

Law and Psychiatry

International Medical Graduates as Forensic Experts

**WILLIAM H. REID, MD, MPH
SURESH DURGAM, MD**

I talk with dozens of clinicians every year about their training and careers. The topic often turns to forensic opportunities, whether as a portion of one's professional time or a full-time endeavor (which I rarely recommend, especially to those without years of solid clinical background). Some of the most common questions come from international medical graduates (IMGs). The thrust of their inquiries is very often something like "Is there a place for me in forensic psychiatry?" The general answer is yes, but that broad response sparks further discussion about whether some areas of forensic work lend themselves to both IMGs and U.S. graduates, while others may not.

Conventional wisdom would suggest to some that psychiatrists whose backgrounds and training were largely outside the United States might have difficulty serving as successful expert witnesses in this country. In addition to various clinical stereotypes about IMGs that, although lessened over the years, have persisted to some extent, forensic work, especially testimony, implies a new and different set of skills that some would aver are unique to the U.S. style of adversarial litigation. In addition, testifying experts must often be able to engage juries and sway them to consider the experts' opinions. The importance in trials of visual and aural credibility, not just clinical competence, presents yet another hurdle for those who would become expert witnesses.

In 2003, Suresh Durgam, MD, and I studied some of these issues, largely through an anonymous survey of psychiatrists who do forensic work. We invited members of the American Academy of Psychiatry and the Law (AAPL) and some senior residents who attended an AAPL meeting to complete the survey.* We received 116 usable responses. This column will present some early results that have been analyzed with the help of statistician Mark Mason of the Texas Department of Mental Health and Mental Retardation.

However, I first want to add a preemptive note: This column is not intended to be a simple discussion of "prej-

udice" or "racism." Our aim is to begin to look at factors that have long been assumed to limit practice opportunities for IMGs. The issue is not merely personal bias (although that is a part of it), but whether or not some colleagues, regardless of their training and expertise, are able to succeed in a subspecialty that often requires a peculiar confluence of clinical and other expertise, articulation and communication skills, and personal presentation which caters to certain nonclinical populations.

Fair or not, the public, and even some clinicians, sometimes question the abilities and credibility of IMGs in psychiatry. Concern is sometimes expressed that physicians who were not brought up in the United States may not understand the social and cultural backgrounds of their patients and, especially, that language limitations (such as proficiency with vocabulary and idiom or the ability to communicate with patients through a pronounced accent) may interfere with important clinical objectives. Years of experience with clinicians and trainees from around the world have decreased many of those concerns in healthcare environments, but our interface with other settings (e.g., forensic ones) brings new challenges for psychiatrists who look or sound "different" from other experts with whom the "customer" (often a lawyer or jury) is accustomed to working.

Perceptions of competence in clinically-oriented forensic matters, such as violence assessments or treatment in correctional settings, do not seem to be an issue once the psychiatrist's clinical competence—whether IMG or not—is established. The main issue is testimony. Most of the time, when an attorney retains an expert, the

WILLIAM H. REID, MD, MPH, is a clinical and forensic psychiatrist in Horseshoe Bay, Texas, and a past president of the American Academy of Psychiatry and the Law. He maintains an educational website, Psychiatry and Law Updates, at www.psychandlaw.org. He may be reached at reidw@reidpsychiatry.com. This column contains general information which should not be construed as applying to any specific case, nor as any form of legal advice.

At the time this survey was created, SURESH DURGAM, MD, was a senior psychiatry resident at Texas A&M University College of Medicine, Scott & White Medical Center.

*For a copy of the survey, contact Dr. Reid.

lawyer must assume that the expert will be required at some point to testify in court, usually to a jury. Even though many cases (especially civil ones) do not reach trial, the lawyer cannot ignore that eventuality.

My discussions with psychiatry residents and colleagues about forensic careers usually revolve around private practice. In the public sector, agencies and courts quickly learn which experts perform well and which do not, regardless of U.S. or IMG status. Those whose *metier* is not testimony often work well behind the scenes, perhaps in a treatment role. In private practice, however, success may be affected by many things that are seemingly unrelated to one's clinical skills, often things that one cannot (or cannot easily) change, such as medical school location, accent, or physiognomy. Attorneys and courts can choose from many potential experts, often from all over the country.

The lawyer's decision to retain an expert may be made after only a brief interview that allows little chance for the person's more substantive qualities to overcome superficial biases. To be fair, the brevity of that initial decision-making process may be useful for the lawyer, since juries, too, have only a short time in which to form a "relationship" with the expert witness and become convinced of his or her competence and credibility. After coming to reasonable opinions in the case, the expert must then be able to articulate his or her opinions clearly (often under considerable stress), deal with aggressive cross-examination, and present testimony in a way that the judge or jury will find understandable and believable. The attorney who retains the expert must come to believe in that ability very early in the lawyer-expert relationship.

Keeping these issues in mind, we did not address the actual qualifications or abilities of IMGs in our survey, but rather the attitudes that may affect potential experts' ability to find work in various forensic fields. For this survey, we explored the attitudes of other forensic psychiatrists. While this group of forensic peers may be important to collegial acceptance and self esteem, other groups (lawyers, and to some extent judges and juries) have much more influence on forensic career directions. Nevertheless, our first step in studying this topic was to query forensic psychiatrists themselves.

Demographics of Respondents

All respondents were psychiatrists or senior psychiatry residents. Most or all were either members of AAPL or participated in AAPL activities. All identified themselves as having been retained or employed as a psychi-

atric expert witness in the past, and almost all had testified in court or at deposition. Over half (54%) had done significant amounts of forensic work for over 10 years; only 8% had been doing forensic work for fewer than 2 years. About a third (32%) had completed a forensic psychiatry fellowship (note that many experienced forensic psychiatrists trained before such fellowships were commonly available). About three-quarters (73%) were male. When presented with 19 characteristics of forensic practice, from which they could choose as many as they wished, at least a quarter of the sample indicated they had done substantial private practice, were university or agency employees, evaluated or cared for forensic patients, engaged in significant institutional practice, consulted with attorneys at least fairly frequently, did primarily civil forensic work, and/or testified at deposition or trial at least 6 times a year.

In all, 91 respondents (80%) reported being graduates of a U.S. or Canadian medical school (virtually all U.S.); 5 (4.4%) were natives of the United States who had received their medical degrees outside the United States or Canada; 18 (16%) were non-U.S. natives who had graduated from medical schools outside North America. Of the 116 respondents, 76% were Caucasian forensic psychiatrists who had trained in the United States or Canada (almost all U.S.). The second most common group in this category was Asian (8.7%), including non-Middle-Eastern psychiatrists, largely from India, Pakistan, and Southeast Asia, followed by Caucasians from outside North America (7.8%). There were surprisingly few Black respondents (about 4.4%, 3 African Americans and 1 IMG from Africa) or Hispanic respondents (1.8%). No Middle-Eastern forensic psychiatrists responded.

Although practice locations were varied, urban and suburban settings were most common (48%). Only 5.3% reported being in primary practice in small towns or rural settings; about 12% reported mixed or multiple practice settings. All respondents practiced within the United States; the specific states or regions will not be described in this report.

Opinion Versus Experience

The survey tried to separate respondents' experiences from their opinions. For example, we asked respondents, in separate questions, whether or not they had *experience* with IMG status affecting opportunities to be an expert witness, and whether or not they *thought* IMG status affected such opportunities. The results were sometimes quite different, and may suggest that their

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beliefs—positive or negative—do not always reflect what happens in the real world.

It should be noted that the survey asked about both positive and negative effects of IMG status (and, in a limited way, of some other cultural and ethnic characteristics). In addition, we did not rely solely on experiences in the respondents' own ethnic or cultural groups, but also included respondents' observations of members of other groups. For example, Caucasian psychiatrists from the United States could comment on their experiences and observations of IMG opportunities, to the extent that they had had such experiences. We are aware that members of one group may not accurately perceive the experiences of another group, which is another reason for separating experiences/observations from opinions. Of course, the opinions and experiences reported by respondents from one cultural or ethnic group often vary within that group as well.

Results and Discussion

Table 1 presents some preliminary results from questions 8–12 of the survey. Keep in mind that the number of respondents was relatively small and may not reflect views that would be found in a larger sample.

Question 8 (Table 1) asked respondents about their experiences (positive or negative) concerning the effect of their race/ethnicity on expert witness opportunities. In the narrative response portion of the question, 15 respondents said the effect was positive and 15 said it was negative (some said both). U.S. graduates tended to describe a positive effect of being U.S. graduates; IMGs described both positive and negative effects of being IMGs with regard to forensic work in this country. When being an IMG was described as having a positive effect, it was usually in the context of a minority defendant, plaintiff, or jury or a topic in which IMG or minority status offered an advantage in terms of language or cultural knowledge. Question 9 asked respondents about their opinion as to whether IMG minority ethnic status generally limits a psychiatrist's opportunity to be an expert witness.

Although a number of respondents found it difficult to express an opinion in Questions 8 and 9 (note the relatively large percentage of "not sure" responses) and the numbers are quite small, the responses in Question 9 suggest that IMGs may have more concerns about limitations on their forensic opportunities than U.S. graduates.

Effect of IMG Status on Qualifications and Expert Witness Credibility

U.S. graduates and IMGs did not differ very much in their impressions of whether or not IMGs and non-IMGs are equally qualified for forensic roles (Questions 10 and 11). It is, however, interesting that only 30%–40% of either group rated IMGs as "virtually always" equal to U.S. graduates in forensic qualifications. Something under half of each group believed IMGs were "usually" equal to comparably-trained US graduates, and a significant portion of both rated IMGs as "sometimes" equally qualified.

On the topic of comparative credibility with judges and juries, which is quite different from educational and experiential qualifications, the two groups agreed fairly well that IMGs enjoy somewhat less credibility than U.S. graduates (Question 12).

The Last Word

Many of the forensic psychiatrists and trainees who responded to our survey believe and/or have had experiences that indicate that IMG status has a negative impact on both opportunity and ability to work in some forensic expert roles. Other respondents did not believe this or had not had such experiences. While not all the effects of IMG status are negative, many may limit career choices in specialized areas. As a practical matter, the opinions of attorneys and judges have much more influence on most forensic careers than do peer beliefs. A follow-up study will survey lawyers who retain psychiatric experts as well as judges who observe them in court.

Table 1. Excerpts from survey concerning IMGs and forensic psychiatry

| 8. Has your race/ethnicity affected your expert witness opportunities (positively or negatively) (N = 113) | | | | |
|--|--------------------------------------|----------------------------|--------------------------|-----------------------------------|
| | <i>Rarely/Never n (% of row)</i> | <i>Sometimes n (%)</i> | <i>Often n (%)</i> | <i>Not Sure n (%)</i> |
| US/Canadian Native, US Med School Grad | 52 (58%) | 9 (10%) | 4 (4%) | 25 (28%) |
| US Native, IMG | 2 (40%) | 0 | 0 | 3 (60%) |
| Non-US Native, IMG | 8 (44%) | 4 (22%) | 1 (6%) | 5 (28%) |
| 9. In your opinion, does IMG minority ethnic status generally limit a psychiatrist's opportunity to be an expert witness? (N = 114) | | | | |
| | <i>Rarely/Never n (% of row)</i> | <i>Sometimes n (%)</i> | <i>Often n (%)</i> | <i>Not Sure n (%)</i> |
| US/Canadian Native, US Med School Grad | 23 (25%) | 22 (24%) | 0 | 46 (51%) |
| US Native, IMG | 0 | 2 (40%) | 0 | 3 (60%) |
| Non-US Native, IMG | 1 (6%) | 3 (17%) | 3 (17%) | 11 (61%) |
| 10. In your opinion, are IMGs and U.S. graduates with comparable training generally equally qualified to be forensic consultants (not including testimony)? (N = 108) | | | | |
| | <i>Rarely/Never n (% of row)</i> | <i>Sometimes n (%)</i> | <i>Usually n (%)</i> | <i>Virtually Always n (%)</i> |
| US/Canadian Native, US Med School Grad | 2 (2%) | 17 (20%) | 41 (48%) | 26 (30%) |
| US Native, IMG | 0 | 1 (25%) | 2 (50%) | 1 (25%) |
| Non-US Native, IMG | 0 | 3 (17%) | 8 (44%) | 7 (39%) |
| 11. In your opinion, are IMGs and US graduates with comparable training generally equally qualified to testify as expert witnesses? (N = 108) | | | | |
| | <i>Rarely/Never n (% of row)</i> | <i>Sometimes n (%)</i> | <i>Usually n (%)</i> | <i>Virtually Always n (%)</i> |
| US/Canadian Native, US Med School Grad | 1 (1%) | 20 (23%) | 38 (44%) | 28 (32%) |
| US Native, IMG | 0 | 1 (25%) | 2 (50%) | 1 (25%) |
| Non-US Native, IMG | 1 (6%) | 2 (12%) | 7 (41%) | 7 (41%) |
| 12. In your opinion, separate from academic qualifications and experience, do IMGs and U.S. graduates with comparable training generally enjoy equal credibility with judges and juries? (N = 98) | | | | |
| | <i>Never n (% of row)</i> | <i>Sometimes n (%)</i> | <i>Often n (%)</i> | <i>Always n (%)</i> |
| US/Canadian Native, US Med School Grad | 2 (3%) | 38 (49%) | 28 (36%) | 9 (12%) |
| US Native, IMG | 0 | 1 (25%) | 3 (75%) | 0 |
| Non-US Native, IMG | 1 (6%) | 7 (41%) | 6 (35%) | 3 (18%) |