

# Psychology and Law ● IAAP Division 10

## Newsletter : December 2017

### 1) Greetings from the committee

Dear Division 10 Members,

Welcome to the second newsletter in 2017 of Division 10, Psychology and Law, IAAP. We hope that you have had a productive, fruitful year. This is the final newsletter for 2017. We wish you the best over the festive season.



### 2) Psychology and Law in Canada

We bring you the latest in our series of reports about Psychology and Law in different parts of the world. This time it is a report about Psychology and Law in Canada, written by Thomas Dalby – the report is summarised from an earlier article Professor Dalby wrote a couple of years ago, with permission.

## **Forensic Psychology in Canada**

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(summarised, with author's permission, from *Canadian Psychology/Psychologie canadienne*)

### **Introduction**

The genesis of forensic psychology is usually traced to Hugo Münsterberg, whose eclectic interests in the second stage of his career led him to the forefront of many types of applied psychology (Hale, 1980; Münsterberg, 1922). Although he was the most widely recognised psychologist in the world in the first two decades of the 20th century—reaching an audience of millions with his articles in the popular press—his significant contributions did not receive much attention after his sudden death at age 53 in 1916. Looking back almost a century after his death, it is easier to explain the posthumous neglect of his ideas due to his strong German partisanship leading up to the entry of the U.S. involvement in World War I (Moskowitz, 1977). Münsterberg is known to have travelled to Canada several times. He gave an invited address to the prestigious Canadian Club in Toronto and was the sole psychologist invited by the Canadian Government to join a meeting of the British Association for Advancement of Science—a prominent group of mostly British scientists—in Winnipeg in 1909 and then travelled with this group by train to Vancouver and back.

## **Forensic Psychology in Canada**

In 2013, a report was issued by the Centre for Forensic Science & Medicine at the University of Toronto summarizing a multidisciplinary discussion held the year prior (Pollanen, Bowes, VanLaerhoven, & Wallace, 2013). The organizers of this first such interaction engaged leaders of nine “main disciplines” within the forensic sciences (pathology, anthropology, odontology, nursing, entomology, physical evidence, toxicology, biology, and psychiatry) although they understood that “there are others.” The first thing that becomes obvious in reviewing the summaries of our colleagues is that forensic psychology appears more advanced or developed than these other disciplines in our scientific scope. Canadian research in forensic psychology has achieved international recognition for substantial accumulated knowledge shared in peer-reviewed journals. In training and education, many of these disciplines have no specialized graduate programmes in Canadian universities or have some recent inroads although we have had advanced training at several universities across the country for decades. The lead editor of this report—a pathologist—noted that “members of the forensic science community are themselves demanding better scientific practices and an increased emphasis on building academic foundations for forensic work” (p. 3). It is interesting to see other disciplines reach the conclusion that forensic practitioners should be engaged in multidisciplinary crosstraining (including police, lawyers, and judges), that training should occur in best practices, in writing reports,

giving expert witness testimony, and that we should educate the judiciary in our disciplines including basic training in scientific literacy.

I will turn to my own experience to review forensic psychology in much the same way as each of these represented disciplines has—in our science, education and practice.

## Research

In contrast to most other disciplines with a forensic focus, forensic psychology in Canada has an enviable research record. The enterprise of risk evaluation in forensic psychology has received key Canadian contributions. Related areas such as understanding and treatment of sex offenders are another central theme where Canadian research has been prominent. As well, memory research applied to such issues as eyewitness behaviour has had strong Canadian contributions. As a sample of the Canadian affiliated psychologists (including Canadians who now occupy positions in other countries or psychologists who have come from elsewhere to work here) who have added to the research base of forensic psychology, I offer a list of sustained writers, keeping in mind that this is not

Andrews	Hart	Paulhus	Barbaree	Helmus	Pozzulo
Bennell	Hemphill	Porter	Bonta	Jaffe	Quinsey
Boer	Kingston	Read	Book	Koch	Rice
Brown	Kroner	Roesch	Bruck	Kropp	Schneider
Camilleri	Langevin	Schuller	Coles	Laws	Serin
Connolly	Leschied	Serran	Cotton	Lindsay	Seto
Cupchik	Looman	Spidel	Cutler	Marshall	Tombaugh
Dalby	Mills	Viljoen	Douglas	Moore	Webster
Dutton	Motiuk	Wells	Evans	Nesca	Williams
Firestone	Nicholaichuk	Woodworth	Forth	Nicholls	Wong
Gendreau	Nunes	Wormith	Gordon	Nussbaum	Yarmey
Harris	Ogloff		Hanson	Olver	Zamble
Hare	Patrick			Yuille	Zapf

**Table 1** Canadian Affiliated Contributors to the Science of Forensic Psychology

our colleagues have examined, in any depth, family law issues, civil law issues such as personal injury litigation, or employment law. This substantial research talent could readily spread to a more broad application in these areas of law.

## Education

### Undergraduate

In reviewing the undergraduate calendars of psychology departments across Canada, the majority have some regular courses devoted to forensic psychology titled broadly as “Psychology and Law,” or “Forensic Psychology” or more narrowly as “Psychology of Criminal Behaviour.” Of course, not every academic Department of Psychology has a uniform faculty and some departments

exhaustive and many of these individuals also conducted their work with colleagues in other disciplines such as psychiatry, law, and sociology.

Although the scope of the investigations published by this diverse set of scientists is broad, it can be improved as most of the work relates to criminal justice and only a few of

simply do not have a member with sufficient knowledge in forensic psychology to teach the subject. Athabasca University (AU), which is Canada's Open University, and original distance university, has offered a course in Forensic Psychology for over 10 years and over a thousand students have successfully completed this course. In supporting these increasing undergraduate offerings across the country, we now have several excellent Canadian texts in forensic psychology to choose from (e.g., Porter & Wrightsman, 2013; Pozzulo, Bennell, & Forth, 2012; Roesch, Zapf, Hart, & Connolly, 2013).

Although forensic psychology has internationally generalizable themes, it also has distinctly national applications which vary across countries, and requires specific reference to the laws of that country in instruction. The conclusion is that any eligible student in Canada can achieve at least an undergraduate university exposure to forensic psychology and a large number have availed themselves of this opportunity.

## **Graduate**

Graduate training in forensic psychology depends strongly on available faculty to teach the core subjects. Flux of the composition of graduate level faculty shows that the centres of specific expertise at our universities will naturally rise and fall. Helmus, Babchishin, Camilleri, and Olver (2011) have recently pointed to the continuing shortage of graduate education in forensic psychology in Canada despite strong student interest and a high demand for professionals. As this survey noted, most training programmes in applied forensic psychology are now embedded in general clinical programmes rather than as standalone programmes. There are also graduate programmes covering areas of experimental psychology applied to the law, focusing on the production of scientific findings. The links to applied settings from universities is also variable—those universities with correctional institutions nearby have used such in cooperation with Correctional Service Canada or other authorities to tap into as a subject base for their investigations. Much of the applied nature of clinical forensic training comes from the experience in internship settings across the country, which are largely independent from academic venues. Again, these centres do not have any uniform standards and are dependent upon the ideas and skills of supervisory staff at such institutions. Unlike undergraduate education in forensic psychology, there is no Canadian comprehensive graduate textbook equivalent to Melton, Petrila, Poythress, and Slobogin (2007), which was written for a U.S. audience, to guide instruction for forensic psychologists in training who will eventually offer assessment reports for courts.

The importance of specific education in forensic psychology is underscored by the fundamental differences between traditional clinical and forensic attitudes and activities. Graduate students in clinical psychology who have barely taken on the mantle of traditional helping clinicians are then required to discard this for a new set of guiding forensic principles such as requiring higher levels of objectivity, scrutiny for validity of findings, and emotional distance from the examinee. Yet,

without this training and understanding of the differences between traditional clinical work and forensic applications, the young practitioner may drift into doing some forensic work without the proper framework for doing so. The static nature of graduate forensic training in Canada reported by Helmus et al. (2011) shows that the repeated calls for increasing this type of training (Ogloff, 2004) have not been acted upon by our universities.

## Other Education

As argued by Wigmore, and reiterated by the recent report on Forensic Science in Canada, education of our lead customers is an ongoing and vital issue. We cannot expect lawyers and judges to understand the range of issues that forensic psychology can address and communicating with them in their media should be a regular activity. A few of the psychologists listed in Table 1 understand the importance of reaching out to their consumers by writing in non-academic publications such as police magazines. However, it would be an easy task for more of them to choose an area they know well and write a short piece for the end customers of their work or ideas. The “customers” are many. Many legal magazines and newsletters exist across Canada and other groups such as insurance organisations, employers/unions, and disability assessment brokers would be eager to learn about forensic psychology in their own less formal media. This outreach also should include ventures such as lectures at law schools and speaking at non-psychology professional conferences. If Münsterberg were living today, he would not have neglected other mass communication vehicles such as TV and movies to spread his thoughts about the potential applications of forensic psychology.

## Practice

The practice of forensic psychology has no legal definition or identification in Canada. That means that there is no process of certifying to the public or other consumers that a person has any specialized training or experience in the field. Licensing of psychologists remains generic across the provinces although identified areas of specialization may be offered when applying for registration by the provincial psychology college. The onus is on the psychologist to practice within their competence limits. Few forensic psychologists in Canada have bothered to take independent specialty examinations such as the Forensic Diplomate offered by the American Board of Professional Psychology as no Canadian law focus is available in that examination and there are no incentives to obtain such a credential in Canada. Likewise, the Specialty Guidelines for Forensic Psychology, crafted by a committee of Division 41 of the American Psychological Association (2013) are for the most part balanced but are not authoritative or universally agreed upon by even experienced forensic practitioners. These guidelines remain useful for those entering the specialty to review as an illustration of some differences in approach that is required in forensic work.

The recognition that the demand for forensic psychologists outstrips the training of new practitioners in Canada (and elsewhere) has been noted repeatedly (e.g., Porter, 2004). The Federation of Law Societies of Canada (2010) report 83,675 practicing members and approximately 3,000 graduates emerge from our 16 law schools every year. The mismatch with so few new practitioners in forensic psychology is obvious and the gap will continue to grow, keeping in mind that lawyers are only one source of referrals for forensic psychologists. The angst heard from newly minted psychologists about finding a well-paid position to ease the burden of their student loans would be dampened if we siphoned more of our generically trained counselors or clinicians toward a more promising future working in forensic psychology. A recent survey in Alberta confirmed that the hourly billing rate for forensic psychologists in independent practice is typically double that of private psychologists engaged in general therapy (Mastikhina, Prentice, & Dobson, 2013).

There is a wide misconception that forensic psychology involves just work in the criminal justice system. Although this was the first area that large numbers of psychologists began to employ their skills in, much more opportunity and need exists in the civil justice system. Even in the criminal justice system new roles are possible—such as investigative tasks (Burton & Dalby, 2012; Dalby & Nesca, 2008b). Once trained in general forensic principles and practices, psychologists originally trained in the criminal justice system report an easy fit with other legal forums and a “mixed” forensic practice is common. Other applied fields in psychology, such as neuropsychology, see a very large proportion of work allocated toward forensic evaluations in personal injury cases or disability questions and indeed lawyers are the leading referral source for neuropsychologists in independent practice (Sweet, Moberg, & Suchy, 2000). However, most of these practitioners have little training in relevant tort law or specific essential skills such as giving courtroom evidence (Dalby, 2007) or the ethical considerations in legal work (Morgan & Bush, 2005). Vocational psychologists are in high demand in many personal injury or disability cases to provide detailed guidance on what options are available for injured persons. Other areas needing skilled forensic practitioners are employment law where addressing the nexus of mental state/disability and employment responsibilities are often required. The question of civil competencies will continue to grow as the population ages and it is to psychologists that the bulk of objective legal determinations will turn (Moye, Marson, & Edelstein, 2013). Immigration law also seeks to review the mental fitness of applicants for citizenship or residence, again using accepted scientific metrics. Experts in child development have had a welcome place in many family law cases for decades. As pointed out (Nesca & Dalby, 2013), the crux of all areas of forensic psychology is addressing legal questions. The parameters of law are an area outside of non-forensic training and knowing the essential elements of criminal or civil law is required of those practicing any component of forensic psychology. This does not mean a law degree is necessary but that the relevant federal or provincial law needs to be understood as it applies to questions asked of the psychologist. Even the tasks a psychologist can take on can be different in forensic work. Some traditionally trained clinical psychologists fail to see how a forensic psychologist can craft opinions

absent contact with a patient, yet this is a common forensic commission (Dalby & Nesca, 2008a). We are collectively well received and respected by our various customers but we are not growing or progressing to meet the demands of the marketplace with psychologists trained in specific forensic skills.

How then do we solve the supply/demand problem in forensic psychology or ensure that psychological practitioners engaged in legal work have the requisite skills? It has been seen as difficult for university graduate programmes to develop specialized graduate tracks in forensic psychology and instead some offer various amounts of forensic “content,” even self-directed. It should be a minimum requirement of applied graduate training that a “forensic module” be taken, even by those not intending a career touching on legal work. This module should encompass the full range of potential applications of psychology in law as well as the fundamental differences between traditional clinical/ counseling roles and that of the forensic psychology examiner or therapist.

Because it is improbable that a sea change in the forensic offerings by university graduate programmes will take place given limitations on budgets, how can even the current population of applied psychologists acquire/maintain the required level of forensic competence across Canada? A workshop at the annual meeting of a provincial psychology association or CPA may help but these lack intensity or comprehensive scope and usually are offered only every couple of years. An idea originating with some Saskatchewan faculty was that a week-long annual “school of forensic psychology” be offered during summers at one of the semivacant university campuses. Somewhat in line with the Cape Code Summer Symposia, which has been offered for the past 30 years, this would draw together leading experts in forensic psychology to provide an intensive review of the latest law and practice skills for psychologists and allied professionals. A grand scheme, to be sure, but one worth contemplating.

## Conclusion

A hundred years have passed since Hugo Münsterberg charted the choppy waters of the law in an attempt to outline the benefits that psychology could bring to this realm. He was not turned back in his quest by critics but some reasonable demands for empirical accountability and open dialogue between law and psychology were received. Since then, Canadian psychologists have contributed a substantial body of empirical findings relating psychology to legal issues. Although we can celebrate our achievements in research and undergraduate education, we are continuing to fall behind in the preparation of professionals who are capable of addressing the legal questions that fall to us. Creative redress of these shortcomings is the responsibility of both those academics who are charged with the training of new psychologists and senior practitioners who could provide the experience that is lacking in universities. Both must also communicate the breadth and opportunities that exist under the “forensic psychology” rubric.

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### 3) Upcoming conferences

#### 3.1 American Psychology-Law Society (APLS) conference

The annual conference for the American Psychology-Law Society will be hosted in Memphis, Tennessee, United States of America, from 8 - 10 March 2018. Please find more information here: <http://ap-ls.wildapricot.org/APLS2018>



### **3.2 29th International Congress of Applied Psychology**

June 25 - 30, 2018: Montreal, Canada. This is the four yearly conference of our parent association (IAAP), and we will have our Business Meeting there.

### **4) Miscellaneous**

If you have any information, news, or conferences that you would like to advertise in the newsletter, then please send it to Alicia Nortje ([Alicia.nortje@gmail.com](mailto:Alicia.nortje@gmail.com)).