

CAPL

**Canadian Academy of
Psychiatry and the Law**



ACPD

**Académie canadienne
de psychiatrie et droit**

NEWSLETTER

Summer 2015

Message from the President

Johann Brink, MB, ChB, FCPsych (SA)



I am pleased to provide a report regarding the activities of CAPL since the last newsletter. First, I want to thank the Board of Directors and Office bearers of CAPL for their stellar work over the past year. Drs. Sandy Simpson (Vice-President), Paul Fedoroff (Past-President), Joel Watts (Secretary), Brad Booth (Treasurer), Vicki Roth and Phil Klassen (Members-at-Large) have all been actively engaged in various projects and initiatives to advance the interests of CAPL, and I am grateful for their commitment and hard work.

I want to thank also Dr. Dominique Bourget and her colleagues on the Conference Program Committee, as well as Ms. Chantal Goddard, for organizing a most enjoyable and successful conference in Quebec in March, 2015. In keeping with an evolving tradition, the conference was opened with an engaging talk on the origins of psychiatric treatment by the president of the Canadian Psychiatric Association (CPA), Dr. Padraic Carr.

Conference presentations again swept a broad range of topics and issues relevant to forensic psychiatry: all thought-provoking, all informative and all providing opportunity for enhanced practice. From updates on legislative developments to presentations on high-profile and interesting cases; from trends in administrative jurisprudence to a tale of psychopathy and the psychiatrist; from Satanism to automatism; from pharmacology to geriatric sex offenders; and from military posttraumatic stress disorder to what forensic psychiatry is really worth, to name but some of the fascinating talks that you will rue having missed if you did not come to beautiful Quebec.

A visit to the Institut universitaire en santé mentale de Québec marked as a special event, this, the 20th anniversary of the CAPL Annual Winter Conference.

As one of the highlights of the conference, Dominique Bourget was honoured for her legacy and leadership as the organizer of the annual meeting, leaving a strong tradition and huge snowshoes to fill! Dr. Floyd Wood received that 2015 Fellowship Award for the best paper by a resident, entitled: "A Pilot Study of the Rate of Compliance with Section 54 of the Ontario Mental Health Act."

The Bruno Cormier Award, the most prestigious CAPL recognition of outstanding service, is presented from time-to-time to a forensic psychiatrist who has made lasting contributions to our specialty. It was an honour for me to award the 2015 Bruno Cormier Award to Dr. Gary Chaimowitz for his exemplary leadership in advancing the clinical, professional, academic, and organizational interests of Canadian forensic psychiatry. Congratulations, Gary!!

Having heard the preference of members, future CAPL Annual Conferences will be held in various major centres, or smaller centres with specific points of interest, with continued rotation between eastern and western locations. The conference will remain separate from the CPA Annual Conference and will continue to be organized for the Spring of each year, while trying to avoid the various provincial spring breaks as much as possible.

The 2016 Conference will be held in Vancouver, dates and location to be confirmed shortly and also please see the information elsewhere in this newsletter. Drs. Phil Klassen, Vicki Roth and Michelle Mathias are the members of the planning committee. You will receive shortly a brief survey regarding what educational and clinical skill needs you would like to see offered as either a pre- or post-conference workshop(s) for the 2016 conference. Please take a minute or two to respond to the survey as it will

assist our planning as we move towards a broader series of offerings during and attached to the conference. organizational interests of Canadian forensic psychiatry. Congratulations, Gary!!

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The CAPL Board of Directors continues to develop and upgrade the CAPL website and new notices will be available soon. A review of the committee structure of CAPL also is underway and I will keep you informed of developments, including details regarding the Fellowship Award competition.

Drs. Graham Glancy and Padraig Darby from the Ethics Committee have submitted a revised set of guidelines for the ethical practice of forensic psychiatry in Canada. The submission is presently under review by the Board and will be finalized soon for posting on the CAPL website.

Importantly, to further our commitment to greater transparency and due process as we continue to evolve and mature as an organization, you will receive instructions well ahead of the next Annual General Meeting (AGM) in Vancouver in March, 2016, regarding the election of directors of the Board, and your preferences for the respective roles as officers of CAPL, i.e., President, Vice-President, Secretary and Treasurer.

CAPL is the current Chair of the CPA Council of Academies, which brings together CAPL, the Canadian Academy of Child and Adolescent Psychiatry, the Canadian Academy of Geriatric Psychiatry and the Canadian Academy of Psychosomatic Medicine. This has been venue for sharing ideas regarding initiatives to bolster membership, options for enhanced continuing professional development and maximizing opportunities for collaboration with external stakeholders such as the CPA and the Royal College. The CPA provides dedicated "Academies in Action" space in each issue of its bimonthly newsletter, Psych-e, and CAPL was featured in the latest edition.

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Regarding advocacy, CAPL has been engaged in several initiatives:

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- Bill C-14 – This Act to amend the mental disorder provisions of the Criminal Code received royal assent and came into law in 2014, despite submissions from various organizations, including CAPL, that had argued against the introduction of legislation that lacked scientific evidence for its genesis, introduced a new, broader definition of risk, and created a new category of High-Risk Accused, with persons so designated being subject to a punitive regime with less access to evidence-based risk mitigation, recovery and reintegration opportunities. Since its introduction, one person in Quebec has been designated a High-Risk Accused, while deliberations are underway regarding an application for such designation in British Columbia. Of note is a recent decision from the Quebec High Court that C-14 cannot be applied retroactively, a finding that may influence other jurisdictions in their decision-making.

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- Bill C-583 – CAPL submitted a brief opposing a private member's bill C-583 to amend the Criminal Code, which would empower a judge at any stage of a court proceeding to make an order for the assessment of an accused to determine the presence or not of fetal alcohol spectrum disorder. CAPL argued against the notion on grounds that: the amended legislation would discriminate against persons with other forms of cognitive delay, the granting of power to the judge to order diagnostic assessments would constitute precedent, the absence of a requirement for corroboration of prenatal maternal alcohol consumption was highly problematic, and the additional operational burden on forensic psychiatric services likely to result should the amendments become law would require additional resources unlikely to be available. As of this writing, I await the outcome of C-583.
- Ashley Smith Inquest – In May, Dr. Padraic Carr, CPA president, and I wrote to Steven Blaney, the minister of Public Safety, regarding the federal government's response to the *Coroner's Inquest Touching the Death of Ashley Smith*, which was released in December 2014. In the letter we expressed concern regarding the inadequate services available to inmates with mental illness, and declared our willingness to partner with Correctional Service Canada in the provision of evidence-based assistance to address the high rates of mental illness and segregation in corrections. As of this writing, we have not received a response.
- Vincent Li – In February, Shelly Glover, the minister of Canadian Heritage, made the following statement in response to a review board decision regarding Mr. Vincent Li:

"Our government stands firmly by our legislative changes through the Not Criminally Responsible Reform Act and points out that this is exactly why we made them," Glover said. "Our Government has worked hard to ensure that those who break the law are held accountable for their actions; that penalties match the severity of crimes committed; and that the rights of victims come before the rights of criminals. It is unacceptable that dangerous and violent offenders are released into our communities, when they pose a threat to society. We made changes to the Not Criminally Responsible Act to ensure that dangerous offenders at risk of re-offending are kept behind bars, where they belong." (*Winnipeg Free Press*, Feb. 25, 2015).

In June, Dr. Padraic Carr and I wrote to Ms. Glover that the CPA and CAPL are very supportive of the goals of improved public safety and increased sensitivity towards victims and their families. However, we must remain vigilant to ensure a balance between community safety, victim needs and the recovery of those with severe mental illness who have been adjudicated by the courts as Not Criminally Responsible on account of Mental Disorder (NCRMD) so they can reintegrate into society and live productive lives. By definition, those found not criminally responsible for an offence are not accountable or responsible for their actions at the time of the offence as they were deemed to be suffering from a severe mental illness at the time.

- **Correctional Investigator** – In June, Dr. Carr and I wrote to Mr. Howard Sapers to thank him for his significant accomplishments and years of service as the Correctional Investigator for Canada.
- **Bill S-208** – In March, CAPL submitted a position on the proposed *Act to establish the Canadian Commission on Mental Health and Justice*, and CAPL vice-president, Dr. Sandy Simpson, appeared before the Standing Senate Committee on Social Affairs, Science and Technology in support of the Act should funding for the Mental Health Commission of Canada cease. S-208 was subsequently withdrawn.

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Enjoy the summer!

CPA and CAPL: A Mutual Partnership

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Joint Organizational Responses

- CAPL and CPA jointly respond to legislation such as the *Not Criminally Responsible Reform Act*. Although Bill C-14 has passed, we have not lost the war. Journalists have heard our message. CPA and CAPL were also part of a broader community working in a coalition against the bill.
- CAPL and CPA have coauthored letters to the Minister of Public Safety about the *Ashley Smith* case. We are currently working towards a common response to the recommendations from the Ashley Smith inquiry.

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CPA and Individual CAPL Members Working Together

- Dr. Grainne Neilson, with coauthor Dr. Gary Chaimowitz, wrote the CPA paper on informed consent to treatment, released this spring. Dr. Sébastien Proulx and resident Dr. Géraldine Godmaire-Duhaime meticulously verified the French translation.
- Dr. Gary Chaimowitz continues to articulate the CPA's concerns on the criminalization of people with mental illness and the treatment of inmates with mental illness to both the media and government. He authored a paper on each of these topics during his time as Chair of the CPA Professional Standards and Practice Committee.
- Many CAPL members have responded to media inquiries received by CPA, including Dr. Johann Brink, Dr. Paul Fedoroff, Dr. Sandy Simpson and others.
- In March, CPA and the National Trajectory Group, many of whom are CAPL members, joined forces to successfully promote a series of articles on NCR published in *The CJP*. These articles challenged the stereotypes surrounding NCRMD-accused and received extensive national coverage in print, radio and TV, in both English and French. The group was lead by Dr. Anne Crocker.

CPA values the expertise of its CAPL colleagues and is committed to working with CAPL to ensure that we speak with a united voice on forensic matters.

21st Annual Winter Conference

Phil Klassen, MD, FRCPC

We are delighted to advise you that the CAPL 2016 conference will be held in beautiful Vancouver, BC, with the core program running from March 6 – 9, 2016.

As per the member survey, we will continue with a Fairmont location this coming year. Vancouver will offer an excellent urban experience, with winter sports nearby.

We are also keen to assist members with future planning, and to receive feedback on future dates and locations.

We are also taking into account "better" weeks for skiing, where that is applicable, and (school) Spring Breaks; we would like to rotate through various provinces' Spring Breaks so that members from each province are not consistently being asked to attend during Spring Break, or never being able to attend during their own Spring Break.

The order in which provinces have Spring Breaks is relatively stable: the Quebec Spring Break is in early March, Ontario and BC are in mid-March, and Alberta and Manitoba are later in March, for example.

The proposed locations, taking into account the member survey, for 2017 through 2020 is:

- 2017 Mont Tremblant (perhaps later in March than has been "usual")
- 2018 Victoria (earlier in March, closer to the "usual" time)
- 2019 Ottawa (later in March)
- 2020 Banff (later in March)

Looking forward to seeing you there! Please let the Planning Committee know your thoughts about the proposed dates and locations.

Update From the Quebec Section

Joel Watts, MD, FRCPC, DABPN (Forensics)

After five years of stability and fruitful collaboration in its activities and leadership, there has been a changing of the guard amongst the officers of the Quebec branch of CAPL. Dr. Sébastien Proulx, one of the principal instigators of our branch's formation, has decided to pass the torch and occupy the past-president role.

Dr. Proulx's ability to solicit, rally and encourage dialogue amongst our members in the first five years of our organization's existence has been greatly appreciated. Under his leadership, our branch has been very active and successful in advocating for the recognition of our subspecialty with the Collège des médecins du Québec (CMQ), the Association des médecins psychiatres du Québec (AMPQ - our provincial psychiatric association) and with the provincial correctional system. He leaves big shoes to fill.

Given that one of the founding principles of CAPL-Quebec was to organize and favour discussion and collaboration amongst forensic psychiatrists dispersed in centres throughout the province, we have decided to maintain representation on our executive (wherever possible) of the major centres dispensing forensic services in the province. These continue to include Quebec City, Shawinigan, Sherbrooke and Montreal. We have also decided to invite a resident member on the executive as well.

We are proud to present the new CAPL-Quebec executive, effective July 1, 2015:

- Joel Watts, MD (Ottawa) – President
- Sébastien Proulx, MD (Quebec City) – Past-President
- Fabien Gagnon, MD (Quebec City) – Vice-President
- Louis Morissette, MD (Montreal) – Secretary
- Marie-Frédérique Allard, MD (Shawinigan) – Member-at-Large
- Émilie Allaire, MD (PGY6) – Resident Member

In the following months, our branch will continue to be active in our advocacy work, as we anticipate being called upon to provide input into the preparation of the CMQ's practice guidelines on medico-legal work. This document, which will affect all medico-legal work by all physicians in Quebec, will necessarily have a major impact of forensic psychiatry practice in both civil and criminal contexts. CAPL-Quebec has already provided testimony and advice to the CMQ on the various preceding steps in the development of this document.

Two of our executive members (currently Drs. Proulx and Watts) also sit on the medico-legal committee of the AMPQ. More recently, the issue of under-remuneration of forensic psychiatry work (principally court-ordered assessments) has been discussed, as well as how to assist the Commission d'examen des troubles mentaux (Quebec Review Board) in recruiting forensic psychiatrists to its ranks. As Crocker et al's¹ recently published National Trajectory Project has clearly pointed out, Quebec has the largest number of NCR accused individuals in the country, spread over a very large number of designated sites. Recruitment and retention of forensically-trained psychiatrists as members of the Quebec Review Board has proven extremely challenging over the years. CAPL-Quebec will also continue to collaborate with the AMPQ on future medico-legal continuing professional development events following last December's success in Montreal.

We continue our tradition of holding biannual evening dinner meetings, once in the spring and fall, typically held between Montreal and Quebec. This is a great place for our members to meet, share ideas and experience, and collaborate. Moreover, in the tradition of the CAPL Annual Conferences, they are also a rather good time!

1. Crocker A, Nicholls T, Seto M, Côté G, Charette Y and Caulet M. The National Trajectory Project of Individuals Found Not Criminally Responsible on Account of Mental Disorder in Canada. *Can J Psychiatry* 2015;60(3):208-215

Update From the BC Section

Todd Tomita, MD, FRCPC

The CAPL BC Section has continued to focus on organizing local education events with the goals of providing practice-relevant information, fostering collegiality amongst local forensic psychiatrists and increasing interest in CAPL generally.

Since the inception of the CAPL BC Chapter in April 2014, we have cosponsored three Forensic Psychiatry Education Days with the UBC Forensic Psychiatry Division. The events have all been held at the UBC Robson Square Campus in Vancouver.

Our November 7, 2014 Forensic Psychiatry Day had a mix of criminal and civil topics:

- The Prosecution Perspective on Fetal Alcohol Syndrome and Autism - Crown Counsel Mr. Lyle Hillaby and Ms. Sunney Bains
- Fetal Alcohol Spectrum Disorders: Challenges for Individuals involved in the Criminal Justice System and Considerations for Sentencing and Treatment - Dr. Diane Fast and Dr. Julianne Conry
- Autism Spectrum Disorders: Challenges for Individuals involved in the Criminal Justice System: How to Make a Diagnosis and Challenges from Police Contact to Criminal Sentencing - Dr. Anthony Bailey
- Expert Report Writing: A View from the Bench - BC Supreme Court Justice Hinkson
- Expert Witness Panel on Civil Forensic Psychiatry: Methodology, Analysis, Opinion & Practice Issues - Dr. Roy O'Shaughnessy and Dr. Kulwant Riar.

The theme for the May 29, 2015 Forensic Psychiatry Day was NCRMD issues. Presentations included:

- The National Trajectory Project: The Who, What, Where, When & Why of Canadian NCRMDs - Dr. Tonia Nicholls
- Interjurisdictional Perspectives on the Work, Practices and Decision-Making of Review Boards - Mr. Bernd Walter, BC Chair, and Mr. Justice Richard Schneider, Ontario Chair
- The New High Risk Mental Disorder Designation: Can We Talk? Panel with Dr. Johann Brink, Mr. Lyle Hillaby, Crown, & Mr. Terri LaLiberte, Defence
- Automatism Case Presentations and Review of Case Law - Dr. David Morgan
- Automatism and the Dissociation Spectrum: When Does it Meet the Threshold to Affect Voluntariness? - Dr. Roy O'Shaughnessy.

We had about 30 people attend the Forensic Psychiatry Days with a mix of forensic psychiatrists and psychiatry residents, and at the May 29, 2015 event, members of the BC Review Board in attendance as well.

Our next Forensic Psychiatry Day will be at UBC Robson Square on November 6, 2015. The theme will be dangerous offenders and long-term offenders.

PGY 6 Forensic Psychiatry Subspecialty Training in Canada – Current Status

Lisa Ramshaw, MD, DPhil, FRCPC

Subspecialty training in the Royal College of Physicians and Surgeons of Canada accredited forensic psychiatry PGY 6 programs began in 2012. There are now five accredited programs: Vancouver, Edmonton, Toronto, Ottawa and Montreal, and several more are applying for accreditation. Current program directors are Drs. Todd Tomita, Alberto Choy, Lisa Ramshaw, Dominique Bourget and Jocelyn Brault, respectively.

Since 2012, there have been eleven PGY 6 forensic psychiatry residents who have completed the programs: seven in Toronto, three in Ottawa and one in Montreal.

Toronto July 2012 - June 2013: Andrew Morgan, Mitesh Patel, Jennifer Pytyck, Leslie Wong
Ottawa Sept. 2012 - Aug. 2013: Mathieu Dufour, Michelle Mathias

Toronto July 2014 - June 2015: Abdul Alhumoud, Maxym Choptiani, Gabrielle Cyr
Ottawa July 2014 - June 2015: Floyd Wood (and CAPL fellowship awardee)
Montreal July 2014 - June 2015: Yaël Wolf

Seven PGY 6 residents started their training in July 2015: two in BC, four in Toronto and one in Montreal.

BC: Nick Mathew, Barinder Singh

Toronto: Maryana Duchcherer, Ajay Prakash, Wesley Sutton, Georgia Walton

Montreal: Émilie Allaire

The development and maintenance of the subspecialty training programs in forensic psychiatry continues to be a collaborative approach involving the Royal College Subspecialty Committee and CAPL, the University Subspecialty Committees and the dedicated Residency Program Committees. The program directors across the country have been meeting quarterly, and:

- Have continued to develop the Canadian Case Law list most relevant to forensic psychiatrists (now on the CAPL website with hyperlinks).
- Are coordinating the admissions process including a common deadline for PGY 6 applications (September 14, 2015), sending out letters of offer (November 13, 2015) and response from the applicant (November 20, 2015).
- Plan to pilot a partial shared curriculum through telehealth providing opportunities not only for sharing expertise, but also for the residents across Canada to meet and interact.

We are very pleased with the ongoing development of the programs, ensuring the highest levels of expertise and competency. And of course we encourage our future leaders in forensic psychiatry to attend the CAPL conferences, and to be involved in the evolution of this consistently interesting, challenging and important field.

Royal College Forensic Psychiatry Specialty Committee

Gary Chaimowitz, MB, ChB, FRCPC, MBA, DFCCA

Six years ago the Royal College of Physicians and Surgeons recognized three psychiatry subspecialties, namely child and adolescent, geriatric and forensic psychiatry. We have had a formal PGY 6 psychiatry residency program in forensic psychiatry in Canada for approximately four years with the University of Toronto leading the way. As of November 2014, forensic psychiatry has five approved residency programs at the Universities of British Columbia, Ottawa, Montreal, Toronto and Alberta. The PGY 6 residency program replaces the forensic psychiatry fellowships that had been offered by numerous universities across the country. Although the old fellowships are still available in some locations, residents who do not complete unaccredited training by June 30, 2016 will be ineligible to write the examination through the Practice Eligibility Route for Subspecialists (PER-sub). With the accreditation of residency programs we now have an examination in forensic psychiatry, and to write the examination you need to complete a PGY 6 year, or apply through the PER-sub as a forensic psychiatrist who has been practising for some time. Approximately 120 forensic psychiatrists are now certified by the Royal College and may use the FRCPC-Forensic Psychiatry designation. Other psychiatrists practising forensic psychiatry who have not completed the examination are no longer able to call themselves forensic psychiatrists.

The Royal College's Forensic Psychiatry Specialty Committee is the steward of the forensic psychiatry specialty, and is distinct from CAPL, which is the national specialty society representing forensic psychiatry in Canada. The Specialty Committee, which has national representation, includes Drs. Johann Brink, Mansfield Mela, Brad Booth (Vice-Chair), Renée Fugère, Scott Terriault and Gary Chaimowitz (Chair). The Committee also has a number of additional members, which include the program directors from the five approved residency programs and a corresponding member from CAPL. CAPL is well-represented on the Specialty Committee and the Examination Board, which reports to the Specialty Committee. Examination Board members are nominated by the Specialty Committee and include Drs. John Bradford (Chair), Graham Glancy (Vice-Chair), Roy O'Shaughnessy, Pierre Gagne and Mansfield Mela (Specialty Committee representative).

The Specialty Committee meets regularly and as part of its function creates a number of the documents that define the type and content of training as well as the evaluation of the residency programs. Its primary role is to advise the Royal College on specialty-specific content, for example standards, credentials, assessment and accreditation, and it liaises with other Royal College committees including the Committee on Specialties (standards), the Accreditation Committee (basic accreditation requirements, application for accreditation of new programs, assessment of presurvey questionnaires, recommendations for accreditation standards), the Credentials Committee (objectives of training and minimum training requirements for the subspecialty as well as assessment of individual credentials) and the Assessment Committee (format of the examination and examination board appointments). It also liaises with the College's Executive, Regional Advisory and Biomedical Ethics Committees on matters relevant to the discipline.

We are pleased to report that the Forensic Psychiatry Specialty Committee continues to work on behalf of forensic psychiatry to ensure the health of our discipline. Our expanding training programs and numerous certified forensic psychiatrists showcase this success.

Board of Directors

Dr. Johann Brink, President
Dr. J. Paul Fedoroff, Past-President
Dr. Sandy Simpson, Vice-President
Dr. Joel Watts, Secretary
Dr. Brad Booth, Treasurer

CAPL / ACPD

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