

A Farce-The Faculty of Forensic Psychiatry and Civil Assessment

The faculty of forensic psychiatry is both a misnomer and a marriage of convenience. It is time to call a spade a spade and for a divorce to take place.

The faculty of forensic psychiatry is an attempt to combine two quite disparate groups, psychiatrists who work with offenders in the criminal justice system and psychiatrists who do civil assessments. Their only point of contact is that they provide reports to courts and other Tribunals.

Criminal Justice or Offender psychiatry (a more appropriate term than forensic psychiatry) has come to dominate the faculty as the following information will indicate. By contrast psychiatrists doing civil assessments are at best tolerated and usually ignored.

The RANZCP website describes the faculty of Forensic Psychiatry as follows.

Faculty of Forensic Psychiatry

The Faculty of Forensic Psychiatry was established in February 2011. The Faculty replaced the Section of Forensic Psychiatry that was established in May 1968.

The Faculty of Forensic Psychiatry (FFP) is a body of experts that promotes the highest standards in professional practice, training and research pertaining to forensic psychiatry.

Forensic psychiatry

Forensic psychiatry is a psychiatric subspecialty relating to the law and the assessment of mental health in the criminal justice system.

(No mention of civil assessments here!)

Aims

The Faculty aims to:

- *promote the objectives of the College relating to forensic psychiatry*
- *advise on training in forensic psychiatry through the subcommittee of advanced training*
- *advance and disseminate research in forensic psychiatry*
- *contribute to and promote the highest standards of professional practice.*

Membership

All members of the College (including trainees and Affiliates) are eligible to join the Faculty.

Fellows and Affiliates of the College may apply for Accredited membership of the Faculty if they have completed the relevant Certificate of Advanced Training or have significant experience in forensic psychiatry. The accredited membership criteria policy outlines the pathways to receiving accredited membership.

Note that forensic psychiatry is described as the psychiatric subspecialty relating to the law and the assessment of mental health in the criminal justice system. There is no mention of civil assessments. Further note that with regard to membership an affiliate to the College may apply for accredited membership of the faculty if they have completed the relevant certificate of advanced training or have significant experience in forensic psychiatry, meaning offender psychiatry. This excludes all the psychiatrists who do civil assessments and who have no interest in doing offender psychiatry and have no interest in participating in the relevant certificate of advanced training.

The College has a formal Forensic Psychiatry training program (this is really an offender psychiatry training program with a very limited focus on civil assessment)

The RANZCP Certificate of Advanced Training in Forensic Psychiatry

Training requirements

Specific training requirements for the Certificate of Advanced Training in Forensic Psychiatry are:

- **Successful completion of 24 months FTE training** in accredited forensic psychiatry training posts.
The following experiences can be achieved concurrently:
 - 3 months FTE treatment of prisoners/remandees
 - 3 months FTE acute inpatient unit in a hospital
 - 3 months FTE rehabilitation
 - 3 months FTE community (treatment and/or assessment work).

At least 12 months FTE must be working with adults (i.e. over 18 years old). Up to 12 months FTE of forensic research/medical administration/medical education can be prospectively approved on a case-by-case basis by the Sub Committee for Advanced Training in Forensic Psychiatry (SATFP).

. Any application would need to detail how the required forensic psychiatry EPAs are to be completed. Trainees are required to maintain their clinical currency by spending at least 0.2 FTE (or 1 day per week) in direct clinical work.

- **Attainment of eight Stage 3 forensic psychiatry EPAs** (Entrustable Professional Activities (EPAs)
- two per 6-month rotation.
 - Six forensic psychiatry EPAs are mandatory for Certificate completion, trainees are to choose an additional two EPAs to attain from the remaining forensic psychiatry EPAs.
 - A minimum of three WBAs (Workplace-based Assessments) are required to contribute to the evidence base for each required EPA.
- **Completion of a mandatory minimum of one Observed Clinical Activity (OCA) WBA** with forensic patients during each 6-month FTE rotation.
 - This applies to all trainees (including transitioning trainees) and Fellows-in-training regardless of OCI pass.
 - The OCA will be recorded on the end-of-rotation In-Training Assessment (ITA) form.
 - This will satisfy the Fellowship OCA requirement for pre-Fellowship trainees.

The only civil assessment EPAs are EPA9 and EPA 10

EPA9 Forensic Training Program Syllabus states,

To conduct, either individually or in collaboration, assessments of psychiatric injury and impairment in civil jurisdictions (eg. workers'compensation, personal injuries, victims of crime, total and permanent disability) and to prepare reports setting out findings and addressing relevant questions.

Competence is demonstrated if the trainee has shown sufficient aspects of the knowledge, skills and attitude described below.

- Ability to apply an adequate knowledge base

- Understands the legal or administrative context of the assessment request and any obligations or relevant court rules a medical expert must address in fulfilling that function.
- Understands the ethical issues and risks of providing an expert opinion.
- Understands the role of an expert witness, including the limits of expertise.

EPA 10 states:

The following EPA will be entrusted when your supervisor is confident that you can be trusted to perform the activity described at the required standard without more than distant (reactive) supervision. Your supervisor feels confident that you know when to ask for additional help and that you can be trusted to appropriately seek assistance in a timely manner.

Medicolegal assessment (civil): fitness and capacity.

To conduct, either individually or in collaboration, psychiatric assessments of fitness and/or capacity in civil jurisdictions such as

- testamentary capacity
- capacity to consent (or refuse) medical treatment
- areas of specific capacity (eg. to possess a firearm
- to drive, manage finances, pilot aircraft, to practise in a profession)
- guardianship.

Assessments must cover assessment of capacity with respect to at least two of the above domains.

Completion of a formal forensic psychiatry teaching program, equivalent to a Graduate Certificate.

- The teaching program must be university level and externally assessed.
- SATFP have approved the following courses:
 - Graduate Certificate in Forensic Behavioural Science (Swinburne) [Swinburne website]
 - Master of Forensic Mental Health (University of New South Wales; Graduate Certificate available) [UNSW website]
 - Graduate Certificate in Forensic Mental Health (Griffith University) [Griffith University website]
 - Youth Forensic Psychiatry (The University of Auckland)² [The University of Auckland website].
- ²This program meets 50% of the formal forensic psychiatry teaching program requirements. In order to facilitate the full completion of a formal forensic psychiatry teaching program, trainees undertaking this course will also need to complete two core units from any of the three approved programs listed above.
- Trainees can apply prospectively to SATFP for approval of equivalent courses (not outlined above) that are university level and externally assessed.
- The teaching program can be undertaken while on a break in training depending on the arrangements with the course provider and with the employing health service, where relevant.
- **Successful completion of a research project.** [Summative assessment] Research project guidelines [PDF; 111 KB]
 - A successfully completed Fellowship Scholarly Project may be used to fulfil this requirement.
 - A doctoral thesis, Masters thesis or Honours thesis in a field relevant to psychiatry or mental health or an article published within the past 10 years in a recognised, peer-reviewed English-language journal relevant to psychiatry or mental health that has satisfied the Fellowship Scholarly Project exemption criteria may be used to fulfil this requirement.

- *Trainees with no Fellowship Scholarly Project must submit a research projects to their Director of Advanced Training for marking.*

As stated above a number of universities have established academic qualifications.

The University of Melbourne states:

Subject level Graduate coursework

Subject code PSYT90016

This elective introduces the fascinating interaction between mental health and the criminal justice system. The objective will be to familiarise students with those aspects of forensic mental health which will be of general applicability in psychiatric practice, as the interaction between mental illness and offending is important for everyone working in mental health. The selective will acquaint students with the nature of the relationships between mental disorder and deviant (including criminal) behaviours. It will provide an introduction to current evidence-based approaches to assessing and managing risk of future violence, and will address treatment and in secure hospital and custodial settings. Finally we will look at specific forms of problem behaviour, such as sexual offending, to illustrate the interactions between deviant and potentially damaging behaviours and disorders of the mind.

Intended learning outcomes

- *Describe the interaction between a mental disorder and offending behaviour and the nature of the relationships between mental disorder and disordered behaviour that lead to criminal offending*
- *Demonstrate the basic skills needed to assess and manage risk of violence in patients with a mental disorder*
- *Demonstrate understanding, and be able to apply, legal aspects of forensic psychiatry (in particular, mental impairment and fitness to be tried)*
- *Demonstrate understanding of mental health issues within custodial settings*
- *Be able to formulate patients with forensic issues and develop a rehabilitation plan for them*

The University of New South Wales “Masters in Forensic Mental Health” program

The Masters of Forensic Mental Health will be awarded on completion of 48 units of credit (UOC). Students must complete 24 UOC in core courses, and 24 UOC of electives offered by the School of Psychiatry.

Core Courses:

- PSCY9901 Law and Mental Health (6 UOC)
- PSCY9902 Psychiatry and Criminal Law (6 UOC)
- PSCY9903 Violence (6 UOC)
- PSCY9904 Administration, Institutions & Services (6 UOC)

Candidates without a clinical background are required to undertake the following course in place of one elective:

- PSCY9911 Mental Disorders, Personality Disorders & Crime (6 UOC)

Elective courses:

- PSCY9911 Mental Disorders, Personality Disorders & Crime (6 UOC)
- PSCY9912 Substance Abuse and Unusual Behaviours and Special Groups (6 UOC)
- PSCY9913 Disordered & Criminal Sexual Behaviour (6 UOC)
- PSCY9914 Families, Children & Adolescent Forensic Psychiatry (6 UOC)
- PSCY9915 Civil Law in Relation to Psychiatry (6 UOC)

The only component of this course related to civil assessments is PSCY9915 Civil Law in Relation to Psychiatry, this is an elective!

There are no academic programs that pay more than lip service to civil assessment.

The Faculty – Conferences and Civil Impairment

Some recent conferences indicate the failure of the Faculty to include Civil assessment:

The Faculty of Forensic Psychiatry Conference 2016

The Faculty of Forensic Psychiatry of the Royal Australian and New Zealand College of Psychiatrists is pleased to begin its annual conference, 'Goals, purposes and strategies for prisoner and staff mental wellbeing in custody', on Thursday 8 September 2016 at the Esplanade Hotel in Fremantle, Western Australia.

'Mental illness among people in custody is a complex and important public health issue,' said conference convenor Dr Sophie Davison. 'This conference covers a wide range of topics which relate to the treatment and management of people with mental illness at all stages of the criminal justice system with topics including child and adolescent care, foetal alcohol spectrum disorders, sexual offenders, and police and the community'.

Major keynote addresses will include:

- *'Integration in offender health: a worthwhile development?', and 'Progress in the treatment of prisoners? An international perspective' – Dr Andrew Forrester, South London and Maudsley NHS Foundation Trust and Institute of Psychiatry, Psychology and Neuroscience, King's College London*
- *'Juvenile offenders: mental health issues and amenability to treatment', and 'Emerging populations in forensic mental health' – Dr Charles Scott MD, University of California Davis Medical Centre*

No psychiatrist doing civil assessment attended, the program had no relevance to civil assessments.

RANZCP Conference

The RANZCP Conference provides an opportunity for Faculties to run sessions.

In 2018 in Auckland the following papers were given with regard to offender psychiatry. There were no papers on civil assessment, the 3 papers presented were,

- *Navigating Risk Management, Recovery and Human Rights in Clinical Practice*
- *The Role of Psychiatry in the Current Security Environment: Protecting Vulnerable Individuals and Preventing Violent Outcomes*
- *Barriers and Burdens: Forensic Patient Exposure to Stigma and Discrimination*

The faculty of Forensic Psychiatry Conference in Sydney in September 2018 did little better.

There were 43 papers delivered of which 6 related to civil assessment i.e.14% of the papers delivered related to civil assessment.

There was a meeting during the conference at which the lack of sessions on civil assessment was noted together with the lack of attendance of psychiatrists who do civil assessment.

The response was that no psychiatrist doing civil assessments submitted papers. This writer submitted two papers of which one was accepted. The other, “the art of the expert witness” was rejected. The writer was advised that it could be done as a poster. This was inappropriate. By contrast a paper on ‘*the presence of companions in the interview room*’ was accepted for a 30 minute presentation. One wonders about the priorities of the organising committee.

The next conference on 30 October 2018 is a joint meeting on “*Ice, Psychosis and criminal responsibility*”. This is a worthy topic but topics in civil assessment are also worthy but there are no meetings to discuss these topics.

I believe the time has come for a divorce. The faculty is dominated by psychiatrists working in the criminal justice system, augmented by academic departments also focused on the criminal justice system and with a training program that leads to membership of the faculty but no training program for people who only wish to do civil assessments.

Some of those who work in the justice system also do civil assessments and therefore say that there is no reason for any split in the faculty. Unfortunately those who train psychiatrists in the forensic training program have limited experience in civil assessment, those psychiatrists who have completed the forensic training program also have limited experience in the civil area and require at least five years of general clinical practice without supervision to be proficient in doing civil assessments..

There are good reasons why qualified trainees are not immediately suited to do civil work. The population in the criminal justice system are very different from the population who attend for civil assessments. People seen for civil assessments rarely have major personality disorders, severe drug or alcohol addictions or major psychoses. They have not been involved in offending and their symptom profile is very different from those in the criminal justice system.

I have worked in both areas, in the criminal justice area and as a psychiatrist doing civil assessments. I was the only psychiatrist at the Fairlea women’s prison in Melbourne for five years and have been a member of the Victorian Forensic Leave Panel for 20 years. I have also assessed many prisoners.

I have also done more than 20,000 civil assessments and I have been a co-author of the psychiatric assessment guide used in Victoria and South Australia.

I believe that this gives me some experience and insight into the issues that have arisen with the development of the Faculty. There is now no doubt in my mind that this marriage of these unlikely partners has proven to be a failure. It is clear that the committee of the Faculty of Forensic Psychiatry has little interest in those who do civil assessments. This is manifested by the training programs, the content of conferences and by the College website description of the faculty highlighting its fundamental purpose.

My attempts to remedy these issues have proven to be a failure;

- Psychiatrist who do civil assessments have no opportunity for any systematic training.
- No academic department has focused on providing civil assessment training,
- the Faculty has provided a grab bag of criteria that may lead to membership of the Faculty.
- It continues to be a struggle for civil assessment psychiatrist to gain a foothold in conferences.

Despite this there are a significant number of psychiatrist who do civil assessment and have a desperate need for some systematic training and an opportunity to meet in a collegiate fashion and write about discuss issues relevant to this area.

I believe the time has come for the inevitable divorce to take place. let the Faculty of Forensic Psychiatry go it own way and fulfil its self defined core task,

*Forensic psychiatry is a psychiatric subspecialty relating to the law and the assessment of mental health **in the criminal justice system***

Let those of us who are involved in civil assessments establish ourselves as a legitimate subspecialty. We should form a special interest group, the college only recognises specialist interest groups that exist in each state.. We will need some publicity to gain members. Such a group should include those who do civil assessments together with those who work in the area of occupational psychiatry as these two significantly overlap.

By freeing ourselves of the burden of the Faculty of Forensic Psychiatry we will have the opportunity to run our own conferences, to obtain college funding, to develop our own training programs and some academic department become interested in providing appropriate training courses when they realise that these are likely to generate significant fees. The most important development would be that we are recognised as a subspecialty in its own right and have more control over standards and the quality of our work.