

Thirty Years and Still Growing

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In the 30 years since the founding of the American Academy of Psychiatry and the Law in 1969, there has been a tremendous growth in the organization as well as in the number of psychiatrists who have a subspecialty of forensic psychiatry. In an attempt to explain this exponential growth, the author looks at the many social, economic, medical, and legal activities that were active during these years.

It seems incomprehensible that the American Academy of Psychiatry and the Law (AAPL) is now approaching its 30th year and that the membership has grown to over 2,000. When 10 of us* sat around a table in a hotel conference room at the American Psychiatric Association (APA) meetings in Miami in May 1969 and decided that we needed a more formal organization to develop further interest in forensic psychiatry, we had no idea that what has developed would occur. There had not been much interest in our subspecialty even after Isaac Ray published his treatise in the 1840s. Those of us attending this meeting had not been able to develop much interest in the fellowships that we had been offering since 1965. I believe our program at the Supreme Bench of Baltimore, as the Circuit Court for Baltimore City was called then, had

the only one-year full-time fellow.[†] We knew that all of us were interested in trying to recruit fellows. We knew that all of us had a need to exchange ideas and develop new methods of participating with the law. However, the major force drawing us together every year at the APA meetings was our belief that Psychiatry had something useful to offer the law, both civil and criminal. We felt, however, that our influence had been minimal. We wondered what more we could do to encourage the law, judges, legislatures, and prison wardens to call on us. We believed that once we began to talk to each other we could express our mutual concerns and hopefully work toward some solutions. We believed that we had something to offer the Law.

To understand this attitude, one must appreciate that the general sociopolitical climate was quite different then than it is today. Our country had pursued World War II (1941 through 1945) to a successful end. There had been a big demand for

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psychiatrists during the war, and psychiatry had functioned well. Because the military remembered the inadequately treated, "shell-shocked" soldiers of World War I, it now recognized a need for many more psychiatrists than were available. Therefore, pediatricians and obstetricians, medical specialists who were not essential to the military, were "retooled" in 90 days to become psychiatrists. They performed well as battalion psychiatrist and in other roles. They were able to identify "combat fatigue" and other stress related syndromes that they were then able to treat so that some of the soldiers were able to return to the battlefield. I believe that as a result of these successes, and the very presence of psychiatrists in numbers in the military, there developed a new respect for psychiatry. As a result, after World War II there was a great interest in psychiatry and psychoanalysis. The 1950s saw the beginnings of the civil rights and human rights movements. This of course did not develop in absentia. The war was over and it was now time to take care of things at home. This was to be the last war. Security and prosperity were just around the corner. Here was psychiatry, a field of knowledge that understood all about human behavior. Hopefully psychiatry could help change those in our communities who had undesirable behavior, the criminals. Lawmakers said, "Ask the psychiatrists to treat our prisoners. Let us have them advise judges as to the best punishment or treatment for an offender. Let us have them examine every felon and try to explain why this person has committed these transgressions." This was the cli-

mate in the 1950s. Of course not everyone was so foolishly hopeful, but a lot of very intelligent people were. Many psychiatrists recognized the hyperbolic quality of these expectations. Many psychiatrists, however, found it difficult not to accept these plaudits and expectations. They believed that perhaps we could make a meaningful contribution to society. Unfortunately, at the same time there was a great demand for psychiatric care from the law-abiding community. Private solo practices were busier than ever. Insurance companies were paying for psychoanalysis and other types of psychotherapy. Why consider working in a prison or testifying in court when life could be more comfortable in a public hospital or even better in a private office? No one was interested in a fellowship in forensic psychiatry.

There was, however, a group of us who were working in the forensic arena. Some were doing forensic work in private practice, while others like myself worked part-time for the courts or in public maximum security units or in prisons. Several of our senior colleagues had made a name for themselves in forensic psychiatry. They had done research and published, lectured regularly, and taught in both medical and law schools. They were the "Great Ones" when I began my career—Phillip Roche, Manfred Guttmacher, Gregory Zilboorg, Winfred Overholser, Al Glass, and Karl Menninger to name only a few. They were the true fathers of modern forensic psychiatry. They were the ones who testified before legislative bodies that were considering establishing special treatment programs for recidivis-

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tic criminals. They were the psychiatrists who participated in the work of the Model Penal Code Commission of the American Law Institute.¹ They were the people who in the middle 1960s encouraged the National Institutes of Health to fund forensic fellowship programs.

After the fellowships were funded, even if there were no fellows the funds allowed time for the faculty to do research and write articles and share ideas. This brought us together at the APA annual meetings. At that time the meetings were arranged into sections. The section on Law and Psychiatry would have all of its papers presented at the same session. There were also dinner meetings where we would gather for further discussion. As more and more psychiatrists became involved, it was clear that we needed more time together to present and share our ideas, research, and experience. So occurred that fateful meeting in Miami when AAPL was born. The timing was perfect. There was a demand, and the supply was limited. AAPL was to fulfill that need. In 1969 we had our first meeting, and we have not stopped growing since then. But why so much growth?

Just as there were many factors that contributed to the establishment of AAPL, there were many factors that contributed to the growth of forensic psychiatry since then. The Model Penal Code had been published in 1962, presenting many "modern" ideas, including a criminal responsibility test that many believed more closely represented modern psychiatric thinking than did the McNaughten test. Then other things began to happen that brought more legal issues into the

practice of psychiatry. The human rights movement began to look at civil commitment and patients' rights. Morton Birnbaum's epic² on the right to treatment set the stage for class action suits, and the mental health bar was born. Since I do not intend this article to represent a detailed history of this period, I will not discuss the many actions of the mental health bar, which caused psychiatrists, among others, to pay attention to "legal" issues. However, the birth of the mental health bar created a lot of litigation; this then led to a demand for psychiatrists who had an understanding of the law, as well as for legislators, judges, and lawyers who had a greater understanding of mental health issues. Forensic psychiatrists were in demand. We were called upon to testify before the courts and the legislatures. We were called upon to teach our colleagues how to testify and how to interpret some of these new laws and rules. Every department of psychiatry began to recognize the need to teach their residents more about forensic issues.

While those things were occurring, there were also actions in other areas that established an increased need for psychiatrist who were comfortable around the law. Psychiatrists were called upon more frequently to participate in divorce and custody cases, which then raised an issue of the confidentiality of communications in psychotherapy. A rash of legislation on confidentiality and privileged communication developed requiring further psychiatric assistance in helping to write these laws, as well as in testifying to their necessity. Then came the increase in mal-

practice cases that developed in the mid 1970s and thereafter, once again requiring more knowledgeable and experienced psychiatrists to evaluate and testify. While all of this was occurring, those of us who were already identified as forensic psychiatrists were almost overwhelmed with demands for our services, both to serve the law and to teach our colleagues. Medical ethics demands that we teach others what we have learned. This was one of the major goals of AAPL from its inception: education and research. Slowly more psychiatrists joined AAPL, and our meetings were better attended.

The next major factor in the growth of forensic psychiatry was the awarding of a grant to the Forensic Sciences Foundation in 1975 to establish certification for a group of the forensic sciences. These included the following forensic sciences: Pathology, Document Examination, Odontology, Anthropology, Laboratory Sciences, and Psychiatry. Each specialty was to set up a board, which would establish standards and examinations for the certification of experts in these fields. The Department of Justice wanted this certification in order to establish more quality testimony from "experts." There would now be a way to determine whether or not someone saying he or she was an expert in a field actually had passed a test for such expertise. This led to the development of the American Board of Forensic Psychiatry (ABFP), which gave its first examinations in 1979. Now that there was some quality control, most departments of psychiatry wanted their own board-certified forensic psychiatrist. It is easy to

see how the demand for more knowledge and training in our field progressed. Most importantly, however, the ABFP established a baseline of knowledge and a standard for reports in forensic psychiatry that had not previously existed. Now people who said they were experts could be knowledgeably cross-examined. More importantly however, in my opinion, was the fact that standards were established.

The body of knowledge in our field increased with each new research report, with each new piece of legislation, and with each new related court decision. While I would like to list the names of those who made major contributions to our growth, I will resist lest I omit some deserving soul. One only needs to look at the list of those who have been most active in AAPL over the years to see among them the major players.

The next important development was the community mental health movement, which reduced the number of patients in hospitals without increasing in equal numbers the psychiatrists working in outpatient programs. This development, along with managed care and its economic effect on the private practice of psychiatry, led to some psychiatrists looking for other sources of income. In 1992 forensic psychiatry was officially recognized as a subspecialty of psychiatry by the APA, leading to recognition by the American Board of Psychiatry and Neurology and the establishment of a new certifying body leading to "Added Qualifications in Forensic Psychiatry." The advent of managed care and the official recognition of forensic psychiatry are the

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most recent factors to cause an increase in interest in forensic psychiatry and the subsequent growth of AAPL.

Thus has the AAPL grown. I probably have omitted other factors that have contributed to this growth, but like the causes of mental illness our growth is so multifactorial that a firm conclusion cannot be

found. I do know that what I have experienced in these 30 years of AAPL has been exciting and stimulating.

References

1. Model Penal Code (final draft 1962)
2. Morton Birnbaum, The right to treatment. 46 Am Bar Assoc J 499-505 (1960)