



What constitutes a high-quality, comprehensive medico-legal affidavit in the United States immigration context?

Overview

This fact sheet summarizes the findings of the first published multi-sectoral consensus-building exercise on medico-legal affidavits in the U.S. immigration context.¹ Medico-legal affidavits are underpinned by an expert medical evaluation which can objectively contextualize trauma and corroborate accounts of abuse; they are a critical component in immigration proceedings where somebody is seeking protection on the basis of said trauma or abuse. However, the lack of existing validated guidelines has led to inconsistencies in clinical evaluations' format, structure, and content, causing confusion for practitioners and adjudicators alike. Drawing on expertise from adjudicators, attorneys, and clinicians, this Physicians for Human Right (PHR) research therefore aimed to pinpoint what experts viewed as the most crucial aspects of medico-legal asylum evaluations and their accompanying affidavits. By using a modified Delphi² approach to collect and synthesize expert opinions, a consensus was reached on the defining features of a high-quality, comprehensive evaluation. The study identified seven key areas that were most agreed upon by participants, which serve as a foundation for future efforts to standardize and enhance the overall quality and consistency of medico-legal reports.

Methodology

A multi-disciplinary team of 22 stakeholders in the U.S. asylum process, including clinicians, attorneys, immigration judges, and other experts (together, the "Forensic Asylum Evaluation Expert Group") was recruited via a snowball sampling technique. The participants engaged in a modified Delphi Technique, which incorporates expert opinions. The three-step modified Delphi method, conducted between September and December 2021, consisted of two online questionnaires and a synchronous video conference meeting. The process involved a free-text survey to identify critical features of evaluations, a moderated live consensus group meeting to discuss unresolved issues from the first round, and a post-meeting survey to finalize the list of common standards.

¹ K. Hampton, R. Mishori, the Forensic Asylum Evaluation Expert Group, "What constitutes a high-quality, comprehensive medico-legal asylum affidavit in the United States immigration context? A multi-sectoral consensus-building modified Delphi," *Journal of Forensic and Legal Medicine* (2023), doi: <https://doi.org/10.1016/j.jflm.2023.102513>.

² The Delphi method is a forecasting technique based on expert consensus, also described as a "structured group communication in order to gather a consensus of expert opinions in the face of complex problems". Crawford, Megan & Wright, George. (2016) 10.1002/9781118445112.stat07879

Recommendations of the most consensus-based agreements

Please note that the recommendations in this paper do not constitute advice from PHR. The recommendations should be considered as a resource for practitioners. As always, PHR encourages clinicians to consult with the attorney representing their client to ensure that their medico-legal evaluation accurately reflects the unique circumstances of each individual case. Collaboration between clinicians and attorneys is crucial for tailoring evaluations that best serve the needs of the clients involved.

The areas most experts agreed on, by order of highest agreement, are as follows:

- A narrative form or checklist is preferable to a predetermined template (95%);
- Primary care physicians should describe their qualifications to diagnose mental health conditions (81%);
- The use of citations is helpful, with caveats that these should not distract the reader from the substance, should be abbreviated, and should not make the drafting process more onerous (77%);
- Clinicians should include an assessment of malingering (72%);
- Clinicians should include an executive summary/summary of conclusions at the top of the affidavit (72%);
- Clinicians should reference the [Istanbul Protocol](#), the UN-adopted guidelines for the investigation and documentation of torture and ill-treatment, and explain its relevance (66%);
- It may be beneficial for clinicians to describe the anticipated process of healing (57%); and
- Clinicians may include treatment recommendations (52%).

Conclusions and next steps

PHR recommends that additional multisectoral stakeholder convenings be held to validate these recommendations and to develop standardized forms and checklists. Further, U.S. immigration authorities should consider how they may actively support further exploration of the conclusions of this study, through supporting additional research and translating that research into training and practical guidance for adjudicators and asylum officers.



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³ Of the 22 experts engaged in the project, 19 (86%) participated in all three rounds, one participated in Rounds 2 and 3, one participated in Round 3 only, and one did not participate in the Rounds but instead reviewed the final summary document and provided detailed comments on the summary.