



The long road to a specialty in forensic medicine

I TIDLIGERE TIDER

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Forensic medicine has been taught as part of the medical studies programme since 1814. Soon, this discipline can finally become a medical specialty in Norway.

In 2018, Olaug Bollestad, then Deputy Chair of the Standing Committee on Health and Care Services, asked Bent Høie, Minister of Health and Care Services, what the cabinet minister intended to do to ensure that the entire country has access to competent experts in forensic medicine (forensic pathology and clinical forensic medicine), and what he would do to encourage doctors to choose forensic medicine as a line of work. The Ministry of Health and Care Services charged the Directorate of Health with investigating this issue, and two years later the directorate had reached a conclusion and made the following recommendation: 'Forensic medicine is being established as a specialty for doctors' (1).

The Norwegian Board of Forensic Medicine

The recommendation from the Directorate of Health brought to an end a debate that had gone on for more than 130 years. The Jury Act of 1887 had decided that all doctors were obligated to act as expert witnesses with regard to any matter pertaining to forensic medicine. This was not expedient. The following is reproduced from the chapter 'The history of the Norwegian Board of Forensic Medicine' in the official report *Forensic medical expertise in criminal proceedings* from 2001 (2), and describes the background for the establishment of the Board of Forensic Medicine:

'In 1893, the Director of Health raised the question of a change in the rules for using the services of expert witnesses in criminal proceedings. This topic had been discussed at a meeting of the Norwegian Association of Criminologists in 1893, at which police surgeon Paul Winge had submitted a proposal for changes. In 18[9]6, the Ministry of Justice appointed a committee with a mandate to assess whether a revision of the rules was necessary, and if so, submit proposals for new rules.

The committee submitted its recommendation in June 18[9]7. The committee concluded that a reform was called for, in particular with a view to strengthening and developing the role of expertise vis-a-vis the courts. There was some disagreement as to how this could be best achieved. The majority endorsed the establishment of a 'fully competent central institution for forensic medicine to serve the entire country'. As a rationale for this, the importance of 'unity in and a uniform development of the

expertise, its work and results was especially highlighted'. The committee disagreed to some extent regarding the composition of the commission.

The commission should have two main functions. First, it should have an advisory role for the experts, who could turn to it for advice in individual cases and on practical matters related to forensic medicine. The commission should also provide guidance to the court, the prosecutor and the public defence counsel as required. The 'administration' should also be able to consult the commission on matters related to forensic medicine. Second, the commission should have a control function, since all expert statements in criminal proceedings should be submitted to the commission.

After a comprehensive hearing round, the matter was presented to the Storting as a request for budgetary allocation. On 30 November 1899, the Storting decided to allocate funds to the running of the Board of Forensic Medicine from 1 July 1900.'

Police surgeon Paul Winge (1857–1920, Figure 1) had been a driving force behind the establishment of the commission, which to his disappointment was not organised quite in line with his views. He would have liked to give it a far more wide-ranging remit than it was granted (3). However, Winge remained a permanent member of the commission from its establishment and until his death in 1920. Winge had earned his doctoral degree in medicine in 1896 and published widely on matters related to social medicine and forensic psychiatry (4).



Figure 1 Police surgeon Paul Emanuel Winge (1857–1920) was a driving force behind the establishment of the Board of Forensic Medicine. Photo: Ludvig Forbech

From its inception, the Board of Forensic Medicine consisted of two groups: a psychiatric group and a so-called general group which assessed expert witness statements on forensic pathology, clinical forensic medicine and other medical questions. For the last twenty years, the commission has consisted of four groups: psychiatry, genetics and toxicology, as well as a group for forensic pathology and clinical forensic medicine. The latter group processes approximately 5000 controlled expert witness statements annually, approximately one-half of all cases presented to the commission. Currently, the commission has a control function, but also undertakes some advisory activities, including holding so-called B-type training courses in the work of expert witnesses for the courts (5). It must be added that experience from the commission's work has reinforced the impression that a specialty in forensic pathology and clinical forensic medicine is needed, along with strengthening the

competence in forensic medicine within other medical specialties.

Forensic medicine – a discipline in its own right

In 1936, professor Francis Harbitz (1867–1950) (Figure 2) wrote a lecture that was presented to the Norwegian Association of Criminologists (6). Harbitz was head of the department of pathology at the National Hospital and was also responsible for forensic medical services. Harbitz noted that '[f]orensic medicine as a discipline has grown considerably, especially in recent decades. Forensic medicine has gradually emerged as a separate discipline in its own right. The demands placed on it are constantly increasing, and interest in it has grown tremendously, as can be clearly seen not least in the attention devoted to judicial matters by the press. As an independent discipline, forensic medicine is based on common medical knowledge and applies all new practices in the field of medicine. On the other hand, forensic medicine also has its own objectives, methods and a distinctive approach to cases' (6). Harbitz also stated that forensic medical experts are needed in a range of areas.



Figure 2 Professor Francis Harbitz (1867–1950) was an early advocate for the establishment of forensic medicine as a separate discipline. Archive photo: Norwegian Medical Association

Institute of Forensic Medicine in Oslo

In 1938, the Institute of Forensic Medicine in Oslo was established as a university department. As a result, forensic medicine was separated from pathological anatomy. The work on forensic cases was very time-consuming, and for a main teacher of pathology it was no longer possible to cope with teaching and service in forensic medicine (7). Professor Georg Waaler (1895–1983) was appointed the first head of the Institute of Forensic Medicine, and professor Leiv Kreyberg (1896–1984) became head of the Institute for General and Experimental Pathology

The Institute of Forensic Medicine was responsible for forensic pathology, clinical forensic medicine and forensic genetics, as well as teaching the discipline to medical students. Forensic toxicology was for the most part undertaken at the Institute of Pharmacology until 1969, when the State Institute of Forensic Toxicology was established.

Experience from the commission's work has reinforced the impression that a specialty in forensic pathology and clinical forensic medicine is needed

In 2011, the old Institute of Forensic Medicine became administratively part of the Norwegian Institute of Public Health and merged with the Institute of Forensic Toxicology. Since 2017, all its activities have been under the auspices of Oslo University Hospital. A small university department of forensic medicine remains at the University of Oslo. Forensic psychiatry services were already located at Oslo University Hospital, but have not become part of the Department of Forensic Sciences.

Forensic medicine in other regions of Norway

The University of Bergen obtained academic positions in forensic medicine in 1965, Trondheim in 1987 and Tromsø in 1991. In Stavanger, forensic pathology and clinical forensic medicine are undertaken by the university hospital. Since 1986, clinical forensic medicine has mainly been provided by the 24 sexual assault reception centres, and since 2006 also by the 11 'children's houses'. Forensic psychiatry is provided by the forensic psychiatry centres in Trondheim and Bergen, as well as some independent psychiatrists.

Norwegian Society of Forensic Medicine

The society was established in 1993, and immediately began work to have forensic medicine (forensic pathology and clinical forensic medicine) recognised as a separate medical specialty. A committee consisting of university teachers of forensic medicine in Tromsø (Leif Jørgensen), Trondheim (Olav Anton Haugen), Bergen (Inge Morild) and Oslo (Sidsel Rogde and Torleiv Ole Rognum) submitted a recommendation. It gave an outline for the future of the discipline and a proposal for the content of a specialty, and was sent on a broad consultation round. The resulting recommendation and statements from agencies including the prosecuting authority, universities and county medical officers were published in a report which was referenced in the 'Nordisk Rettsmedisin' journal (8).

Many of the responses from the consultation round were concerned with competence enhancement and the need to raise awareness of the distinction between the roles of therapist and expert. A majority of the consultative bodies argued that requirements for training in forensic medicine or forensic pathology should be introduced, in line with the requirements of the European Council of Legal Medicine (ECLM) and consistent with the other Nordic countries. In his response, the Director of Public Prosecutions noted that: 'The problem is not lack of competence in their own discipline, but rather that those in question lack the superstructure from forensic medicine' (8).

Survey on the need for competence in forensic medicine

In a project report from the Centre for Health Administration, users and providers of forensic medical services were asked about their views on the need for specialist competence in forensic medicine. The survey concluded that competence in the discipline concerned, as well as special training in court work, are prerequisites for ensuring qualified expert witness statements in forensic medicine. Altogether 62 % of the 186 respondents believed that forensic medicine should be a separate specialty (9).

Public report

In 1998, the first Bondevik government appointed a public commission headed by Torleiv Ole Rognum. The public report *Rettsmedisinsk sakkyndighet i straffesaker [Forensic medical expertise in criminal proceedings]* (2) was presented to Hanne Harlem, Minister of Justice in the Stoltenberg government, in 2001. The report concluded that centralised responsibility for forensic medical services and related research and development should rest with a new national agency. Some members of the commission argued that this task should be the responsibility of the Board of Forensic Medicine. The commission made clear its view that a specialty in forensic medicine (forensic pathology and clinical forensic medicine) should be established.

The Norwegian Directorate of Health wants to oblige the health trusts to train experts in forensic medicine. This makes sense

In a report to the National Police Directorate from a commission headed by Chief of Police Bjørn Hareide in 2006, it was proposed to establish a state institute of forensic science, which could be responsible for all activity related to forensic expert statements in Norway. This bears a striking similarity to the conclusion from the 1897 committee: to establish 'a fully competent central institution for forensic medicine to serve the entire country' (2).

The commission on violence against children

In the public report *Svikt og svik. Gjennomgang av saker hvor barn har vært utsatt for vold, seksuelle overgrep og omsorgssvikt [Neglect and betrayal. Review of cases involving children who have been exposed to violence, sexual abuse and neglect]* from 2017 (11), the Commission on Violence Against Children proposed a number of measures at various levels, also referring to the importance of knowledge, competence and collaboration across services. The ongoing debate on inflicted head injuries and 'shaken baby' syndrome illustrates the importance of evidence-based forensic medicine (12–14).

Forensic pathology and clinical forensic medicine have made considerable advances in recent years, and new technology has been introduced in post mortems, including genetic autopsy and virtual autopsy using CT scanning (Figure 3).



Figure 3 Senior consultant, associate professor and PhD Arne Stray-Pedersen has introduced CT scanning as a routine procedure in forensic post mortems. Photo: Berit Roald / NTB

The Commission on Violence Against Children expressed the need for competence enhancement in a number of areas, and proposed to establish a specialty in forensic pathology and clinical forensic medicine, and to strengthen social paediatrics.

Are we finally there?

The report published by the Norwegian Directorate of Health in the autumn of 2020 is clear in its conclusion: 'A specialty in forensic medicine is being established for doctors' (1).

The recognition of this discipline started in 1814, when Professor Michael Skjelderup (1769–1852) was appointed teacher of forensic medicine at the university that had recently been established in Christiania (7). The road leading towards a separate specialty has been long and somewhat thorny. With the recommendation from the Norwegian Directorate of Health, it seems as though it may soon be realised.

Some work has already been accomplished. The Norwegian Society of Forensic Medicine has prepared a protocol for medical training in this specialty, and has operated an unofficial certification scheme since 2009 (15). The discipline is currently going through a generational shift. To make it possible to recruit young doctors, a publicly approved

specialty must urgently be put in place.

The Norwegian Directorate of Health wants to oblige the health trusts to train experts in forensic medicine (forensic pathology and clinical forensic medicine) (1). This makes sense. There is, however, a need for a national agency that prepares the goals for the training and formulates the requirements to be placed on the expert competence of each individual, as well as for the places where forensic medical services are carried out, researched and developed. Whether this will be a 'central institution of forensic medicine', as proposed in 1897 (2), a more modest forensic medical agency as proposed in the public report *Forensic medical expertise in criminal proceedings* in 2001 (2) or a state institute of forensic science, as proposed by the Hareide Commission in 2006 (10), is of little importance. Most likely, the simplest solution would be to draw on the expertise of the Board of Forensic Medicine. All university teachers of forensic medicine in Norway are members of the board, as well as four prominent representatives of forensic medicine in Denmark and Sweden, countries where this specialty has already existed for many years.

REFERENCES:

1. Helsedirektoratet. Rapport: Utredning av status og tiltak for å sikre kvalitet, rekruttering og tilgang på rettsmedisinsk kompetanse i Norge. <https://www.helsedirektoratet.no/rapporter/utredning-av-status-og-tiltak-for-a-sikre-kvalitet-rekruttering-og-tilgang-pa-rettsmedisinsk-kompetanse-i-norge/anbefalinger> Accessed 9.12.2020.
2. NOU 2001:12. Rettsmedisinsk sakkyndighet i straffesaker. <https://www.regjeringen.no/no/dokumenter/nou-2001-12/id377603/> Accessed 9.12.2020.
3. Skålevåg SA. Paul Emanuel Winge. I: Store norske leksikon. https://snl.no/Paul_Emanuel_Winge Accessed 9.12.2020.
4. Winge, Paul Emanuel 1857–1920. I: Norges leger, bind V: 667–9.
5. Statens sivilrettsforvaltning. Den rettsmedisinske kommisjon. Informasjon om kommisjonen og dens oppgaver. <https://www.sivilrett.no/den-rettsmedisinske-kommisjon.304199.no.html> Accessed 9.12.2020.
6. Harbitz F. Om organisasjonen av det rettsmedisinske arbeide. Om opprettelse av et rettsmedisinsk institutt. Manus til foredrag fremført i Den Norske Kriminalistforening 18. desember 1936 av direktør Evensen, da Harbitz fikk forfall. Manus oppbevart i Avdeling for rettsmedisinske fags arkiv, Universitetet i Oslo.
7. Lundevall J. Rettsmedisinsk institutt – 50 år, 1938–1988. Oslo: Universitet i Oslo, Rettsmedisinsk institutt/Informasjonsavdelingen, 1988.
8. Rognum TO. Innstillingen Rettsmedisin i Norge har vært til høring. *Nordisk Rettsmedisin* 1997; 3: 10–2.
9. Rognum TO. Medisinsk kunnskap i rettens tjeneste. Fremtidig organisering av rettsmedisinsk sakkyndigvirksomhet i Norge. Spesialoppgave. Oslo: Senter for Helseadministrasjon, Universitetet i Oslo, 1995.
10. Hareide-utvalget. Rapport til Politidirektøren fra DNA prosjektet av 29.09.2006.
11. NOU 2017:17. Svikt og svik. Gjennomgang av saker hvor barn har vært utsatt for vold, seksuelle overgrep og omsorgssvikt. <https://www.regjeringen.no/no/dokumenter/nou-2017-12/id2558211/> Accessed 9.12.2020.
12. Wester K. Has a 'shaken baby' always been shaken? *Tidsskr Nor Legeforen* 2018; 138. doi: 10.4045/tidsskr.18.0583. [PubMed][CrossRef]
13. Stray-Pedersen A, Møller C, de Lange C et al. The doctors' role in cases of suspected child abuse. *Tidsskr Nor Legeforen* 2018; 138. doi: 10.4045/tidsskr.18.0922. [PubMed][CrossRef]
14. Stridbeck U, Syse A, Nilsson P et al. Vurdering av filleristing av barn i straffesaker for norske domstoler. *Tidsskr Rettsvitenskap* 2020; 154: 423–75. [CrossRef]

15. Stray-Pedersen A. Hvor går norsk rettsmedisin? I: Rognum TO, red. Lærebok i rettsmedisin. Oslo: Gyldendal Akademisk, 2016: 424–5.

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