

Bearing Witness to Change

Forensic Psychiatry and Psychology Practice

EDITORS

Ezra E. H. Griffith MD

Michael A. Norko MD, MAR

Alec Buchanan PhD, MD

Madelon V. Baranoski PhD

Howard V. Zonana MD



CRC Press
Taylor & Francis Group

Bearing Witness to Change

Forensic Psychiatry and Psychology Practice

EDITORS

Ezra E. H. Griffith MD

Emeritus Yale School of Medicine,
New Haven, Connecticut, USA

Michael A. Norko MD, MAR

Yale University School of Medicine,
New Haven, Connecticut, USA

Alec Buchanan PhD, MD

Yale University School of Medicine,
New Haven, Connecticut, USA

Madelon V. Baranoski PhD

Yale University School of Medicine,
New Haven, Connecticut, USA

Howard V. Zonana MD

Yale University School of Medicine,
New Haven, Connecticut, USA



CRC Press

Taylor & Francis Group

Boca Raton London New York

CRC Press is an imprint of the
Taylor & Francis Group, an **informa** business

CRC Press
Taylor & Francis Group
6000 Broken Sound Parkway NW, Suite 300
Boca Raton, FL 33487-2742

© 2017 by Taylor & Francis Group, LLC
CRC Press is an imprint of Taylor & Francis Group, an Informa business

No claim to original U.S. Government works

Printed on acid-free paper
Version Date: 20160607

International Standard Book Number-13: 978-1-4987-5423-1 (Paperback)

This book contains information obtained from authentic and highly regarded sources. While all reasonable efforts have been made to publish reliable data and information, neither the author[s] nor the publisher can accept any legal responsibility or liability for any errors or omissions that may be made. The publishers wish to make clear that any views or opinions expressed in this book by individual editors, authors or contributors are personal to them and do not necessarily reflect the views/opinions of the publishers. The information or guidance contained in this book is intended for use by medical, scientific or health-care professionals and is provided strictly as a supplement to the medical or other professional's own judgement, their knowledge of the patient's medical history, relevant manufacturer's instructions and the appropriate best practice guidelines. Because of the rapid advances in medical science, any information or advice on dosages, procedures or diagnoses should be independently verified. The reader is strongly urged to consult the relevant national drug formulary and the drug companies' and device or material manufacturers' printed instructions, and their websites, before administering or utilizing any of the drugs, devices or materials mentioned in this book. This book does not indicate whether a particular treatment is appropriate or suitable for a particular individual. Ultimately it is the sole responsibility of the medical professional to make his or her own professional judgements, so as to advise and treat patients appropriately. The authors and publishers have also attempted to trace the copyright holders of all material reproduced in this publication and apologize to copyright holders if permission to publish in this form has not been obtained. If any copyright material has not been acknowledged please write and let us know so we may rectify in any future reprint.

Except as permitted under U.S. Copyright Law, no part of this book may be reprinted, reproduced, transmitted, or utilized in any form by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying, microfilming, and recording, or in any information storage or retrieval system, without written permission from the publishers.

For permission to photocopy or use material electronically from this work, please access www.copyright.com (<http://www.copyright.com/>) or contact the Copyright Clearance Center, Inc. (CCC), 222 Rosewood Drive, Danvers, MA 01923, 978-750-8400. CCC is a not-for-profit organization that provides licenses and registration for a variety of users. For organizations that have been granted a photocopy license by the CCC, a separate system of payment has been arranged.

Trademark Notice: Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

Visit the Taylor & Francis Web site at
<http://www.taylorandfrancis.com>

and the CRC Press Web site at
<http://www.crcpress.com>

Printed and bound in the United States of America by Publishers Graphics,
LLC on sustainably sourced paper.

Bearing Witness to Change

Forensic Psychiatry and
Psychology Practice

Editors and Contributors

Editors

Ezra E. H. Griffith, MD

Professor Emeritus of Psychiatry and
African-American Studies
Senior Research Scientist in Psychiatry
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA

Michael A. Norko, MD, MAR

Associate Professor
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA
and
Director of Forensic Services
Connecticut Department of Mental
Health and Addiction Services

Alec Buchanan, PhD, MD

Associate Professor
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA

Madelon V. Baranoski, PhD

Professor
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA
Vice Chair, Yale University
Institutional Review Board

Howard V. Zonana, MD

Professor
Department of Psychiatry
Yale School of Medicine
Clinical Professor (Adjunct) of Law
Yale Law School
New Haven, CT, USA

Contributors

Gwen Adshead, MD

Consultant Forensic Psychiatrist and
Psychotherapist
Fareham
Hants, UK

Paul Amble, MD

Clinician and Forensic Psychiatrist
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA
and
Chief Consulting Forensic Psychiatrist
Connecticut Department of Mental
Health and Addiction Services

Daniel S. Barron, PhD

Medical Student
Yale School of Medicine
New Haven, CT, USA

Chyrell Bellamy, MSW, PhD

Assistant Professor

Department of Psychiatry

Yale School of Medicine

and

Director, Peer Services and Research

Program for Recovery and

Community Health

Department of Psychiatry and

Connecticut Mental Health Center

New Haven, CT, USA

Patricia Benedict, BA

Director, Citizens Project

Program for Recovery and

Community Health

Department of Psychiatry and

Connecticut Mental Health Center

New Haven, CT, USA

Dominique Bourget, MD

Associate Professor in Psychiatry

University of Ottawa

and

Staff Forensic Psychiatrist

The Royal Ottawa Hospital

Ottawa, Ontario, Canada

Philip J. Candilis, MD, DFAPA

Director, Forensic Psychiatry

Fellowship

St Elizabeth's Hospital/Department of
Behavioral Health

Washington DC, USA

and

Clinical Professor of Psychiatry

George Washington University School

of Medicine and Health Sciences

Howard University College of

Medicine

Adjunct Professor of Psychiatry

Uniformed Services University of

Health Sciences

Larry Davidson, PhD

Professor

Department of Psychiatry

Yale School of Medicine

and

Director, Program for Recovery and

Community Health

Department of Psychiatry and

Connecticut Mental Health Center

New Haven, CT, USA

Charles C. Dike, MD, MPH, FRCPsych

Assistant Professor

Department of Psychiatry

Yale School of Medicine

New Haven, CT, USA

and

Assistant Medical Director

Connecticut Department of Mental

Health and Addiction Services

Paul DiLeo, MS, FACHE

Chief Operating Officer

Connecticut Department of Mental

Health and Addiction Services

and

Lecturer

Department of Psychiatry

Yale School of Medicine

New Haven, CT, USA

Spencer Higgins, JD

Faculty

Cold Spring School

New Haven, CT, USA

Emily A. Keram, MD

Assistant Clinical Professor

Psychiatry and the Law Program

UCSF School of Medicine

San Francisco, CA, USA

and

Staff Psychiatrist

Santa Rosa VA Community Based

Outpatient Clinic

Santa Rosa, CA, USA

Reena Kapoor, MD

Associate Professor
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA
and
Chief of Forensic Psychiatry
Connecticut Valley Hospital, Whiting
Forensic Division
Middletown, CT, USA

Bandy Lee, MD, MDiv

Assistant Clinical Professor
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA
and
Lecturer, Global Health Studies
Faculty of Arts and Sciences
Yale University

Richard Martinez, MD, MH

Director, Forensic Psychiatry Training
Programs
and
Robert D. Miller Professor of Forensic
Psychiatry
University of Colorado, Denver
Medical School
Colorado Office of Behavioral Health
Denver, CO, USA

Daniel Papapietro, PsyD

Clinical Assistant Professor
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA
and
Forensic Psychologist
Director, Psychotherapy Service
Connecticut Valley Hospital, Whiting
Forensic Division
Middletown, CT, USA

Debra A. Pinals, MD

Director of the Program in Law,
Psychiatry, and Ethics
Clinical Professor of Psychiatry
Department of Psychiatry
University of Michigan Medical School
Ann Arbor, MI, USA
and
Director of Forensic Services
Massachusetts State Department of
Mental Health Services
Boston, MA, USA

Maya Prabhu, MD, LLB

Assistant Professor
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA
and
Consulting Forensic Psychiatrist
Connecticut Department of Mental
Health and Addiction Services

Michael Rowe, PhD

Associate Professor
Department of Psychiatry
Yale School of Medicine
and
Co-Director, Program for Recovery
and Community Health
Department of Psychiatry and
Connecticut Mental Health Center
New Haven, CT, USA

Tracey Sondik, PsyD

Director, Behavioral Intervention
Service
Connecticut Valley Hospital
Middletown, CT, USA

Paul F. Thomas, JD

Lecturer
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA

Barry W. Wall, MD

Director of Forensic Services
Eleanor Slater Hospital
Cranston, RI, USA
and

Clinical Professor
Alpert Medical School of Brown
University
Providence, RI, USA

John L. Young, MD, MTh

Clinical Professor
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA

Alexander Westphal, MD, PhD

Assistant Professor
Department of Psychiatry
Yale School of Medicine
New Haven, CT, USA
and

Consulting Forensic Psychiatrist
Connecticut Department of Mental
Health and Addiction Services

Preface

We think it important that from time to time we pause and think about change in the exercise of our professional disciplines. We believe such reflection often bears fruit. It is in contemplating past events in the context of their development and evolution that we may find ways to modify our present activities and even design a pathway for the future. Change is influenced by a variety of events, people, political activity, fiscal considerations, scientific discoveries, legal decision-making, and other circumstances. It is in understanding their interaction and effect on our work that we can become better practitioners and more able theorists.

In this text, we reflect here on the changes that have appeared over the last several decades in forensic psychiatry and psychology. All of us editors have spent a good part of our professional lives mulling over problems we have encountered at the interface of psychiatry, psychology, and the law. But the contributions of forensic mental health professionals occur within a continuously changing landscape, shaped profoundly by all the elements we have already listed. Certainly, we have two subspecialties that first defined themselves in terms of applying our basic disciplines to answering legal questions. But now those specialties are critical leaders in setting standards of forensic treatment, addressing ethics, and managing the murky boundaries between our disciplines and the law.

We have asked colleagues practicing in different arenas, carrying out scholarship, managing forensic institutions, utilizing the law as an agent of change, engaging in fiscal and policy management, and training forensic psychiatrists and psychologists to help us contemplate these matters and formulate something we can say about the path to the future. We hope this collective reflection on change will help our disciplines discard arbitrariness and rigidity, while embracing opportunities to theorize about past accomplishments and contributions and hopefully construct a clearer pathway to modernized practice within our disciplines.

So we wish to document and contextualize some of the changes that have occurred. In the Introduction, we introduce the reader to an historical perspective on change in forensic psychiatry and psychology. In the first section, covering the first five chapters of the text, we discuss major external influences that have impacted the practice of forensic psychiatry and psychology over time. But their collective impact has been significant and lasting. Examples of such influential elements are: the law; consumer movements (such as those related to the widely-discussed Recovery Movement and the more recent and evolving notion of Peer Counselors); dynamic, global, social upheavals (such as war) that dislocate people and produce refugees and immigrants who then seek forensic psychiatry and psychology services so as to achieve resettlement and citizenship; technological and scientific advances (spearheaded by leaders in genetics, brain imaging, media technology, and neuroscience) that have progressively influenced the thinking of forensic psychiatrists and psychologists; and political and fiscal contexts, particularly at the local level, that especially impact the creative approaches of the forensic professional seeking to improve care of forensic patients in both institutions and the community.

In the second section, entitled “Forensic Psychiatry and Psychology as Their Own Change-Agents,” and covering the next three chapters, we consider the subspecialty disciplines as change-agents that have contributed to shaping the professionalism of its own practitioners in a number of distinctive ways. Recent literature has demonstrated convincingly that forensic psychiatrists and psychologists have been reflecting seriously on the ethics principles that should be used as guideposts for the moral basis of work in the disciplines. Such reflection has been buttressed and amplified by technical mechanisms such as the use of narrative and performative elements in the written and oral activities of the forensic specialist. In addition to a host of other developments in the field, emphasis on ethics, professionalism, and performative techniques have strengthened the professional identity of the forensic specialist, and enhanced efforts to improve the education and formation of the disciplines’ own trainees.

The third section is focused on “Changes in the Traditional Evaluative and Consultative Roles of the Forensic Psychiatrist and Psychologist” and spans five chapters. Chapter 9 reminds us of the traditional activities of the forensic specialist who performed evaluations of individuals for criminal and civil courts. In this role, the expert consulted to the courts and utilized psychological expertise to answer questions raised by the legal system. This traditional role has been influenced by developments in the knowledge base of the expert. Changes have been wrought by advances in diagnosis, pathology, imaging, and the unexpected explosion in technology and even social media.

Other chapters in this third section also demonstrate unequivocally that other constituencies have decided to make use of the forensic expert's knowledge base. Thus we dedicate a chapter to consideration of how Veterans' Courts and the general military system are utilizing forensic expertise. Indeed, the military has dedicated millions of dollars to understanding how post-traumatic stress disorder has impacted the military's justice system. Thus, it is safe to say that the forensic specialist's work has expanded in consultation to legal and other organized administrative systems. Other potent examples of this expansion are covered in the chapters on legislative consultation and work with Catholic Annulment Courts and general church entities pursuing activities such as the evaluation of clergy who have participated in problematic sexual behavior.

We must also understand other changes or evolutions of forensic roles, as in the management of forensic systems. Forensic psychiatrists and psychologists are asked to provide thoughtful and useful advice to individuals and systems demanding this expertise. Forensic psychiatrists and psychologists serve as directors of forensic services; directors and medical directors of prison units; medical directors of forensic hospitals; directors of court diversion services; and directors of court clinics. In all of these roles, they face new challenges requiring professional expertise and novel collaborations. These types of administrative positions bear witness to the need for forensic professionals to provide advice to clinical teams about the evaluation and management of risk; to state and county governments asking for consultations concerning the development of their statutes focused on one forensic matter or another; and to hospital managers who have the responsibility for the health care of forensic patients.

In the fourth section (entitled "Forensic Practice in the Treatment and Care of Patients," and encompassing seven chapters) we focus on change that is related to the management and treatment of individuals who have had involvement with law enforcement systems. This activity was not particularly heralded by some, in the early days of the subspecialties, as worthy of intensive consideration by the forensic specialist, at least in the United States. In England, it is often said that this clinical forensic work developed much more quickly. Recent developments have made the differences less pronounced. In this section we will highlight the roles of U.S. forensic specialists in applying, adapting, and developing treatments and management strategies for patients in several systemic loci: jails and prisons; forensic treatment facilities; jail diversion units; and some longer-term psychiatric inpatient services that house patients who present significant violence.

These patients generally require management and treatment that attend

seriously to matters of risk and to the complex problems of reintegrating the patients into their home communities. Hence, the influence of this change is causing the forensic professional to recognize the importance of caring better, and in a highly specialized interdisciplinary context, for these “forensic patients” who deserve more than just the usual forensic evaluation and later assignment to traditional care. One chapter will focus attention on treatment techniques usually employed in the clinical setting, while another will contemplate the resurgent emphasis on violence risk, which is a profound concern of all those dealing with the psychiatric patient who has been in contact with the law enforcement system. While it is acknowledged that some of the clinical techniques discussed in these chapters have been utilized for decades, we emphasize that the urgent and recent emphasis on returning all hospitalized patients to their home communities has pulled the forensic professional more powerfully into the work and forced adaptation of the work to the transitional bridge between hospital and community. Other chapters tackle the task of channeling these patients away from jail on the one hand, and on the other hand smoothing the community re-entry of those who have been incarcerated or hospitalized. The first of the two final chapters closes this section with a discussion of the interplay of science, therapeutics, politics, and public opinion in the management of patients with problem sexual behaviors. The final chapter addresses matters related to the clinical systems of correction agencies.

The Conclusion (“Summarizing Change in Forensic Psychiatry and Psychology Practice”) encourages forensic professionals and others to think deeply about the nature of change in forensic work and to grasp where that change may take the field in the future. As we all engage more earnestly in this change-based discourse, we will see more clearly how the field has progressed and developed in many directions. It has evolved from its founding focus on the courtroom, offering practitioners a wider choice of activities to embrace, and providing the field with a guide to future paths for development. We may appreciate how our work has been influenced by other interests that emerge primarily from outside the formal traditions of medicine and psychology and that expand the work of physicians and psychologists. Here the chapter also makes the point that although the future seems bright, all is not settled in the discipline. There are still areas that provide ample room for debate and questioning, and that harbor challenges for the future. But we look forward to distinction and promise for the subspecialties of forensic psychiatry and psychology.

In this text, we emphasize that there is a demand for renewed consideration of the parameters that define the activities of the modern forensic mental

health professional. It is time to think differently about the structures within which we do our work, about the form and meaning of our activities, and about their range. We conclude from this that the modern forensic specialists are being influenced to develop new identities. They are being asked to view, in refashioned terms, the knowledge base, the practice standards, and the expanding arenas of work. All this must inevitably impact the evolution of the specialties.

We hope that training programs, as well as junior and senior forensic practitioners of all mental health disciplines, will find the text useful. It should also be valuable to those leading forensic services in departments of mental health across the country, and to legislators, other administrators, and lawyers seeking to advance their understanding of what the forensic specialist can contribute to interdisciplinary policy discussions.

Ezra E. H. Griffith, MD

Michael A. Norko, MD, MAR

Alec Buchanan, PhD, MD

Madelon V. Baranoski, PhD

Howard V. Zonana, MD

Contents

Editors and Contributors viii

Preface xii

Introduction: Legacy of Change for Mental Health Professionals 1

Howard V. Zonana

Section 1: Major External Influences on Change in Forensic Psychiatry and Psychology 29

1 The Law's Influence on Change in the Evidentiary Rules and in the Realm of Sentencing Mitigation 31

Paul F. Thomas

2 Contribution of Peer (Consumer) Providers to Change in Forensic Practice 41

Michael Rowe, Chyrell Bellamy, Patricia Benedict, and Larry Davidson

3 Global Developments and Forensic Practice 59

Maya Prabhu and Bandy Lee

4 Brain in the Balance: Neuroimaging in the Courtroom 73

Daniel S. Barron, Spencer Higgins, and Alexander Westphal

5 Politics and Money as Change-Agents in Forensic Systems 91

Paul DiLeo and Larry Davidson

Section 2: Forensic Psychiatry and Psychology as Their Own Change-Agents 103

6 Recent Developments in Forensic Psychiatry Ethics 105

Philip J. Candilis and Richard Martinez

| | | |
|--|---|------------|
| 7 | Narrative and Performance in Forensic Psychiatry and Psychology Practice | 117 |
| | <i>Ezra E.H. Griffith</i> | |
| 8 | The Evolution of Forensic Training | 135 |
| | <i>Debra A. Pinals and Reena Kapoor</i> | |
| Section 3: Changes in the Traditional Evaluative and Consultative Roles of the Forensic Psychiatrist and Psychologist | | 153 |
| 9 | Consultation to Civil and Criminal Courts | 155 |
| | <i>Barry W. Wall</i> | |
| 10 | Veterans' Courts and the VA's Veterans Justice Outreach Initiative | 173 |
| | <i>Emily A. Keram</i> | |
| 11 | Legislative Consultation and the Forensic Specialist | 187 |
| | <i>Michael A. Norko</i> | |
| 12 | Forensic Practice and Religion: Context and Change | 205 |
| | <i>John L. Young</i> | |
| 13 | Management of Forensic Hospitals | 219 |
| | <i>Charles C. Dike</i> | |
| Section 4: Forensic Practice in the Treatment and Care of Patients | | 235 |
| 14 | Forensic Psychotherapy: Psychodynamic Therapy with Offenders | 237 |
| | <i>Daniel Papapietro and Gwen Adshead</i> | |
| 15 | Positive Behavioral Supports for Managing Violence Risk in the Inpatient Forensic Setting | 251 |
| | <i>Tracey Sondik</i> | |
| 16 | Violence Risk and Forensic Practice: The Case of Preventive Detention | 269 |
| | <i>Alec Buchanan</i> | |
| 17 | The Mental Health System—Criminal Justice Interface Expanding Strategies for Therapeutic Jurisprudence | 287 |
| | <i>Madelon V. Baranoski</i> | |

| | | |
|----|---|-----|
| 18 | Community Forensic Services as an Integrated Treatment Model | 319 |
| | <i>Reena Kapoor and Madelon V. Baranoski</i> | |
| 19 | Change in Management of Persons with Problem Sexual Behaviors | 341 |
| | <i>Dominique Bourget</i> | |
| 20 | Correctional and Institutional Psychiatric Treatment: History and Litigation | 361 |
| | <i>Paul Amble</i> | |
| | Conclusion: Summarizing Change in Forensic Psychiatry and Psychology Practice | 381 |
| | <i>Ezra E.H. Griffith</i> | |
| | <i>Index</i> | 395 |

Legacy of Change for Mental Health Professionals

Howard V. Zonana

From the outset, medical jurisprudence of insanity was one of the important topics at the first scientific meeting of the Association of Medical Superintendents of American Institutions for the Insane (which later became the American Psychiatric Association) in 1844. Isaac Ray had published the *Medical Jurisprudence of Insanity*, the first of six editions in 1838 (Ray 1838). The first volume of the *American Journal of Insanity* published a paper by D.C. Coventry MD, Professor of Medical Jurisprudence, outlining “the forms in which insanity becomes the subject of legal investigation” as follows (Coventry 1844–5, 134–5):

1. the plea of insanity as a bar to punishment in criminal prosecution;
2. the propriety of confinement when danger to the individual himself or to others is apprehended;
3. the capacity and right of an insane person, or one supposed to be insane, of managing his own affairs; and
4. the state of mind necessary to constitute a valid will.

These themes have continued to provoke debate and proposals for changes in the law that have altered over time but remain contentious. It was not until the 1970s that an increasing number of psychiatrists began to devote substantial portions of their practice to forensic work and cases. This was enhanced by the formation of a forensic subspecialty association and the introduction of board certification.

The practice of forensic psychiatry and the roles of its practitioners are