

## LETTER TO THE EDITOR

# Structured Professional Judgment Tool in Assessing Fitness to Stand Trial

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Dear Editor,

We recently published a study that looked at the demographic, criminal, and psycholegal factors that influences the finding of fitness or unfitness to stand trial following unstructured evaluation measures [1]. The results have indicated that the fitness standard as outlined in the Criminal Code of Canada is clear, evaluates the necessary psycholegal capacities, and is not biased as exhibited by the lack of significant correlations between demographic, diagnostic, and criminal history variables and fitness criteria. Thus, unstructured assessment measures all the necessary capacities required of an accused in court, and clinicians are using the appropriate information to determine fitness.

That research has direct implications for practice. First, the results of the study suggest that unstructured clinician assessment, as is the most common method of assessment, is successful at opining fitness and fulfillment of the three psycholegal criteria:

- understanding the nature and object of the proceedings;
- understanding the possible consequences of the proceedings; and
- communication with counsel.

This provides support for assessing fitness with open-ended questions that evaluate an accused's psycholegal capacities as outlined in the present study. It also provides information about specific

deficits, which can help to make decisions about restoration programs and treatments.

However, the future of fitness assessment may not lie in unstructured or standardized assessment tools alone. Rather, it may be time to consider the use of a structured professional judgment (SPJ) tool in fitness. Though the previous study has suggested that unstructured clinical assessment is successful in determining fitness, the study has limitations as regards the population analyzed. Future studies would need to corroborate such findings. SPJ tools have been used in numerous areas in psychology and psychiatry. Such tools exist as a balance between standardized or non-discretionary approaches to assessment (which relies on formal scoring and norms) and unstructured or discretionary clinician judgment (which relies on professional interpretation alone). SPJ tools for fitness assessment could direct the clinician to a predetermined list of empirically supported variables and guidelines to assist in decision-making, restoration potential, and treatment recommendations. SPJ tools are routinely used worldwide for the assessment of risk for violence (e.g., HCR-20), and their scope and benefits seem to align well with what the field of fitness assessment requires [2,3]. An SPJ fitness tool would allow clinicians to measure the necessary psycholegal abilities in a semi-structured way, where assessors are directed to what information to collect and what abilities are required. Such a tool would also allow clinicians to expand on the individual's answers, by assessing what an individual could learn instead of just what he

or she knows—a capacity critical to appreciating and understanding the legal system that goes beyond factual knowledge.

Finally, the scope of SPJ fitness tools would allow clinicians to track certain improvements in factors over time, which is a great benefit for the purposes of restoration. By identifying changes in mental health and fitness through such a tool, clinicians could track changes in the various factors and abilities, including psychiatric history, or even response to treatment and choose to assess someone's fitness or select a treatment based on their specific, individualized history.

Future research should examine the use of cognitive restoration combined with psychotropic medication to remediate deficits on specific psycho-legal abilities or fitness prongs. Use of a SPJ tool in tracking what factors are influencing the person's state of mental fitness would allow for better decisions to be made regarding fitness restoration programs as SPJ tools allow for more intensive tracking of patients' data and growth, given that the procedures are standardized which makes results more reliable and easier to compare.

Research has already begun on the use of SPJ tools in competence restoration [4]. While psychotropic medication is successful at treating an underlying mental disorder, it is not successful at treating an intellectual disability or a cognitive deficit. Recent research has looked at the combination of both cognitive remediation and competency-specific programs to develop a treatment regimen that improves attention, reasoning, memory, and executive function. This, in turn, increases the likelihood of success in competency training programs designed to improve on the psycholegal capacities of the accused [5]. As these abilities require verbal comprehension, memory, and social cognition—things that cannot necessarily

be remediated via medication—a restoration program that focuses not only on treatment of symptoms but also on treatment of underlying psycholegal abilities would be auspicious.

The Canadian fitness standard has come a long way since its beginnings in English common law. Research has developed impressive tools to assess fitness in order to assist clinicians. Further investigation into the tools themselves has provided support for various factors that consistently differentiate fitness. Collaboration between law, psychiatry, and psychology will ensure further discoveries and developments in this important area of forensic assessment.

**Conflict of interest:** none

### References

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