FACULTY OF FORENSIC & LEGAL MEDICINE
of the Royal College of Physicians of London

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What's the point of the FFLM?

Presentation by Dr Margaret Stark, President of the FFLM,
to the RCP Council on Thursday 21 January 2021

At the last (RCP) Council meeting, where the finances of the College were being discussed, one of the Council members mentioned that doctors had been protected in relation to income as a result of the COVID-19 pandemic. Unfortunately that comment was made a few days after the Metropolitan Police Service decided to give the required 6 months' notice to dispense with all doctors in London, thereby ending a service that started in the late 1800s.

The Faculty of Forensic & Legal Medicine (FFLM) was established in 2005 by this Council (of RCP). It brought together three groups of doctors: forensic physicians (also known as police surgeons, forensic medical examiners, forensic medical officers in NI), the medico-legal advisors, and the medically qualified coroners. These doctors were at risk of being 'orphaned' by the proposals for revalidation.

The forensic physicians are now under immediate threat of extinction. The model of care to be rolled out in London, with nurses embedded in custody centres and doctors providing telephone advice only, has already been established in many other places round the country. There are many problems with this model but it is primarily implemented because it apparently leads to a reduction in costs. However, it is important that commissioners fully understand service requirements and avoid a 'cheapest is best' approach.

Previously, clinical forensic medical services were provided by registered medical practitioners working directly with police forces. However in 2003 amendments to legislation allowed other appropriately trained healthcare professionals (HCPs), nurses and paramedics, to work in custody.

In the 15 years since the FFLM was established we have embraced a multi-professional approach to providing clinical forensic medical services. We have produced Quality Standards, and numerous educational documents, working with other Colleges and Faculties as appropriate. Many of these documents are pivotal in the management of this vulnerable group of patients. We have developed a Membership examination for doctors comparable to any of the other Royal Colleges as well as a Licentiate examination for doctors, nurses and paramedics, and a Diploma of Legal Medicine for those with an interest in Forensic & Legal Medicine. The examinations have been set up to ensure that the healthcare professionals working in the field have the appropriate knowledge, skills, and attitudes to do so. The examinations are slowly gaining momentum but for the group of doctors who started this FFLM there may no longer be any work and the current level of expertise will be lost. We have submitted an application for speciality status on two occasions but we have not as yet been successful.

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Over the past 10 years the medical care of detainees (in police custody) has largely been outsourced to private providers. They work on a model of care led by nurses and paramedics, often dispensing with frontline doctors altogether. They are not insisting on a level of experience and qualifications for the HCP role that should be mandatory with training as equivalent to that in the NHS. For example, a nurse in this field will be working largely independently, and the equivalent banding in the NHS would be 7 or 8, but we are aware of nurses in outsourced services working at level 5 or 6 (and paid accordingly). This means that many nurses are working beyond their capability, and often unsupervised.

There are concerns that this situation is leading to huge inequalities of care. People detained in custody often have complex health care needs and multiple vulnerabilities, and good medical care should be available to them at what is a very stressful time. The forensic expertise, our raison d'etre, will also be lost as that expertise lies within the medical profession at the moment with many of the HCPs having limited experience of providing statements and giving evidence in court.

When concerns have been raised with regard to the removal of doctors from the team within custody centres the response has been that detainees with complex health needs would not remain in custody as they would be transferred to hospital at the earliest possible opportunity. It may come as no surprise to this audience that I disagree with this. I very often see detainees with complex healthcare needs and manage them within the police custody centre. What about the abstraction of officers to take detainees to the ED, the increasing pressure on the ED, and the lack of forensic training for emergency physicians. Is this really going to have to become part of their role? Is this the future of clinical forensic medicine?

The FFLM is very aware that outsourcing and privatisation of the facilities set up to offer care to complainants of sexual assault, including children (the sexual assault referral centres (SARCS)) has taken place at speed. The FFLM has issued guidance on the qualifications and experience necessary to enable a clinician to work in this field, but we are concerned that this advice is not always followed by private providers.

I can provide no real hard evidence to you for this lack of quality. There is minimal research in the field, lack of academic departments, and so much of the current evidence is anecdotal. There are few complaints from our patients as they are usually only too happy to leave police custody; they are often too vulnerable to even be aware that they could complain. Inspectors of services Her Majesty's inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and the CQC, which covers SARCs but not as yet custody, often do not have forensic practitioners in their inspection teams. So there is limited, knowledgeable, independent, scrutiny of services and it may take the Crown Prosecution Service, court cases, and unfortunately, the Coroner, to raise concerns.

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So our second group of doctors under threat are the medico-legal advisors. I suspect that everyone here has spoken to a doctor at their medical defence organisation at some stage of their career. If you have not, you are certainly not getting your money's worth! There has been a reduction in the number of medico-legal advisers across the medical defence organisations for a variety of commercial reasons, but the impact on the FFLM is clear in that the pool of likely membership candidates is commensurately smaller with fewer new MLAs joining those organisations. The net result is that with fewer new MLAs we have fewer people that would be likely to sit the diploma exam (DLM) and move onto the membership exam (MFFLM).

Furthermore without speciality status there is no particular imperative for MLAs to sit the exam apart from personal satisfaction. Now that revalidation is firmly established it is clear that MLAs are able to revalidate without the membership exam or equivalent, and that has also impacted on incentivising the exam and on retention of existing MLAs as members. On the other hand the FFLM provides a forum for academic discussion among MLAs that would otherwise be difficult to facilitate because of commercial competition considerations.

One of the features that distinguishes medico-legal practice from clinical practice is that there is no evidence-based approach to the delivery of advice and assistance. This is because the principles that govern such advice and assistance are ethical and legal precedent (which are largely immutable) and therefore the focus is on ensuring that these are understood and applied consistently and appropriately. The particular skill of the MLA is combining knowledge with advanced oral and written advocacy skills. What MLAs do have is descriptive statistics around the types of medical error that leads to complaints or claims, or the factors that influence the outcome of a GMC investigation and Medical Practitioners Tribunal Service (MPTS) hearings. These statistics and analyses are often published.

Of all the many positive features of the establishment of the FFLM, for MLAs one of the most important is that it remains about the only platform where there can be academic engagement between the MDOs and therefore, it retains a vital role.

In relation to the medical qualified coroners you may be aware that the Coroners and Justice Act of 2009 stipulates that all newly appointed coroners must be legally qualified.

So I come back to the question: what is the point of the FFLM? Does any of this matter to you as senior doctors working within or outside of the NHS? Can and should you help us survive? Maybe I have convinced the President of the Royal College of Emergency Medicine if no one else! Or anyone of you who know of someone who has been arrested, assaulted, and/or needed advice from a medico-legal advisor. If I thought this would work in the long-term I would be happy that my retirement had been forced upon me at the end of April this year after over 30 years of working in this field and 40 years as a doctor. But I am convinced that there will be a Royal Commission in time to investigate how we let this system fail.

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The Forensic Science Regulator Dr Gillian Tully CBE who is an Honorary Fellow of our Faculty wrote in her last annual report published this month:

"Despite the encouraging progress, I remain concerned that some of those conducting the examinations do not yet have the full range of competence to do so. In particular, the ability to evaluate findings in the context of the case is of critical importance; when examiners do not have the skills to provide an opinion, case outcomes can be compromised."

We need to obtain speciality status if we are to survive. Our most recent application was again rejected but no feedback was given and there are no minutes from the meeting where this decision was made. We are appealing this. Because of the lack of speciality status anyone who is a registered medical practitioner, can do this job and a number of doctors who have just finished the FY2 year are being recruited whereas the Quality Standards set by the FFLM recommend using doctors with three years post FY2 experience as the doctor will be working autonomously. Often the trainers and educational supervisors are not appropriately trained and experienced so there is a situation of unconscious incompetence perpetuating. We also need formal re-endorsement that we are the appropriate body to set standards in Forensic & Legal Medicine.

Final words from a vulnerable adult detained by the police 'down under' in NSW in the past month. He was taken to an emergency department by the police as he had been injured during his arrest. The emergency physician asked the patient if he could examine him to document his injuries The detainee turned to the doctor and said: 'Hell no doc, I'm not sure you have been trained to do that.'

We are losing an area of specialism that has long needed to be recognised. Can you help us? Thank you for listening.

Margaret Stark