

Forensic Psychiatry in Canada: A Journey on the Road to Specialty

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This has been a pivotal year in Canadian psychiatry. On September 29, 2009, after many years of relentless efforts and lobbying by the Canadian Academy of Psychiatry and the Law (CAPL), the Council of the Royal College of Physicians and Surgeons of Canada finally recognized forensic psychiatry as a subspecialty in psychiatry. Together with the academies of child psychiatry and geriatric psychiatry, forensic psychiatry will now be one of approximately 60 specialties within Canadian medicine, and one of 3 within psychiatry.

This decision is exciting news on the Canadian forensic psychiatry scene because it affords long-deserved recognition to the specialty. In addition, it provides unique opportunities to put into place mechanisms to ensure that standards of competence are met and maintained by those who are called on to deliver services in forensic psychiatry, thus promoting standards of excellence.

A Brief History of Forensic Psychiatry in Canada

In 1990, the American Academy of Psychiatry and the Law (AAPL), which was founded in 1969, suc-

cessfully petitioned the American Psychiatric Association (APA) for formal recognition of forensic psychiatry as a psychiatric specialty. Shortly thereafter, the APA turned to the American Board of Psychiatry and Neurology (ABPN) to establish a procedure by which psychiatrists would be certified in the subspecialty of forensic psychiatry. Qualification in forensic psychiatry through the ABPN began in 1994.

In a similar manner, the recognition of forensic psychiatry evolved slowly in Canada. Even though it was not formally accredited or recognized as distinct from the practice of general psychiatry, forensic psychiatry as a subspecialty existed *de facto* in Canada and had developed, by way of necessity, in conjunction with modern general psychiatry. Over the past 30 years or so, Canada has established a strong community of forensic psychiatrists who have made major contributions to service delivery, research, and policy development. The task of paying tribute to all of them is well beyond the scope of this article, but we thought it would be interesting to provide some landmarks and musings on the history of forensic psychiatry in Canada.

As early as the turn of the past century, psychiatry, as it pertained to the administration of criminal law in Canada, attracted much public attention when it came to dealing with the insanity defense or the treatment of the criminally insane. Dr. Daniel Clark (1830–1912) was a skillful general practitioner who specialized in the study of insanity and published extensively in that area.¹ At the time he testified for the defense in the famous trial of Louis Riel in 1885 in Regina, Clark had been superintendent of the Asylum for the Insane in Toronto since 1875. In testi-

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mony that was ambiguous at times, he declared Riel to be insane.²

In 1895, the case of Valentine Shortis made for a sensational trial after a team of leading criminal defense lawyers attempted, unsuccessfully, to prove that their client was insane. Shortis, a young Irish immigrant, was charged with a double murder in Valleyfield, Quebec.³ At the time, murder was a rare event in Canada. Four prominent psychiatrists testified for the defense, one of whom was Dr. Charles Kirk Clarke (1857–1924), then superintendent of the Rockwood Hospital for the insane in Kingston who later became the superintendent of the Toronto Hospital for the insane. Clarke, after whom the Clarke Institute of Psychiatry was named in 1966, was the first professor of psychiatry in the Department of Psychiatry at the University of Toronto when it was founded in 1908, and dean of the faculty of medicine in Toronto (1908–1920).⁴

The 1960s marked the beginning of the modern era of forensic psychiatry in Canada with the establishment of the first academic chair in forensic psychiatry. As it happened, Dr. Kenneth George Gray (1905–1970), who joined the Department of Psychiatry of the University of Toronto in 1949 and was Chief of the Forensic Clinic at the Toronto Psychiatric Hospital from 1949 to 1966, was appointed Professor of Forensic Psychiatry in 1960.⁵ Gray, through his many invaluable contributions in clinical services, advanced postgraduate training and research, was a prominent figure in forensic psychiatry, and was a member of several renowned associations. He was a Fellow of the American Psychiatric Association where he served on several committees.⁵ Dr. Robert Edward Turner (1926–2006) was another outstanding contributor to the field of forensic psychiatry in Canada. He was appointed Director of the Forensic Clinic at the Toronto Psychiatric Hospital in 1958 and occupied positions such as Medical Director of the Clarke Institute of Psychiatry, Psychiatrist-in-Charge and Director of the Metropolitan Toronto Forensic Service (METFORS), and Professor Emeritus of Forensic Psychiatry at the University of Toronto.

Over a period of approximately 40 years, mentally ill prisoners were detained in asylums across the country. For instance, the Bordeaux Asylum for Insane Prisoners, which housed violent or criminalized psychiatric patients from Quebec hospitals, was opened in 1927.⁶ In 1962, the Quebec Ministry of

health mandated a committee to conceive of a hospital environment more adapted to the treatment needs of dangerous patients. Members of the committee consisted of Dr. Bruno M. Cormier, Dr. Lucien Panaccio, and Dr. Camille Laurin. The following year, the Ministry decided to build a maximum security psychiatric hospital and, as a result, the Institute Philippe Pinel in Montreal opened in 1970. Cormier (1919–1991), a pioneer in forensic psychiatry and clinical criminology in Canada, was a humanist and a visionary who envisioned the primary role of the forensic psychiatrist as understanding and treating the criminal as a human being whose criminality called for treatment and rehabilitation.⁶ He was also engaged politically and signed the *Refus Global* in 1948, a manifesto that rejected the traditional and conservative values of the Quebec society at the time and advocated radical changes.⁷ Shortly thereafter, a period called the Quiet Revolution indeed led to profound changes in a society that had until then been under the rule of the Catholic Church and politicians. Of note, the CAPL's Bruno Cormier award is bestowed annually on a distinguished psychiatrist who is deemed by his colleagues to have made a significant contribution to forensic psychiatry in Canada. Dr. Rhodes Chalke (1916–1986) is one of the founders of the CPA and is better known for his dedication to the *CPA Journal* which he launched in 1955. He served as its editor-in-chief until 1972. In the early 1970s, he was chairman of the University of Ottawa's Department of Psychiatry and later was appointed Associate Dean of Clinical Affairs with the School of Medicine. Through his career, he was involved in correctional and forensic psychiatry. After he retired, he moved to Vancouver where he continued to work as a treating forensic psychiatrist. He was president of the World Council on Prison Medicine at the time of his death.

All these men, through their contributions and dedication to their work, played an influential role in changing the perception of the mentally ill. They expanded the provision of medical psychiatric care in the criminal mentally ill population at a time when the Canadian society went through significant social, cultural, and political changes.

In the contemporary era, many Canadian forensic psychiatrists have earned international reputations. For instance, four Canadian forensic psychiatrists, to date, have been President of the American Academy of Psychiatry and the Law: Dr. Gerald Sarwer-Foner

(1975–1977), Dr. Selwyn Smith (1985–1986), Dr. John M. Bradford (1993–1994), and Dr. Roy O’Shaughnessy (2002–2003).⁸ Dr. Alan Weston (1922–2003), a graduate of the University of Liverpool, United Kingdom, consulted on many infamous cases, such as the Yorkshire Ripper.⁹ In 1976, he chaired the Butler Commission, a prominent forensic commission looking at planning and structuring national forensic services in the United Kingdom. The model was subsequently copied in Canada. In 1978, Weston came to Canada and was the first clinical director of the Regional Psychiatric Centre in Saskatoon, a forensic psychiatric hospital operated by the Correctional Service of Canada.⁹

Forensic psychiatry continued to grow in Canada, with psychiatrists in the specialty being active in many jurisdictions. While Daniel Clark published the first psychiatric textbook for Canadian medical schools in 1895, Dr. Stephen Hucker and Dr. Ed Turner were publishing the first Canadian textbook devoted to forensic psychiatry, *Basic Forensic Psychiatry*, in 1984.¹⁰

In 1989, Dr. Bradford petitioned the Executive Council of the American Academy of Psychiatry and the Law (AAPL) for the creation of the Canadian Academy of Psychiatry and the Law (CAPL) as a chapter of AAPL. Bradford and Dr. Derek Eaves were the first co-chairs of the chapter. In many respects CAPL looked to the AAPL for guidance on activities, codes of ethics, and the like. It pursued similar goals, promoting excellence in care delivery and mental health in the Canadian population as it relates to psychiatry and the law. CAPL, the professional body representing forensic psychiatrists across Canada, just celebrated its 15th anniversary as an independent academy. It has evolved to become an official academy affiliated with the Canadian Psychiatric Association (CPA) and was incorporated as a nonprofit, professional organization with its own Letters Patent issued by Corporations Canada on November 9, 1995.

From 1989 to 1997, Canadian forensic psychiatry fellowships were accredited by the Accreditation Council on Fellowships in Forensic Psychiatry (ACFFP), a component of AAPL, which was disbanded in 1997 when the Accreditation Council for Graduate Medical Education (ACGME) assumed responsibility for accrediting all graduate medical education programs in the United States. After that, Canadian postgraduate medical programs could no longer receive accreditation.¹¹

In 1997, the CPA offered support to the subspecialty argument by forming three academies: the Canadian Academy of Psychiatry and the Law, the Canadian Academy of Child Psychiatry, and the Canadian Academy of Geriatric Psychiatry. Since the early days, CAPL has served as expert counsel to the CPA on matters of psychiatry and the law.

Joining forces under the auspices of the CPA, the three academies worked collaboratively toward the promotion and formal recognition of specialty psychiatry, petitioning the CPA and the Royal College of Physicians and Surgeons of Canada (RCPSC) on the matter. The RCPSC is the professional body that develops specialty training requirements and accredits its residency programs in Canada. The three academies, through the Council of Academies, were represented on the Board of Directors of the CPA and provided advice on matters relevant to subspecialization and the process for achieving that goal. Various steps were taken that included formal written submissions to the RCPSC in December 1995 and September 1999 and several representations to the RCPSC decision-making committees. It was repeatedly argued that subspecialty status would not only increase the recruitment into forensic psychiatry, but would standardize the education of forensic psychiatrists in Canada, thereby promoting standards of excellence.¹¹ It was only in recent years and after considerable work by members of CAPL and the CPA that the RCPSC bought the argument.

In the United States, the Association of Directors of Forensic Psychiatry Fellowships (ADFPF), a Council of AAPL, and the American Board of Psychiatry and Neurology (ABPN) developed their respective outlines of core competencies in forensic psychiatry. An outline of forensic psychiatry core competencies that incorporated suggestions from the ADFPF outline was adopted by the ABPN.¹¹ In a similar vein, a forensic psychiatry training curriculum with standardized training guidelines was developed by the Education Committee of CAPL in 1996.¹¹ The Academy formally endorsed a revised forensic training curriculum in 2004, with a view toward encouraging consistency and standardization of training across Canada. The guidelines were similar in many ways to the ADFPF and ABPN forensic psychiatry core competencies and to the standards promulgated by the ACGME in the United States. Canadians have already adopted a model similar to that used in the United States.

The recognition of forensic psychiatry as a specialty in Canadian psychiatry means that instead of general postgraduate fellowships in psychiatry, there will now be clearly defined postgraduate year (PGY) 6 accredited programs with all the requirements and obligations of any specialty residency program. Entry into a fellowship will usually follow the completion of five years of residency in general psychiatry. The fellowship trainee is expected to have demonstrated the requisite knowledge, skills, and attitudes demanded by general psychiatry in accordance with the General Objectives of Training and Specialty Training Requirements in Psychiatry and to have successfully completed the RCPSC examination in psychiatry or its equivalent. Canadian Forensic Psychiatric fellowship will be a one-year PGY6 year, followed by an examination in forensic psychiatry. At this time, most of the postgraduate departments in psychiatry in Canada have the ability to provide individual training in psychiatry and the law and the process to accredit these programs accordingly will be determined. A working group has been formed with regional representation across the country, and it is anticipated that the first accredited Forensic Fellow will enter his or her PGY6 year in July 2011. It is hoped that this new program will put forensic psychiatry and certainly the training of forensic psychiatrists on par with the fellowship programs that now exist in the United States. We are likely to re-engage more closely with the AAPL and their postgraduate directors to try to get our training on track. There are some legal differences between Canada and the United States, as we have a Federal Criminal Code but Provincial Mental Health Acts. Our Federal Criminal Code has in many respects allowed us to conduct extensive research studies across Canada and probably contributes to the wealth of data and published research in risk assessment.

The recognition of forensic psychiatry as a specialty is a step that has not been without its detractors in Canada. Counterarguments typically have to do with utilization of resources and cost containment, despite the fact there are no data that strongly support the validity of such arguments. Many individuals have pointed to the relatively low number of forensic fellows entering fellowship programs. When we look to our colleagues in the United States, we note that not every program fills its fellowship positions; in fact, it is probable that a minority of programs are filled. Will the additional requirements for

training and an examination create an even greater barrier to what we consider to be an underserved area? Some of our other colleagues have, somewhat tongue-in-cheek, suggested that if anyone wants to, for instance, be a geriatric, forensic, or child psychiatrist, we should just hand them the diploma and plaque and allow them to practice. Will this barrier reduce the number of practitioners in underserved parts of the profession? Not only is there some concern in this regard, but also there is a concern about the fracturing within general psychiatry. Child psychiatry is different in many respects from general psychiatry, and of all the specialties, it is the one most likely to separate from the mainstream. Many child psychiatrists may not see sufficient benefit in participating in general psychiatry conferences, and some look at general psychiatry across an even playing field, as opposed to considering child psychiatry to be a subspecialty within psychiatry. Also, amplified by subspecialty status, competitiveness and elitism run the risk of fracturing psychiatry, a specialty that probably should be more active in advocating for equal payments for services compared with some of the other specialties. Improved global payment for psychiatric services is in fact a statement on the value of our services and the value that society places on patients with mental illnesses. These are concerns that should be kept in mind as we move to true specialty status for forensic psychiatry in Canada.

Nevertheless, this period promises to be an exciting one, and we look forward to moving through it with some trepidation as well as anticipation.

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