Minutes (results)

Industrial psychologists 'Joint Minutes are not clearly spelled out. Do you feel that this is a regular occurrence?

Yes (86.67%)

No (13.33%)

Slide 12: Too many scenarios are presented (comments)

•"I'm sure that narrowing it down would be useful for the negotiation process. What I could complain about though is ambiguousness, vagueness, \ and internal contradictions (perhaps arising from copy-paste errors?)…."

•"It is ok, provided they appreciate the difference between probable and possible and state as such."

•"They generally never make a distinction between the most likely scenario or attach percentage chances to the various scenarios."

•"We often see wording such as 'had the potential to study further' or 'could have earned' – so what is the likely scenario?"

Slide 13: Too many scenarios (results)

Too many scenarios are presented. Would it be useful if each industrial psychologist stated the most likely scenario?

Yes (83.33%)

No (16.67%)

Slide 14: General Comments (part 1)

•"With the decline in RAF work, only the IPs who go the extra mile will continue to receive the instructions–because they add value to cases."

•"It is easy to just quote other expert reports and merely state that a higher post accident contingency should be applied. I could have done that myself.…"

•"Plaintiff IPs who change the career plateau age from 45 in their report to 42.5 in a Joint Minute, or who try for upper quartile in a Joint Minute having stated median in their report, without further collateral information do not go unnoticed – this is opportunistic."

•"Often IPs merely regurgitates their findings in a Joint Minute. There is lack of compromise."

•"We would like to see constructive meetings with practical and realistic solutions."

Slide 15: Further general comments (part 2)

•"What is distressing, however, is how in my own experience some defendants' experts use flawed statistics to put a negative spin on the employment possibilities of prospective job seekers, and that they as professionals rely on unsubstantiated data from sometimes even media reports."

•"We've seen an IP who says plaintiff was a part-time admin worker earning on a Paterson B1 level, but she had two jobs so she actually earned on a Paterson D1 level. What nonsense!"

•"Similar situation when one works overseas and earns more than over here – same job, but overseas earning D1 and in SA on B4."

•"Ongoing mistake that IPs equate earnings with a Paterson level."

Slide 16: Further general comments (part 3)

•"Understand that Paterson levels do not apply to government employees. Familiarise yourself with public service benefits and retirement ages."

•"Understand that there is a difference between municipal workers and government employees! Different retirement ages and fringe benefits."

•"Please do not attempt to calculate loss of income yourself, unless you want to become the subject of legal action."

•"For loss of support (death claims): if you postulate promotions for the deceased, you need to similarly do so for the surviving spouse."
•"Surely there is a more efficient way of preparing your reports?"

Slide 17: Technical comments

•"It is often unclear whether a salary that is mentioned refers to the basic salary or the total package or the net of tax salary."
•"When using the term net it is sometimes unclear whether net of expenses or net of tax."
•"Some IPs take the current income and determine a Paterson level based on an older Paterson table without first adjusting the salary for inflation."
•"When IPs are provided with financial statements, they often misinterpret these and for example mistakenly use turnover as income."
•"Some IPs quote out of date Paterson tables or earnings in the informal sector based on old Quantum Yearbooks."
•"Some IPs very often give a ceiling such as C1 upper quartile/C2 median without realising that there is an overlap between the C1 and C2 and in fact the C1 upper is greater than the C2 median (i.e. incorporating the C2 median lowers the ceiling which is not what he expects)."

Slide 18: What the courts have said

•"In coming to the aforesaid conclusion, I have not lost sight of the evidence of Mr X who testified on behalf of the defendant. He is an industrial psychologist…. I found Mr X to be partisan and also lacking the necessary objectivity. This also affects his credibility."
•"But more importantly, Ms Y did not investigate and explore what alternative sedentary positions are available in the market place for a person with the plaintiff's limitations, aptitude, qualifications and experience."
•"I find it totally unacceptable that the plaintiff's experts omitted to contact the plaintiff's employers post-accident, to corroborate their opinions. Clearly their opinions are merely based on the say-so of the plaintiff."