

The Forensic Psychiatrist of the Future

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The rate of change in scientific knowledge and the growing psychiatric sophistication of attorneys and courts have made it increasingly difficult for forensic psychiatrists to retain proficiency in the full spectrum of potential professional activities. As the consumers of forensic services become more sophisticated, forensic psychiatrists have an increasing need to become scientifically informed and a decreasing need to become legally informed. Traditional training in forensic psychiatry, which emphasizes clinical, legal, and institutional knowledge and experience, gives short shrift to behavioral science and other technical knowledge that can enhance the validity of forensic assessments and their value to the legal system and society. Forensic psychiatrists can best respond to these changes and maximize the value of their assessments by narrowing their focus to some subset of the four branches of the discipline: criminal behavior, mental disability, forensic child psychiatry, and legal aspects of psychiatric practice. Maximal proficiency in each of these four branches requires a greater depth of knowledge and experience than was once sufficient among those who practiced in all four areas. Fellowship training programs and professional organizations should lead forensic psychiatry into the twenty-first century by organizing their efforts along these four parallel tracks.

Forensic psychiatry is in an exciting period of change. We are witnessing increasing sophistication among the providers and consumers of forensic services in many parts of the nation, a proliferation of fellowship training programs, and major increases in the scientific data base underlying our understanding of important forensic psychiatric concerns, such as offense-specific patterns in criminal behavior, responses to psychological trauma, effects of parental separation on child development,

and sequelae of treatment refusal among chronic mental patients. The rate of development of new knowledge in psychiatry and other behavioral sciences has never been higher than in recent decades, and many of the consumers of forensic psychiatric services—principally attorneys and courts—have become more sophisticated in assessing and challenging psychiatric findings.

In this era of rapidly changing knowledge and sophistication, it is increasingly difficult or impossible—depending on the scope of one's practice—to stay informed about important developments in the areas that affect our work. The mind boggles at the proliferation of relevant scientific developments, books, journal articles, conferences, organizations, court decisions, legislation, and regulations.

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A decade ago it was said that the half-life of medical knowledge was on the order of five years. I remember taking comfort at the time in my perception that forensic psychiatry was concerned with law and that the law was a more lumbering creature. My experience in the intervening years has taught me that I was more nearly correct about the kinetics of important legal principles than about my perception that it was the law about which forensic psychiatrists should be concerned. Keeping up with law is the least of our problems. Not only is that what our clients—the lawyers and courts—are supposed to be doing, but it is by no means the most important, for our purposes, of the areas about which we need to be informed or remain current. If the evidence we garner and present is valuable to legal decision makers, it is valuable because our findings reflect expertise in clinical, institutional, behavioral science, or other technical matters; the limited role of law is in formulating the questions we are asked and setting the rules by which we may answer.

It is said that there were once forensic psychiatrists who were of value in solving any psycholegal problem a lawyer might confront. They assessed cases involving competence to stand trial, criminal responsibility, sentencing, sexual psychopaths, dangerousness, worker's compensation, Social Security disability, psychic trauma, fitness for duty, contractual capacity, testamentary competence, child custody, child witnesses, civil commitment, guardianship, and psychiatric malpractice. They evaluated children, adolescents, adults, the elderly,

and the deceased; they wrote reports, helped select juries, advised on trial strategy, testified, gave emotional support to lawyers, and drafted legislation; they had active treatment practices, taught their colleagues, lectured to legal groups, contributed to the literature, consulted to police agencies and industry, and were active in their communities and in professional societies. In all of this they were said to be proficient.

Times have changed. Today, it is doubtful that any individual could be proficient in all of this. A few exceptional individuals are excellent at most of these activities, but more often those undertaking a large proportion of these varied activities risk mediocrity or incompetence in some of them. Unfortunately, even today some of the consumers of forensic psychiatric services are poorly equipped or unmotivated to distinguish among mediocrity, proficiency, and excellence.

Of cases in which there is a correct conclusion to reach, scientific methods, logical rigor, and valid assessment are adverse to a lawyer's client's interests about half the time, and it is therefore to be expected that some practicing attorneys will knowingly use forensic evaluators whose assessments are regularly deficient. Thus, market forces can not be counted on to improve the overall quality of evaluations, but rather to perpetuate the least valid forms of assessment. There will always be a market for the wrong opinion. Moreover, as long as the testimony is not known to be perjured, it is not necessarily unethical for attorneys to call witnesses whose opinions they suspect.

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Suspect opinions, outrageous testimony, and even the impression of inexcusable attitude and disagreement that necessarily surrounds contested testimony have led some commentators, such as Stone¹ and Gunn,² to recommend that psychiatrists leave the courtroom. I think less desperate remedies are possible. At least three strategies could improve the practice of forensic evaluators: (1) malpractice actions against negligent expert witnesses, (2) effective peer review, a strategy suggested periodically without result, or (3) the education of a sufficient number of forensic psychiatrists of the highest integrity who bring the appropriate, focused expertise to the adversarial setting. It is to the last of these strategies that I address myself here.

Increasing the proportion of forensic psychiatrists who are appropriately qualified would have a direct, beneficial effect on the average quality of evaluations and testimony. Ultimately, however, the effect of the new breed can be greater than their proportion in the profession if judges recognize that not all psychiatrists are experts on all psychiatric issues and act on that recognition by refusing to admit testimony from poorly qualified psychiatrists. Only if judges deny the admission of expert testimony from those who lack qualifications on the issues raised in a particular case will attorneys find it necessary to consult those with the appropriate qualifications.

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Forensic psychiatry is the psychiatric evaluation and presentation of evidence relevant to the resolution of legal dis-

putes. Forensic psychiatry can no longer afford to be confounded with law and psychiatry or to be construed as that branch of psychiatry dealing with law or legal issues. Even mental health law, which many mistake for the relevant body of knowledge for forensic psychiatrists, is not relevant to most of the tasks of forensic psychiatrists, although it is an important body of knowledge for psychiatrists generally and for those forensic psychiatrists dealing with the legal aspects of psychiatric practice. Legal knowledge does enhance a psychiatrist's ability to contribute to the important intellectual and policy issues surrounding psycholegal problems, but when one makes these contributions one is not acting as a forensic psychiatrist. For forensic psychiatric activities, the legal issues are rather narrowly focused, and the forensic psychiatrist operates under no handicap in being poorly schooled in other areas of the law.

The types of disputes in which forensic psychiatric expertise is most often sought deal with four rather distinct aspects of psychiatric and scientific knowledge: criminal behavior; the assessment of functional disability due to mental disorder; the development, behavior, and well-being of children; and the legal aspects of psychiatric practice. These four areas of inquiry, which together encompass nearly all of the issues that psychiatrists are asked to address in the course of legal disputes, do not comprise a coherent whole. They deal with separate aspects of psychiatric practice, separate branches of law, separate societal institutions, separate bodies of behavioral science research, and separate tech-

nical issues. Indeed, the only common ground among these four areas is that psychiatrists addressing issues in any one of them should be possessed of professional integrity, scientific and logical rigor, and communicative skills within the rules of evidence of dispute-resolving bodies. This common ground is insufficient to define or sustain a viable subspecialty.

I believe that the future of forensic psychiatry lies in focusing—subspecializing, if you will—along substantive lines. Fortunately, the lines of cleavage in the law correspond fairly well with the lines of cleavage in clinical practice, societal institutions, and behavioral science research. Four branches of forensic psychiatry can be identified by their correspondence with the four substantive areas mentioned above: criminal behavior, mental disability, forensic child psychiatry, and legal aspects of psychiatric practice. Each of these four branches requires specialized clinical knowledge and experience, specialized legal knowledge, specialized institutional knowledge and experience, specialized behavioral science knowledge, and specialized technical knowledge that extends well beyond disciplinary boundaries. Examples of the core knowledge necessary for proficiency in each of the four branches are given in Table 1. Each cell in this table represents a substantial body of knowledge, of which only a few exemplary issues are listed.

Examples of a few points of overlap among pairs of the four branches should be noted to avoid giving the impression that they are totally independent of one another. Juvenile delinquency and child

abuse are encompassed by both the criminal behavior and the forensic child psychiatry branches. Violence within institutions, assessment of dangerousness, allegations of negligence related to violence, and treatment of mentally disordered offenders are encompassed by both the criminal behavior and the legal aspects of psychiatry branches. Mental disability allegedly caused by negligent psychiatric practice, civil commitment of minors, competence to make particular decisions, and certain other topics also cross the lines among branches. Despite these points of overlap, which are inevitable in any classification of knowledge, the four branches have distinctive differences in each of the areas of knowledge and experience listed in Table 1.

The vision of forensic psychiatry that underlies most fellowship programs, the recommendations of the Joint Committee on Accreditation of Fellowship Programs in Forensic Psychiatry,³ and the syllabus of the American Board of Forensic Psychiatry emphasize the first two rows of Table 1: clinical knowledge and experience and legal knowledge. The third row, institutional knowledge and experience, is readily acknowledged as relevant, but is left to happenstance. The fourth and fifth rows, behavioral science knowledge and other technical knowledge, are largely neglected in this vision.

The alternative vision of forensic psychiatry that I advocate is focused on the branches and emphasizes depth over breadth (the columns, not the rows). I maintain that there has never been a forensic psychiatrist who has mastered every cell in Table 1. Nonetheless, there are many who practice in all four

Table 1
Examples of Core Training Necessary for Proficiency in Each of the Four Branches of Forensic Psychiatry

Areas of Knowledge and Experience	Criminal Behavior	Mental Disability	Forensic Child Psychiatry	Legal Aspects of Psychiatric Practice
Clinical knowledge and experience	Antisocial personality; schizophrenia; alcoholism; paraphilias	Pain; malingering; functional assessment; PTSD	Child psychiatry; family therapy; child abuse	Consent; commitment; pharmacotherapy; discharge planning
Legal knowledge	Criminal law; criminal procedure	Administrative law; torts	Family law; juvenile law	Mental health law; torts
Institutional knowledge and experience	Jails; prisons; "forensic" facilities; police; probation; parole; criminal records	Social Security administration; workers compensation boards; industry; accident insurance	Foster homes; child welfare agencies; the family; adoption; schools; juvenile facilities	Mental hospitals; clinics; nursing homes; health insurance; licensing and discipline
Behavioral science knowledge	Criminology; penology; police science	Sociology of disability; occupational sociology	Developmental psychology; sociology of the family	Health policy; psychiatric sociology; economics
Other useful technical knowledge	Criminal investigation; forensic sciences; weaponry	Occupational medicine; vocational rehabilitation; injury control	Pediatrics; social work theory; parenting	Political science; administration; finance

branches, and both the American Board of Forensic Psychiatry and the ideology (but not the training) of most fellowship programs encourage them to do so. Neither the legal system nor society needs forensic psychiatrists who believe that an ability to testify qualifies them to answer any question; they need true experts in criminal behavior, mental disability, forensic child psychiatry, or legal aspects of psychiatric practice.

Fellowship Training for the Future

Training fellows according to this alternative vision of the discipline would require either the selection of fellows who are prepared to select one or two branches during their fellowship year or lengthening the standard fellowship experience to two years. In a two-year fellowship, the first year could be the traditional overview of the discipline, and the second could be focused on one or two branches. Alternatively, the fellow who is able to focus during the first year would have the opportunity to complete significant research during the second year. As a former advocate of comprehensive training,⁴ I know that one can keep a fellow busy for a year studying a few of the rows in all four columns and that such a fellow will look back upon such a year as rich and broad. Unfortunately, one year is insufficient for attaining the three goals that might be attained in a two-year program: (1) the beginnings of in-depth knowledge of one of the branches, (2) minimal competence in the other three branches, and (3) sufficient commitment to a set of intellectual problems to become a productive investigator. It is the first of these three

goals that should have the highest priority, even in one-year programs.

Regardless of the year in which fellows focus on particular branches, they would benefit from doing so in a program in which the faculty have adequate expertise and in which adequate clinical and institutional experience can be provided. It is doubtful that more than a few of the current programs can provide a sufficiently rich experience in all four branches. The recommended accreditation standards³ encourage each program to develop experiences in all four branches. Efforts to dissuade my fellow committee members from drafting the standards this way were met with the view that the average applicant seeks to become a generalist, that only researchers and scholars need to focus to such an extent, and that the concept of focusing along substantive lines was ahead of its time. My responses to these views are that applicants should be guided by what the faculty believe to be in their best interests and the best interests of the discipline, that fellows should be helped and encouraged to become scholars and researchers, and that further delays in focusing along substantive lines continue to impede the progress of the discipline.

Moreover, requiring fellowship programs to include all four areas as a basis for accreditation is an invitation to mediocrity. Why should a fellowship program in a state facility for mentally disordered offenders try to train fellows in child custody evaluations? Why should a fellowship attached to a child psychiatry program be encouraged to train fellows to evaluate adult offenders? For

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both the faculty and the fellows it is far more productive to build on strengths than to build on weaknesses.

Fellowship training programs provide a narrow window of opportunity for educating future forensic psychiatrists who can become genuine experts, applying state-of-the-art techniques to the forensic questions posed and capable of contributing to the development of the discipline. The directors of fellowship programs have a responsibility to shape forensic psychiatrists who know their field and their limits, who think and communicate clearly, and who are motivated to make and share discoveries. Every few years such a forensic psychiatrist arises by spontaneous generation, and some might argue that there is no other way to produce them. If fellowship programs are to produce such people despite the brain drain of biological psychiatry, the faculty must motivate fellows to focus their attention on worthwhile problems, to think rigorously, and to work hard at mastering specific areas of practice. The substantive training is possible for any program that organizes its curriculum and guidance to fellows along the four-track model and that limits its offerings to those branches of forensic psychiatry in which knowledgeable and experienced faculty are available.

In 1979, 10 forensic psychiatry fellowship programs could be identified in the United States.⁴ Today there are 23. The October 1986 founding of the American Association of Psychiatric Forensic Fellowship Directors and the more than 100 percent growth in the number of fellowship programs in less than a dec-

ade provides an opportunity for reassessing the direction of training in forensic psychiatry. Program directors who offer primarily criminal forensic experience to their fellows tend to be embarrassed by the one-sided nature of the fellowship or to speak of the need to develop more opportunities in civil matters to round out their programs in accordance with the traditional vision of the field. Instead, they should build on their strengths and add exposure to varied aspects of the criminal justice system, to criminology, penology, police science, criminal investigation, the forensic sciences, weapons, and other technical matters that would improve the knowledge base of their fellows, faculty, and staff. Child forensic psychiatrists who wish to offer training to forensic fellows should not feel compelled to dabble in criminal cases, mental disability, or the legal regulations affecting the care of adult patients. We need centers of excellence in each of the four branches of the discipline, not centers of mediocrity that try to be all things to all lawyers.

The principal challenges that have been raised to the vision of forensic psychiatry sketched here are that it is inefficient for teachers and trainees. Forensic psychiatrists with the depth of knowledge on any subject that I have urged in this essay are so rare that critics of my view can not readily be proved wrong in dismissing this ideal as that of an unrealistic "superexpert" or in suggesting that this would be desirable in a small cadre of scholars and researchers but is too much to ask of the average practitioner. Considering how many forensic

evaluations are done by psychiatrists who do not even apply the correct legal test or who do not know how to write a report that a layman can understand, it is probably true that teachers can do more to improve the average report by teaching residents and practicing psychiatrists the rudiments than by facilitating the development of "superexpertise." After all, the consumers are demanding "superexperts" only for high-profile or high-stakes cases and seem content with minimally competent evaluations in the vast majority of cases.

From the standpoint of the trainee, who has already made an enormous investment in training, there are four reasons for expending the time necessary to develop "superexpertise": (1) to contribute to the growth of knowledge through clinical research and scholarship, (2) to enable the fulfillment that accompanies genuine mastery, (3) to raise the level of respect for forensic psychiatry within the legal community (and within the larger psychiatric community), and (4) to increase the value of forensic psychiatry to society by improving the validity of assessments. It is the men and women who find these answers compelling whom forensic psychiatry needs for the future.

The Role of Professional Societies

The rapid increase in technology and information will inevitably result in the desirable narrowing of focus among the younger forensic psychiatrists who will be the leaders of professional societies in the future. In the American Academy of Psychiatry and the Law (AAPL) there are already committees with special in-

terests in child forensic psychiatry, geriatric forensic psychiatry, and criminal behavior, and committees will no doubt continue to spring up along whatever lines of cleavage interest those who wish to chair them. Despite the considerable success of the annual meetings, one hears there grumblings about the fact that too many papers on related topics are scheduled to conflict or that there are too few presentations in areas that interest the grumbler. First-time attenders seek guidance in selecting from the smorgasbord that the meetings have become since 1978, when attendees were first forced to select from among multiple offerings.

Table 2 shows the distribution of presentations at the 1986 annual meeting according to the four branches of forensic psychiatry. Note that the largest percentage of presentations was devoted to criminal behavioral and the second largest percentage to the legal aspects of psychiatric practice. Mental disability and forensic child psychiatry each accounted for fewer than 10 percent of the presentations. Eight-five percent of all presentations could be readily classified into one of the four branches, and 15 percent crossed the boundaries among branches (e.g., expert testimony, media relations, computers, and organizing a private practice). If presentations at the largest meeting of forensic psychiatrists are a valid indication of current work in the discipline, then it is fair to conclude that most of this work occurs within recognizable branches.

The American Psychiatric Association is currently exploring the issue of subspecialization in psychiatry as a

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whole, and, if action is taken, will need to make decisions that are more difficult than those facing forensic psychiatry about the best lines of cleavage. Peele⁵ has pointed out that there are at least six dimensions along which psychiatric subspecialties could be organized: personal characteristics of psychiatrists, functions (e.g., forensic psychiatry), employer, treatment site, body of knowledge or treatment procedure, or patients served. For AAPL, the task is easier because the lines of cleavage are more natural and because AAPL does not yet have entrenched special interest groups bound

together by their personal characteristics or practice settings.

As the membership of AAPL has grown, so has the number of presentations at the annual meetings. Table 3 shows the distribution of presentations at the annual meetings held in 1977 (New Orleans), 1980 (Chicago), 1983 (Portland), and 1986 (Philadelphia) according to the four branches of forensic psychiatry. Over the course of the past decade, the total number of presentations has increased by a multiple of about four. Criminal behavior has consistently occupied about half of the

Table 2
Presentations at the 1986 Annual Meeting of the American Academy of Psychiatry and the Law Dealing with Each of the Four Branches of Forensic Psychiatry, by Type of Presentation

Branch	Papers and Lectures		Panels		Didactic Sessions*		Total	
	N	%	N	%	N	%	N	%
Criminal behavior	28	50.9	6	33.3	8	40.0	42	45.2
Mental disability	5	9.1	1	5.6	2	10.0	8	8.6
Forensic child psychiatry	5	9.1	1	5.6	2	10.0	8	8.6
Legal aspects of psychiatric practice	14	25.4	6	33.3	1	5.0	21	22.6
Multiple branches	3	5.4	4	22.2	7	35.0	14	15.0
Total	55	99.9	18	100.0	20	100.0	93	100.0

* Didactic sessions include courses, workshops, audiovisual sessions, and poster sessions.

Table 3
All Presentations at the 1977, 1980, 1983, and 1986 Annual Meetings of the American Academy of Psychiatry and the Law Dealing with Each of the Four Branches of Forensic Psychiatry

Branch	1977		1980		1983		1986	
	N	%	N	%	N	%	N	%
Criminal behavior*	10	45.4	32	56.1	29	44.6	42	45.2
Mental disability	3	13.6	4	7.0	4	6.2	8	8.6
Forensic child psychiatry	1	4.5	5	8.8	10†	15.4	8	8.6
Legal aspects of psychiatric practice	2	9.1	7	12.3	16	24.6	21	22.6
Multiple branches	6	27.3	9	15.8	6	9.2	14	15.0
Total	22	99.9	57	100.0	65	100.0	93	100.0

* Includes juvenile delinquency, violence within institutions, and clinical assessment of dangerousness.

† Includes six speakers in a symposium on child advocacy held as the special educational session.

meeting program, while the legal aspects of psychiatric practice have been receiving an increasing share of attention. Mental disability and forensic child psychiatry have each continued to represent a small percentage of the presentations. Even as the number of presentations has increased dramatically, the proportion of presentations that cross the boundaries among branches has decreased. Differentiation is a characteristic of maturing organisms and organizations generally, and it may be a mark of AAPL's maturation that its meetings are becoming increasingly differentiated according to more specialized interests.

One possible course for the development of AAPL in the 1990s is the elaboration of sections corresponding to the four branches described here. Representation of officers according to substantive sections would surely be more responsive to the interests of the members than representation according to geography, which has from time to time influenced decisions about nominations and appointments. Each section could elect its own officers and plan its own program track. This would be particularly beneficial to those with a special interest in mental disability or in forensic child psychiatry.

A sectional structure for AAPL could contribute to the healthy development of the relatively neglected branches of mental disability and forensic child psychiatry by providing a reserved forum for presentations in these areas, by encouraging individuals to affiliate themselves with these particular branches, and by highlighting the special significance of these two areas. Each of the

four branches would benefit from control over its own program content and an organizational structure that facilitates recognition of professional achievement and contributions within the branch.

Conclusions

The most productive course that forensic psychiatrists can chart into the twenty-first century is to provide more valid and sophisticated assessments by differentiating along substantive lines. Psychiatrists with focused expertise in criminal behavior, mental disability, forensic child psychiatry, and legal aspects of psychiatric practice are better able than generalists to advance the state of knowledge and to achieve valid findings in particular disputes.

Fellowship programs in forensic psychiatry can maximize their contribution to the development of the discipline by giving fellows the opportunity to begin mastering one branch of the discipline in sufficient depth that they can become clinical investigators and scholars. Professional organizations such as AAPL can improve the trajectory of the discipline into the next century by differentiating into substantive sections that control their own program content and that recognize achievement and contributions within their own field of knowledge.

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