

Richard G. Dudley, Jr., MD: Caring in Forensic Psychiatry Practice

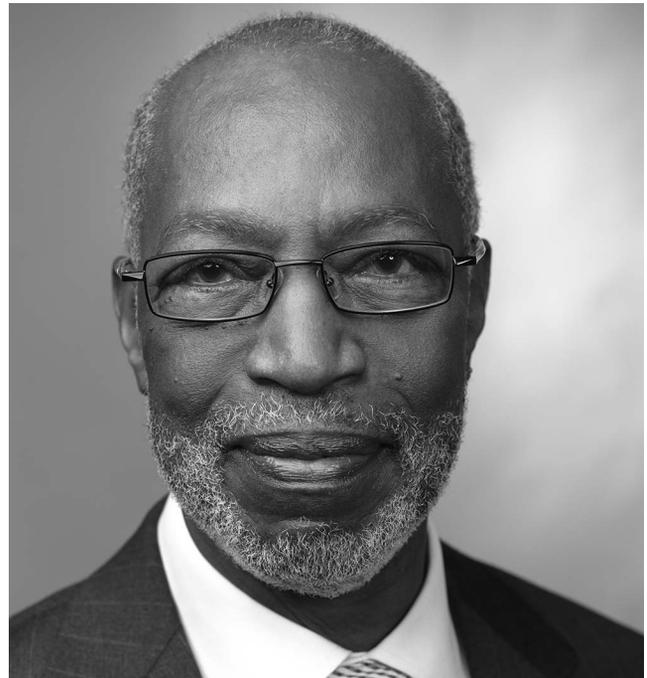
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A few years ago, I was invited to give a lecture at the Yale Law School on the performative dimensions of the forensic psychiatry report. Before I could even settle down to my task, a member of the law faculty approached me. She asked whether I knew Richard Dudley and placed a copy in my hands of his 2008 *Hofstra Law Review* article addressing life history investigation and mental health assessment.¹ I did indeed know Richard Dudley. He and I had worked for years building up the Black Psychiatrists of America organization and mentoring early-career black psychiatrists seeking to solidify their professional identities.

Richard Dudley's connection to forensic psychiatry was less obvious to me, however, probably because he did not regularly attend annual meetings of the American Academy of Psychiatry and the Law. On the other hand, law school faculty knew him well because of his work across the country with capital defense cases and his special interest in the concerns and needs of the black and gay populations. The article handed to me by my law faculty colleague had a sharp and sophisticated focus on the basic tools of an adequate psychiatric defense in capital cases. It detailed the essentials of the comprehensive life history investigation, with the requirements of collecting, organizing, and analyzing data about the defendant's life story.

Dudley's work contributes to the scholarly discussions in forensic psychiatry that have focused on how we practitioners do the work routinely. He has ad-



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ressed matters such as what constitutes an acceptable forensic evaluation and the problems of presenting assessment results in court.² Demands for professional standardization have shed light on these efforts and have also increased expectations of excellence in our work. The present multiplicity of training programs in the field has also caused us to be thoughtful about the meaning of the ritual enactments we carry out in our forensic activities. A focused line of work has emerged in recent years that highlights the place of culture in the forensic evaluation and testimony. Questions have been raised

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about ethno-cultural differences between forensic evaluator and evaluatee and their potential effects on conducting the evaluation and testimony. Scholars have been busy theorizing, too, about the import of these differences along the lines of race/ethnicity, gender, age, migration, sexual orientation, and even trauma.³

Dudley has been a special kind of theorist and contributor to the scholarship and practice of forensic psychiatry. He has spent a major part of his professional life in New York City, caring for individuals who identify themselves as being members of the black and gay communities. His extensive clinical experience in these areas has led to requests for his involvement in forensic matters concerning blacks and gays. He seemed to hone first his clinical understanding of the two groups before tackling their formal legal needs.

Richard Gilbert Dudley, Jr., was born in 1946 and raised in a suburb of Philadelphia, Pennsylvania. His mechanical-engineer father and school-teacher mother set up a home that was protective in a special manner: they encouraged him to discuss with them problematic experiences with racial matters to figure out what deserved further reflection and a possible response. He would learn eventually that setting up these distinctions saved him considerable energy and time. Not every racial slight deserved his attention. A distinctive feature of his upbringing was the presence of all four grandparents in his life. Added to that was a home-space rooted in his parents' solid economic standing and the home's presence in a racially integrated community.

Dudley tells the amusing story of drawing the diagram of his family tree for his second-grade teacher. She couldn't believe the completeness of his antecedent history and its cultural richness derived from a mother's connection to blacks and Native Americans and the father's black and white parents. Dudley recounts, while I laugh, forming a mental image to accompany the story. I see his mother marching up to the school with the grandparents and demanding of the teacher what she meant by disbelieving her young son. His mother must have enjoyed signifying about who she was and where her son had come from. This was talking about identity. My laughter was related to my mother's endless repetition, while I was growing up, that I had a father and a mother and had come "from somewhere." The background meaning was about roots, and black families took

that business to heart. I always believed that it added to their status and clarity of identification. Dudley's elementary school was predominantly white, but he chose an integrated high school. The Dudley home promoted the expectation that college was an obligatory next step after high school. It also fostered a freedom that facilitated his early exploration of the clarinet and development of a love of modern dance, with passage through periods of training with the Dunham dance school.

Dudley attended Wheaton College, a predominantly white institution with a strong evangelical Christian tradition that was especially conservative. A high school mentor had recommended the school, which maintained a daily ritual of compulsory attendance at a morning chapel service. Having a white roommate exposed him to the thinking of the dominant group. It came through extended conversations and sustained opportunity to view close up what other students in this small college community were talking about. The primary lesson derived from the relationship with the roommate was that whites, who had never had much experience interacting with blacks, could come to understand blacks through sustained relationships with them. So, if non-black mental health professionals are willing to do the work, they too can become ethno-culturally competent. This informal tutorial led him to explore how white college deans react to encounters with an occasional black student. He knew that the number of blacks was not large enough to provide serial socialization for the college's leaders.

Dudley engaged with students in analytical conversations centered on, for example, whether a white chorus could sing a gospel song like "I've Been 'Buked and I've Been Scorned." This spiritual lamentation has been popularized by the well-known gospel singer, Mahalia Jackson, and others. The question about who may most authentically sing the piece refers to an age-old debate about whether blacks, because of their longtime suffering, have an exclusive right to the artistic progeny arising from their pain. Others suggest that non-blacks may additionally lack some innate esthetic quality to do justice to the song. In any event, such debates on college campuses are often seen as ways for blacks and whites to appreciate the deep meaning of race in their lives. This philosophically tailored exposure didn't stop Dudley from pursuing his interest in modern dance and being a cheerleader at sports events. Neither did

his personal popularity throughout Wheaton's campus and his solid circle of friends stop the occasional, anonymously penned, racist note from appearing in his mailbox. He now agrees that college life may have been different and perhaps better if he had attended a historically black college. On the other hand, there is something pleasing about having had his truly bicultural experience at Wheaton. He notes, for example, that he remains a close friend of his white roommate over these many years.

Dudley had no trouble at all in obtaining excellent recommendations for medical school. He decided on matriculation at Temple University in Philadelphia once he appreciated its lower cost relative to other institutions. The average presence of about one black student in every other medical school class at Temple had its own challenges, as one would expect. Cultivating a sense of belonging to this white medical institution was not easy. The rewards were also there, however, as he developed mastery over the biomedical information and practice skills. Not surprisingly, there was the occasional crisis related to race. In one example, he tells of being in a group of about ten medical students learning how to perform a pelvic examination on a black female patient. The obvious suffering appearing on the woman's face made Dudley so uncomfortable that he found it hard to participate in the exercise. He left and went directly to the dean's office and described what he felt was the woman's trauma at having to participate so publicly in this educational ritual. The school quickly improved this teaching procedure.

Following residency training in general psychiatry at Northwestern University in Chicago, Dudley was named in 1976 as Assistant to Dr. June Jackson Christmas, the Commissioner of New York City's Department of Mental Health, Mental Retardation, and Alcoholism Services. He served in that position for almost a year before taking a leave of absence to be a Team Leader for the Carter-Mondale Transition Planning Group in Washington, DC. In early 1977, he returned to New York City to serve as Deputy Commissioner under Dr. Christmas. He did so for a year before leaving to combine different forms of professional practice that included clinical and forensic psychiatry, teaching at New York City medical schools and law schools, serving as Assistant Director in the Department of Professional Services at Roche Laboratories, and service in community mental health centers. Dudley has participated in a variety of

mental health organizations as well, such as the Executive Session on Policing and Public Safety at the Harvard University Kennedy School (2013–2015); the Commission on Safety and Abuse in America's Prisons (2013–2015); and the Board of Directors of the Vera Institute of Justice (1989–2014).

It was during his psychiatry residency years in Chicago that Dudley spent time with black gang youth. From there he broadened his knowledge of the social and cultural dimensions of life in this country's black and gay communities. Ultimately, his attention to these two subgroups in the U.S. population helped him formulate specialized approaches to forensic work with them. In our discussions of this work, he emphasizes that a basic knowledge of black and gay life is essential. It helps in understanding how these groups are unique, without assuming that difference implies inferiority. The required knowledge also facilitates recognition of these groups' inherent dignity. Dudley distinguishes between recognizing evaluatees' essential human value and understanding what life is like for them. He sees the latter as akin to developing empathy toward them. This capacity in the evaluator is a significant factor in grasping the effect that life experiences have on those being assessed. In the context, for example, of civil forensic cases involving discrimination, this knowledge base helps the evaluator determine the psychological import of the individual's exposure to acts of discrimination. It is the meaning of the assault on their dignity that suggests how much energy these special classes of individuals will spend on coping with the discrimination. In turn, an empathic connection between evaluator and evaluatee enhances functional collaboration in doing the work.

Richard Dudley is not blinded by this commitment to advocacy on behalf of these two groups. He recognizes there is some danger in forensic work of over-identifying with them, especially if you are a member of these groups. He notes that the evaluator must elicit a thorough social history in doing the evaluation. The history is not developed in a vacuum, however. There must be a connection between those elements and the evaluatee's social functioning. The expert must avoid making up claims that lead to unsubstantiated stories about the evaluatee. Dudley recommends rigorous and thorough evaluations, which he says straightforwardly may well lead to conclusions that do not help his clients in the courtroom. Still, we must elicit the stories behind these individ-

uals' involvement with the law, trying to corroborate as much as possible through collateral sources.

Witnessing blacks' suffering in the context of medical practice made him aware of the broader problem of racial discrimination throughout American culture. His sensitivity was extended further and deepened by his recognition and acceptance in early adolescence of being gay. His parents learned about it without much delay, and they were understanding and loving. This resulted in his male friends being generously welcomed to the family home. As an interesting historical note, he pointed out that organized psychiatry did not change its attitude toward gays (seeing the status as a manifestation of mental illness) until he was in the middle of his psychiatry residency. As a result, he has not forgotten the years when being a gay black psychiatrist was "a big thing."

Discussing this subject led us into terrain that was new to me. For example, I had never discussed, in my many years of experience with forensic training seminars, whether gay forensic psychiatrists should inform their hiring attorney about being gay. It was Richard Dudley who first raised the question with me and suggested that, in some contexts, this may be an important ethics matter. Following some reflection, I reviewed the question with a few colleagues. Some said that because hiring attorneys don't usually make inquiries of heterosexual experts related to their sexual orientation, why should it be done with gay experts? Then I recognized that, in certain situations, the client may well want to know: sometimes because of an irrational fear or bias against gays; at other times because of a belief that only gays have the required expertise or the requisite empathy to provide help. I have seen this occur when lawyers were specifically shopping for a black expert. I also had a colleague point out that, in some cultures, a male client might become very upset if he found that he was dealing with a gay expert, so intense may be the antipathy toward all gay individuals. Dudley underscores the significance of these matters, and they deserve fuller airing in our training programs. He authored an article entitled "Offering Psychiatric Opinion in Legal Proceedings When Lesbian or Gay Sexual Orientation Is an Issue."² It discussed child custody proceedings, workplace harassment and other discrimination, same-sex domestic violence, and immigration and asylum.

Richard Dudley encourages us to examine several complex matters germane to the forensic examina-

tion and testimony. He points out that he has seen forensic reports that lacked relevant information about black and gay evaluatees' daily life experiences. It was the failure to see the possible connection between those unique experiences and the evaluatees' involvement with the law that was bothersome, in addition to the apparent lacunae within the evaluators' styles of practice that led to the overlooking of the necessary inquiries during their examinations. There is some equivalence here between the emphasis on the human stories behind illness, emphasized by Arthur Kleinman in *The Soul of Care*⁴ when he discusses clinical care-giving, and Dudley's reflections on the stories behind minority groups' difficulties with the law. Dudley is concerned with ferreting out the narrational link between the evaluatee's present legal situation and its psychosocial antecedents. This vantage point in the work of portraiture must also consider how minority status influences things. The turn that Dudley takes in his argument, emphasizing the external psychosocial dimensions of telling stories about these two unique minority groups, marks a special development in forensic psychiatry. Strands of it may be seen also in work with immigrants, in that their problems remind us of the need to be attentive to the effects of place on health, and subsequent development of legal problems.

I asked Professor Peggy Davis of New York University Law School about her view of Dudley's conceptualization of his forensic activity. He and I had discussed previously her influence on the development of his career in forensic psychiatry. They met decades earlier when she was a family-court judge in New York City. The occasion was a case of a black family and their struggles to avoid foster placement of children. She reported that Dudley's evaluation of the family was "brilliant, reliable, and well documented." She was impressed by his recounting of the family's life experiences, which painted a picture of both their strengths and weaknesses. The family portrait was rich and nuanced, grounded on stories that led to a realistic conclusion about what they could and could not do concerning the tasks of rearing children and maintaining their own effective relationship. Professor Davis watched Dudley's approach to this specialized branch of forensic work flourish over many years and come to be admired by numerous litigators. She explained that his reports were often compared with the problematic work done by forensic psychiatrists who seemed either ig-

norant of the black experience or unwilling to engage with it. She noted, too, that Dudley was admired by lawyers involved with death penalty postconviction hearings because he could describe the essential humanity of these defendants in the face of their convictions for serious crimes. This connection between Dudley and Professor Davis resulted in their co-teaching of law school courses on family law and the use of evidence in court.

Richard Dudley explains further that a central part of his court testimony about blacks and gays requires him to undo preconceptions about these two groups. He gives the simple example of the judge who asserts confidently that straight mothers are better than lesbian mothers at the task of caring for children. Dudley points out that, in such situations, he must seize the opportunity, when it comes, to explain that “lesbian” does not mean “bad mother.” He notes this sort of misattribution is serious. There are also linguistic examples that embody erroneous assumptions about blacks. He questions how we should account for colleagues who are inattentive to this aspect of forensic work. He points out, nevertheless, that he does not intend these comments to mean that blacks and gays are one undifferentiated group. Indeed, their life experiences are often different, and their cultures may at times be well differentiated.

Arthur Kleinman’s clinical preoccupation with caregiving made me wonder about whether there is some justifiable connection of clinical caregiving to the forensic context. Richard Dudley’s work suggests that there may well be some justification for the thought. May we see his concerns about minority groups, his reminder that we carry out their evaluations thoroughly and seriously, as a form of legitimate advocacy and manifest caring? I have already said that he emphasizes acquisition of a unique ethno-cultural knowledge base concerning his minority evaluatees. He also wants to establish an em-

pathic link to them. These efforts may cement a commitment to the minority groups. May this commitment, in Kleinman’s terms, be “care—a process that requires presence, openness, listening, doing, enduring, and the cherishing of people and memories” (Ref. 4, p 236)? I believe Kleinman has a point when he noted in the traditional clinical context that care may “atrophy and weaken when it is inadequately nourished” (Ref. 4, p 237). I suggest that the same may be true for care in the forensic arena. I acknowledge readily that some observers will counter, for their own reasons, that the forensic evaluation should not be infused with caring. Dudley’s demand for commitment, empathy, focus, presence, dignity, and cherishing of people may be nothing less than at least some special form of caring. Furthermore, the absence of these elements leads to forensic work that misses the mark of excellence and may not benefit our forensic clients. On the contrary, leaning again on Kleinman’s formulations, caring may well make forensic work worthwhile, turning it into “something virtuous” and what I feel like calling sacred. Kleinman sensibly warns us that we cannot respond caringly all the time. Dudley in turn asks that we interact carefully with our forensic clients, recognizing that they are simply like us.

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