

Book Reviews

ADULT EYEWITNESS TESTIMONY: CURRENT TRENDS AND DEVELOPMENTS. Edited by David Ross, J. Don Read, and Michael Togli. New York: Cambridge University Press, 1994. 434 pp. \$59.95.

Reviewed by Jill Rowan, PhD

This edited volume on eyewitness identification presents a variety of research on topics such as the accuracy of eyewitness identification, line-up compositions, and the influences on eyewitness recall. All of the chapters offer original research as well as complete literature reviews on the pertinent topic. The extensive preface, which is written by the three editors, Ross, Read, and Togli, provides an admirable summary of the book. In the preface it is explained that the purpose of the volume is to address, through empirical studies, three overarching questions: (1) what cognitive, social, and physical factors influence the accuracy of eyewitness accounts?; (2) how can lineups be improved to increase accuracy?; (3) what makes the difference between accurate and inaccurate witnesses? Each of the three questions then forms the focus of a major section of the book, each section containing five to seven chapters. The articles in each section address the salient question from different points of view.

Part I, which examines the influences affecting eyewitness identification, includes articles on inaccuracies due to sug-

gestibility (Weingardt, Toland, and Loftus), *earwitness* testimony (Yarmey), and the importance of body parameters such as body shape and dimension (MacLeod, Frowley, and Shepherd).

Part II focuses on lineups and includes chapters on how various test media such as live lineups, videotapes, and photo arrays affect witness identification (Cutler, Berman, Penrod, and Fisher). Recommendations are provided by Weills, Seelua, Rydell, and Luus on how to improve accuracy in lineups. Their contribution includes a listing of 10 practical suggestions fueled by research. There is also a chapter by Lindsey, which the editors call "controversial," as he indicates the role of the police in forming biased lineups.

Finally, part III, with its emphasis on how to disentangle accurate from inaccurate witnesses, covers such topics as how jurors incorporate eyewitness testimony into their decision-making (Lindsay), how and when decision times used by eyewitnesses may indicate accurate identification (Sporer), and how differences in styles of information processing correlate with accuracy (Hosch).

The editors note that this volume fills a void, because there has not been a comparable venture for more than a decade. For anyone who is interested in being up-to-date on research in the area of eyewitness testimony, this volume is essential. As a starting point for research, each chapter provides a concise, yet thorough, synopsis that often suggests further research questions. This book would be very helpful for teaching as well as for a grounding in the area of eyewitness testimony if one were asked to consult.

The commentary throughout the book lets the reader know that within this field of research there is communication among authors. Each chapter provides a literature review that includes prior work of that author, so the reader can easily trace the origins of the project. The exhaustive subject index is especially useful. Overall, if one were looking for a comprehensive book on research in eyewitness identification, this would be it.

SURROGATE MOTHERHOOD—A WORLDWIDE VIEW OF THE ISSUES.
By Diederika Pretorius. Springfield, IL: Charles C Thomas, 1994. 239 pp. \$54.75.

Reviewed by Lee H. Haller, MD

This book resulted from the author's research while obtaining her doctorate of laws degree at the University of South Africa. Thus, the text is written strictly in a legal framework without any pretense of being a psychiatric or even a medical text. Nevertheless, it holds relevance for the forensic psychiatrist because of the obvious interface between medicine and law that this topic entails.

The text has a number of strengths, beginning with the foreword, written by Professor Ralph Slovenko, who has previously written on this subject. Slovenko eloquently introduces us to the topic, beginning with a historical background, followed by glimpses into some of the various aspects of the topic. In the body of

the text, the author expands on these and many other legal facets. Included is an examination of the various types of surrogate motherhood; types of contracts that can be drawn up between the natural parents and the surrogate mother; case law from around the world; and statutory and ethical stances taken by various organizations. Dr. Pretorius also includes a discussion of *boni mores*, a concept that reflects the "juristic convictions of a community."

Further strengths of the book are efforts made by the author as part of her research to examine how the issue is handled in not only the United States and South Africa, but in several other countries around the world. This obviously gives the reader an even broader perspective on the issue. With regard to the United States, there is a discussion of several of the decisions that have been reached, state by state, including the "Baby M." case from New Jersey. The final chapter is a brief summation of the key issues in surrogacy with recommendations by the author for how each of these areas should be handled.

The weaknesses of the book are, first, that it is dated. Although published in 1994, the most recent references are from 1990, and several of the references for data (e.g., those on causes of infertility) go back into the 1970s. Thus, if one is looking for the newest and latest data, one will be disappointed.

A second shortcoming is that very little attention has been given to the psychological aspects of the issue. Perhaps this is because the author is uncertain as to its importance. On the one hand, she says that the skill of a psychiatrist or psychol-

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ogist might be helpful in the screening of intended parents or surrogate mothers (p 20), yet follows this by quoting Dr. Parker's 1984 article in the *Bulletin of the AAPL*, wherein he states that we "really do not know enough about what makes a woman a good surrogate to begin screening women out" (p 22). Dr. Pretorius makes almost no effort to expound on either of these two statements. Somewhat more attention is paid to the "best interest of the child" standard, which arises in contested custody cases (after the child is born). There is a brief discussion of what factors could be involved in trying to evaluate this aspect of the issue.

In summary, this is a more than adequate text covering a specific issue. It gives the reader a clear conceptualization of the multiple aspects involved in the topic. It is a worthwhile addition to a comprehensive forensic library.

THE PSYCHIATRIST IN THE COURTROOM: SELECTED PAPERS OF BERNARD L. DIAMOND, MD. Edited by Jacques M. Quen. Hillsdale, NJ: Analytic Press, 1994. 279 pp. \$47.50.

Reviewed by Erik Roskes, MD

This book is a collection of Dr. Bernard Diamond's work spanning the years from 1956 through 1983. Included in the book is a complete listing of Dr. Diamond's work, which covers a much greater time period. (This list in and of itself is a

fascinating look at the range of subjects that Dr. Diamond studied.) Dr. Jacques Quen introduces the book with a concise summary of Dr. Diamond's career, highlighting the issues in which Dr. Diamond took particular interest. These included various tests of insanity, the defense of diminished capacity, the role of hypnosis in a legal framework, dangerousness, and the fallacy of the impartial expert. Dr. Diamond wrote quite a lot about these issues, and articles on these topics make up the bulk of the book.

Reading this collection of Dr. Diamond's work during my fellowship in forensic psychiatry did not help me complete my evaluations. It did not help me write my reports. It did not even help me with my court appearances. What this book did was to help me understand the history of forensic psychiatry and the reasons for the changes that our field has undergone. This collection of Dr. Diamond's work reflects a stable mind in a tumultuous time. He was unabashedly analytic during the heyday of psychoanalysis; he remained so during the era of DSM-II, -III, and -III-R. His work provides a philosophical anchor, albeit a rather biased one. Despite this inclination, he accepted the DSMs as inevitable and also as an improvement in the ongoing process of defining mental illness.

Dr. Diamond's penchant for viewing psychiatry and the law from a psychoanalytic viewpoint is obvious throughout the book. It was his belief that the forensic psychiatrist was obligated to perform a complete evaluation of the subject, including the subject's unconscious motivations. His primary example of the useful

ness of this type of evaluation was the defendant Nicholas Gorshen, whom he believed suffered from paranoid schizophrenia and committed a murder in order to prevent a psychotic decompensation. This was a key case in a series of cases leading to California's diminished capacity rule. Dr. Diamond lived to see California adopt this rule, which allowed for a blurring of the boundary between sanity and insanity, and he lived to see the rule abolished as well. Unfortunately, therefore, many of the papers in this book are now out of date from a practical standpoint, although they do give the reader an understanding of the road that psychiatry and the law has traveled.

Dr. Diamond believed that psychiatrists are uniquely able to contribute to the legal system, because of our comprehensive understanding of human motivation and human behavior. In his opinion, the job of the forensic psychiatrist was not simply to be an advocate for an opinion in a particular case. He also believed that a valid role for a forensic psychiatrist was as an agent of social change. The part he played in the legal system in California is well known.

Dr. Diamond also believed that the forensic psychiatrist needed to set for himself or herself ethical standards that he or she would refuse to breach. He was aware that this was "not conducive to a successful forensic practice," but that it was only by adopting such standards that one could avoid the trap of being seen as a "hired gun" (p xxv). His discussion of ethics in the area of forensic psychiatry is very useful for me as I begin my career in forensic psychiatry.

There are 12 articles in the book, which are taken from the general and forensic psychiatry literature, from the psychoanalytic literature, from several law reviews, and from journals such as *Archives of Criminal Psychodynamics*, *Journal of the History of Behavioral Science*, and *Journal of Social Therapy*. This variety of original sources provides readers with an unusual opportunity to read works in literature that they otherwise would be unlikely to see. However, it also leads to some redundancy of articles covering similar topics. For example, chapters two through five cover aspects of the history of and use of the insanity defense. The articles were published between 1957 and 1966 in four different journals and were designed to reach four different audiences. Since the material presented is quite similar, the reader gets a sensation of *déjà vu*.

There are some minor editing problems, particularly in terms of dates. In Dr. Diamond's bibliography, I noted one publication year that was in error, and I also found an erroneous date in a reference list at the end of one of the chapters.

Overall, I found this book to be very enjoyable and informative. It provided an introduction to the work of a great thinker in our field. Despite the age of some of the articles in the book, the ideas presented and the subjects included are very useful for anyone interested in the historical background of the field of psychiatry and the law. I especially recommend it to other forensic fellows who would like to increase their understanding of the history of the field. The book is also useful for general psychiatrists who wish to better

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understand the field of forensic psychiatry.

DISTURBED GROUND. By Carla Norton. New York: William Morrow, 1994. 415 pp. \$23.00.

Reviewed by Anne Glowinski, MD

Disturbed Ground is written as a docu-drama thriller for a wide audience, but especially for lovers of the macabre and scandal gourmands. It is sadly ironic that the sensationalistic aspects of Dorothea Puente's saga have since been eclipsed in the media by the more notorious California cases of the Menendez brothers and O. J. Simpson. Dorothea Puente's now modest "claim to fame" sprung during the late 1980s, when many wrapped corpses were unearthed from her bucolic backyard.

In this book, the weaving of Dorothea Puente's tale is done in a spider web fashion, starting peripherally, until it captures the unfortunate Bert Montoya, a well liked mentally ill man whose protracted disappearance ultimately triggered an inspection of Dorothea's roses. The narration then unravels suspicions and converges on various aspects of the police and legal investigations, until the climax, which consists of the trial and sentencing. The readers are also asked to peruse rapidly the grim killer's predictable biography, which is introduced well into the book. Mrs. Puente's life includes

a very deprived and unstable childhood. As an adolescent in the mist of sordid living situations and disrupted familial relationships, she shows an early propensity for concocting tales in which she recreates her identity like a grandiose chameleon. She soon engages in prostitution, multiple stormy marriages, and with a generous use of aliases, embarks on a prolific "con artist" career. In the early 1980s the suspicious death of a woman is overlooked, despite the concerns of her family members. After several relatively light jail terms, Mrs. Puente finds herself well established in her older years, quite busy swindling money from a gallery of marginal souls acknowledged distantly by society through social security checks. Despite a long criminal record and a probation officer who visits her regularly in her illegally run boardinghouse, Dorothea remains for years, impudently, the sole caretaker of many debilitated tenants. With one hand she takes their money and with the other, administers food and sedatives. Over time, eight tenants disappear and some of their estranged family members receive cheerful postcards or letters alluding to new lives on more hospitable shores. The deceitful Mrs. Puente creates those messages while their purported authors are buried in her garden.

This mosaic of Mrs. Puente and her many victims is recounted through the eyes of too many witnesses, superficially gathered by the author to inflate the story and provide melodramatic moments of suspense. Norton paints short, flat portraits of almost all the protagonists: victims, family members, social workers, expert witnesses, lawyers, policemen, and

others introduced in the narrative. The intention may be to make us feel more intimate with the *dramatis personae*; unfortunately, the sketches often contain details of nebulous descriptive value. For one character, physical attributes are emphasized, while another's work habits, sports passions, or taste for alcohol are his prominent features. In the end it flattens them out rather than bringing them into relief.

This book has the ambition to educate laypersons in some of the rudiments of toxicology, pharmacology, and psychology. However, it seems amateurish, with such blunders as classifying Valium in the barbiturate family, spelling Clozaril incorrectly, or attributing schizophrenics' poor executive functioning to being frightened by the prospect of freedom.

The author is very intent on creating a sense of disbelief that a white-haired, anemic grandmother could figure in the annals of serial killing. The extent of her criminal career, before she was finally appropriately scrutinized, is also emphasized to illustrate certain absurdities and pitfalls of law enforcement. Those are both relevant points; however they are repeated *ad nauseum*, every time the chronical of one of Dorothea's victims is presented. Hence we spend much of the book encountering Dorothea through many characters and are incessantly sung this refrain of the contrast between appearance and reality, and of the incongruity of this trail of antisocial behaviors escaping attention until it was too late.

Yet some interesting phenomenological traits of Dorothea Puente emerge from the book. We read numerous examples

of her megalomaniac confabulations, or *pseudologia fantastica*. We witness her impulsivity and temper outbursts. We learn of her frequent abuse of alcohol and suspected use of other tranquilizers. We see her sociability and easy, superficial connections to people. For obvious reasons, since Mrs. Puente did not confess to these serial murders, what remains unanswered are very relevant issues about emotional impulses the murderer may have actually experienced before, during, and after the killings. This makes the author's last assertion that Dorothea Puente was "in the end devoid of feeling and hollow" less meaningful than may have been intended.

The main interest for the forensic psychiatrist reading this book is being provided with a layperson's struggle, after much research and "enlightenment" by experts, to understand and expose a serial killer. Finally, one is also reminded of the public's appetite for and fascination with gruesome matters, but also its indignation that such criminals may enjoy impunity for so long because they can easily outsmart the systems in place to protect society.

PSYCHOLOGY AND THE LEGAL SYSTEM (ED. 3). By L. Wrightsman, M. Nietzel, and W. Fortune. Pacific Grove, CA: Brooks/Cole, 1994. 523 pp. \$52.75.

Reviewed by Daniel W. Hardy, MD, JD

This is not a book written for practicing forensic psychologists or psychiatrists.

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According to the authors, "The primary audience for the book is those students taking a course in psychology and the law or the criminal justice system, as well as others who seek to know more about the law as a profession." Its purpose "is to examine the legal system through the use of psychological concepts, methods, and research results." We are told that the second edition is "the most frequently assigned textbook for undergraduate courses" in psychology and law.

As the product of an undergraduate education where the twain of psychology (as represented by men such as Erik Erikson and B. F. Skinner) and the law (represented by the great legal scholar, Paul Freund) seldom if ever met (and if they did they probably didn't speak), I settled in for a good read, hoping at last to comprehend the hitherto mysterious tie that binds these two disparate disciplines together. That I hoped for too much is my fault and not the authors'. That I progressed in my quest is to their credit alone.

Before I get to the meat of the book I first want to "pick a few bones."

The sentiment that it is better to free several who are guilty than to convict one who is innocent is attributed by the authors to President John Adams. I don't know whether Adams said this or not, and no citation is offered; but I am reasonably sure that Blackstone said it first.

Isaac Ray is identified as having testified at the trial of Daniel McNaughton (sic), again without citation. It is my understanding that he *did not* testify (criminal justice being somewhat swifter and trans-Atlantic travel somewhat slower

then than today), although his treatise on forensic psychiatry was relied upon by several of those who did testify.

In a discussion of the use of hypnosis for memory retrieval, the 1976 Chowchilla legend is uncritically reiterated. ". . . [A] busload of 26 school children and their driver were abducted. . . [and] later escaped. The driver had seen the license plate on one of the vans the kidnappers had used and had tried to memorize the numbers. However, he was unable to recall the numbers until he was hypnotized. . . [when] he suddenly called out a license plate number he remembered seeing. Except for one digit, the number was correct and expedited [the capture and conviction] of the three culprits." As I learned the story from a distinguished member of the American Society of Clinical Hypnosis, the bus driver gave not one but two license numbers under hypnosis, both with equal conviction, and one was totally incorrect.

While these may be relatively minor errors, they seem to convey a bias in favor of popular readability over accuracy. Likewise the reader gets the impression that substance is at times sacrificed to sensationalism (in the manner of a "Current Affairs" telecast), as evidenced by the fact that the authors cite Alan Dershowitz five times, and refer to Mike Tyson thrice, while citing Judge Bazelon two times, Paul Appelbaum once, and Ralph Slovenko not at all.

I admit, however, that my interest as a diagnostician was piqued by reading that Mr. Dershowitz may have had a childhood "problem with authority" and that

Gerry Spence once wrote, "It is I always, not the client, on trial."

Of equal concern is the seeming lack of discrimination in the presentation of obviously conflicting theories. For example, we are told that Dr. Martin Reiser, identified as the Director of the Los Angeles Police Department's Behavioral Science Service and a proponent of the use of hypnosis by police investigators for memory retrieval, "attributes the effectiveness of this technique to the fact that all perceptions are stored faithfully at a subconscious level and that these memories can be reactivated with hypnosis," although the validity of this claim "is not certain." On the same page we are advised that Loftus "depicts memory as constantly changing and as being subject to reconstruction" and that Orne believes memories "are created and revised rather than faithfully stored." Neither Loftus nor Orne are identified by title, degree, or otherwise for the benefit of the targeted undergraduate reader. This approach strikes me as the politically correct equivalent of teaching creationism and evolution to the same junior high school science class, while mentioning in passing that the validity of creationism "is not certain."

And on the question of whether the United States has too many lawyers, Harvard's Derek Bok is quoted as saying that "far too many [of the nation's brightest young people] are becoming lawyers at a time when the country cries out for more talented business executives, more enlightened public servants, more inventive engineers, more able high school principals and teachers." But lest our nation's

lawyers be offended we are told in lawyerly fashion in the very next sentence that "a contrasting viewpoint is equally legitimate."

Pure advocacy may have its place, but this reviewer found himself wondering whether a few well placed "jury instructions" might not be of benefit to the unwitting undergraduate for whom the text is intended. Possibly the instructor's manual (which was not provided for review) resolves some of these concerns.

On the positive side, the authors' style is consistently literate; case vignettes are almost always interesting and to the point; and certain chapters are especially well done. Chapter 6, "The Police and the Criminal Justice System," provides a useful discussion of police candidate screening, on-the-job stress, and fitness for duty evaluations. Chapter 10 gives a valid explication of the often unreported procedures between arrest and trial. And chapters 13 and 14 offer an intelligent discussion of the relevant issues of a jury trial and equally intelligent recommendations for reform, such as jury note-taking and the right to propound questions (through the judge) to witnesses, neither of which practices are universally permitted.

Returning to my original quest for enlightenment, the authors do not avoid an examination of the magnetic dichotomy that characterizes the relationship between the behavioral sciences and the law. It is addressed "head on" in the book's first chapter. "Law is Doctrinal," they write, while "Psychology is Impirical." "Law Functions by the Case Method, Psychology by the Experimental

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Method.” “Law Supports Contrasting Views of Reality; Psychology Seeks to Clarify One Muddled View of Reality.”

While each of these statements is undoubtedly correct they fail to concentrate on the one overriding truth: lawyers think differently than doctors. Lawyers think by analogy (A is to B as C is to D), a form of inductive logic (from the particular to the general), while doctors (i.e., clinical scientists, behavioral and otherwise) think by the process of elimination, a form of deductive logic (from the general to the particular).

I suggest that the inductive process is much more natural, if not in fact innate, to the human condition, and has been the basis for several millennia of legal (and much of scientific) thinking. The deductive process has given rise to the “scientific method,” which in turn has spawned such dramatic advances as the theory of relativity. As A. Conan Doyle’s Sherlock Holmes noted, “[w]hen you have eliminated the impossible, whatever remains, however improbable, must be the truth.” The fact remains, however, that “to think like a lawyer” means not only to think

clearly and with a degree of precision, but to think in the manner in which logical humans are by nature accustomed. And this, of course, is exactly what lawyers (and the Law) should be doing, rather than trying to think in the manner in which scientists are specifically trained.

The significance for those of use who has fashioned a career in the forensic behavioral sciences is that we are forever destined to be “the handmaidens of the law,” never to dominate, but to accommodate, to offer aid and guidance when called, and criticism in those limited circumstances when it is in service of ends other than our own—a not ignoble pursuit.

I am indebted to Orest Wasyliv, PhD, and Edith Hartman, MD, for having shared with me their philosophies, which I have incorporated herein. And I am indebted to the authors of *Psychology and the Legal System* for having stimulated me to review and renew my own thinking regarding the ever fascinating relationship between the behavioral sciences and the law.