Book Reviews

MENTAL DISABILITY LAW: CIVIL AND CRIMINAL. By Michael L. Perlin. Charlottesville, VA: Michie, 1993. 351 pp.

Reviewed by Harold J. Bursztajn, MD

I don't know of any better update on 1993 developments on *Mental Disability Law: Civil and Criminal.* It is as magnificent as the original.

As Dr. Perlin suggests in his preface, there is now becoming an evident divergence between the way in which the Supreme Court seeks, per Justice Thomas (*Godinez v. Moran*) 113 S.Ct. 2680 (1993) to use reductionistic understanding of mental illness to guide its decisions, and the more complex multidimensional understanding endorsed by Congress in passing the Americans with Disabilities Act 42 U.S.C.A.§ (1990). 12101.

One comes away from this in-depth update with a deep sense of how important *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 113 S.Ct. 2786 (1993) decision on the criteria for admissibility of expert testimony is. This decision supersedes the Frye test. One hopes that the Supreme Court will eventually use this test to move away from its oversimplified view of mental illness.

Ake v. Oklahoma, 105 S.Ct. 1087 (1985) held out the promise that the indigent would have access to forensic psychiatric expertise. The malignant synergy of inadequate legislative budgets and judicial understanding has, at least as of 1993, rendered the moral principle at the heart of *Ake*, justice as fairness, more an empty promise than a living reality for the indigent mentally ill defendant.

Professor Perlin in his 1993 update makes a major contribution to keeping forensic psychiatrists current. Essential reading at least until his next update. In view of the usefulness of these updates, would his publisher consider publishing them, and the original, in notebook form?

TRAUMA AND RECOVERY: THE AFTERMATH OF VIOLENCE FROM DOMESTIC ABUSE TO POLITICAL TERROR. By Judith L. Herman, MD. New York: Basic Books, 1992. 276 pp. $27.00.

Reviewed by Stuart H. Kleinman, MD

Trauma and Recovery is an elegantly written, passionate, and compassionate review of the sequelae and treatment of trauma. In relatively few pages, Judith Herman, MD, manages to discuss most of the fundamental concepts in the assessment of psychic trauma. As essentially an overview, this book will be most useful for the clinician beginning to work with trauma victims. It will be less

useful for the experienced traumatologist. For the traumatologist, perhaps the book's most useful aspect and one of its great strengths is its comprehensive reference section. Many of the most important articles in the trauma literature can be found there.

This book does not specifically address forensic psychiatric issues. However, its description of the dynamics of trauma may assist the forensic evaluator in performing more astute examinations, particularly in domestic violence and personal injury cases.

Of interest to the forensic psychiatrist is Dr. Herman's cogent explication of the issue of patient-therapist boundary violations. Dr. Herman observes, "The re-enactment of the relationship with the perpetrators is most evident in the sexualized transference that sometimes emerges in survivors of prolonged sexual abuse," and notes that "patients may be quite direct for their desire for a sexual relationship. A few patients may actually demand such a relationship as the only convincing proof of the therapist's caring." She outlines the forces that may propel a therapist to violate the treatment relationship, writing, "Unfortunately, therapists sometimes collude with their patients in unrealistic fantasies of restitution. It is flattering to be invested with grandiose healing powers and only too tempting to seek a magical cure in the laying on of hands. Once this boundary is crossed, however, a therapist cannot maintain a disinterested therapeutic stance, and it is foolhardy to imagine that he can. Value violations ultimately lead to exploitation of the patient, even when they are initially taken in good faith." She insightfully adds, "[*a*]ll sorts of extreme boundary violations, up to and including sexual intimacy, are frequently rationalized on the basis of the patient's desperate need for rescue and the therapist's extraordinary gifts as rescuer." Reinforcing this contention, Dr. Herman references John Maltsberger, MD, and Dan Buie, MD,[1] who state that "Three most common narcissistic snares are aspirations to heal all, and know all, and love all. Since such gifts are no more accessible to a contemporary psychotherapist than they were to Faust, unless such trends are worked out ... [the therapist] will be subjected to a sense of Faustian helplessness and discouragement, and tempted to solve his dilemma by reverting to magical and destructive action." Dr. Herman reminds the reader that "the therapist agrees to be available to the patient within limits that are clear, reasonable, and tolerable for both. The values of therapy exist for the benefit and protection of both parties and are based upon a recognition of both the therapist's and the patient's legitimate needs."

The forensic psychiatrist performing an evaluation in a case of alleged boundary violations may find guidance in Dr. Herman's statement that "these boundaries include explicit understanding that the therapy contract precludes any other form of social relationship, a clear definition of the frequency and duration of therapy sessions, clear ground rules regarding emergency contact outside of regularly scheduled sessions." Although boundary violations may at times be an

appropriate aspect of psychodynamic psychotherapy, Dr. Herman warns that "minor departures from the strict conventions of psychodynamic psychotherapy may be part of the negotiating process, as long as these departures are subject to careful scrutiny and their meanings fully understood."

The dynamics of boundary violations are also elucidated by Dr. Herman in the context of captivity and domestic relationships. In cases both criminal and civil in which a woman's behavior is alleged to have been influenced or produced by repeated boundary violations, understanding of the psychologic forces (which may be) at play in these situations is essential to the forensic evaluation. Dr. Herman reviews the phenomena of paradoxical attachment and gratitude that may occur in situations of captivity. The abused child may, paradoxically, be most emotionally connected with her abuser. The battered wife may develop feelings of gratitude towards her abuser. Although, curiously, she does not use the term "Stockholm Syndrome," she does discuss "traumatic infantilism," one of the concepts utilized by Symonds to explain the "Stockholm Syndrome." Dr. Herman also does not mention the concept of pathologic transference, another dynamic force that Symonds uses to explain the "Stockholm Syndrome."

Dr. Herman does, however, clearly explain many of the factors that may produce paradoxical attachment and gratitude. These factors include enforced social isolation, physical deprivation, intermittent rewards, and terror-inducing threats of harm. Dr. Herman makes the important point that the captor does not need to employ frequent physical violence to establish control. The final step in the "breaking" of an individual, writes Dr. Herman, is the captor's violation of her moral principles and betrayal of her basic human attachments. With obvious relevance to child custody cases, Dr. Herman discusses battered women who sacrifice their children to their captor by joining their captor in abusing (or neglecting) their children.

To illustrate how captivity can influence individuals to act in ways they would not normally do so, Dr. Herman uses the case of Patty Hearst. As a result of the forces created by her captivity (and captors), her will became subservient to the will of her captors. Her identity became subsumed by the identity of her jailors, and her actions came under the direction of her wardens. Dr. Herman explains that transformations such as that (allegedly) undergone by Patty Hearst function to decrease the captive's sense of isolation, provide the captive with a sense of identity, release the captive from the fear of punishment, and diminish the captive's feelings of hopelessness.

Dr. Herman argues that the personality disorder that is commonly diagnosed in battered women is the consequence of the forces of captivity rather than a contributing cause of captivity. Although this may be the case, Dr. Herman provides little documentation for this viewpoint and does not address the personality differences that may exist between those women who repeatedly

enter into battering relationships and those who do not, and those who immediately terminate a relationship after the onset of violence and those who do not (assuming the availability of financial support).

Although posttraumatic stress disorder may be overly diagnosed in personal-injury cases, Dr. Herman notes that a certain pathologic trauma response may often not be recognized by diagnosticians. She writes,

> The constraints upon a traumatized person's inner life and outer range of activity are negative symptoms. They lack drama; their significance lies in what is missing. For this reason, constrictive symptoms are not readily recognized; their origins in a traumatic event are often lost. With the passage of time, these negative symptoms become the most prominent feature of the post traumatic stress disorder. The diagnosis becomes increasingly easy to overlook. Because post traumatic symptoms are so persistent and so wide ranging, they may be mistaken for enduring characteristics of the patient's personality.

Contrary to this observation, enduring alterations in the way in which an individual views her world and herself are manifestations of personality change. These alterations represent potential damages that should be investigated in personal injury cases. The Buffalo Creek case was perhaps the first major personal injury case in which posttraumatic personality changes were considered compensable damages.

Dr. Herman only sparsely details the literature on the physiologic assessment of posttraumatic stress disorder. She discusses early work measuring blood pressure and heart rate changes in Vietnam veterans exposed to audiotapes of combat. Disappointingly, she gives scant attention to more recent work measuring blood pressure, heart rate, and skin conductance changes in both combat veterans and civilians exposed to personalized scripts of traumatic (and nontraumatic) events. This technique has been attempted to be used in litigation to demonstrate the causative event of a posttraumatic stress disorder.

Regarding causation, Dr. Herman makes the important point that traumatic events are not, she writes, "outside the range of usual experience. Rape, battery and other forms of sexual domestic violence are so common a part of women's lives that they can hardly be described as outside the range of ordinary experience." The DSM-IV, notably, does not require that a stressor be outside the range of usual human experience to produce a posttraumatic stress disorder. Concerning the significance of the stressor in causing psychic injury, Dr. Herman writes, "[T]he most powerful determinant of psychological harm is the character of the traumatic event itself. Individual personality characteristics count for little in the face of overwhelming events." Although the stressor is central to the production of psychologic harm, other factors must play a significant role in determining the response to trauma. The numerous studies on Vietnam veterans that employ combat veterans without posttraumatic stress disorder as a control group lend support to the role of other etiologic factors. One possible determinant of the differential response to trauma, which Dr. Herman does not discuss, is genetic

factors. One recent study concluded that such factors may account for 13 to 34 percent of the variation in posttraumatic stress disorder symptomatology.[2] Dr. Herman also does not discuss the phenomenon of individuals who develop posttraumatic stress symptomatology without having been exposed to an "objectively" defined stressor. Factors that enhance or mitigate a trauma response are fundamental to the personal injury evaluation.

Another area of great interest to the forensic psychiatrist, which Dr. Herman only cursorily discusses, is recollection of past traumatic events. Dr. Herman writes, "[B]oth patient and therapist must develop tolerance for some degree of uncertainty, even regarding the basic facts of the story. In the course of reconstruction the story may change as missing pieces are recovered." However, Dr. Herman does not explore the differentiation of historic from psychologic truths; nor does she discuss the collateral issue of suggestibility and memory. Particularly as Dr. Herman emphasizes the importance of group work during the "remembrance and mourning" recovery phase, it would have been relevant to elucidate the effect of group interactions on the act of recalling. It is hoped that Dr. Herman will address these issues in a subsequent book.

As a synthesis of the effects of traumatic events upon an individual's psychic functioning, *Trauma and Recovery* is an exceptional book. For the forensic psychiatrist, it raises important issues which merit more in-depth examination.

References

1. Maltsberger JT, Buie DH: Countertransference: hate in the treatment of suicidal patients. Arch Gen Psychiatry 30:625–33, 1974
2. True W, Rice J, Eisen S, *et al.*: A twin study of genetic and environmental contributions to liability for post traumatic stress symptoms. Arch Gen Psychiatry 50:257–64, 1993

TREATING THE HOMELESS MENTALLY ILL: A TASK FORCE REPORT OF THE AMERICAN PSYCHIATRIC ASSOCIATION. Edited by H. Richard Lamb, MD, Leona L. Bachrach, PhD, and Frederic I. Kass, MD. Washington, DC: American Psychiatric Association, 1992. 303 pp. $32.50.

Reviewed by Alexander E. Obolsky, MD

Treating the Homeless Mentally Ill is a valuable volume on the difficulties of understanding and dealing with the homeless mentally ill. This is a follow-up to the first report of the APA's Task Force on the Homeless Mentally Ill (Lamb, 1984) to which contributors refer a number of times and fortunately have summarized in the appendix, a factor that helped reading this report within its historical context.

The worthiest idea presented by the authors is that the homeless mentally ill are not a homogeneous group. The authors hypothesize that mentally ill people's difficulties stem from a variety of sources ranging from the homeless individual's severe mental illness to a global societal discomfort with those

who are not able to be independent and autonomous. The authors provide a wealth of empirical evidence to support that homeless mentally ill are a varied population. This idea and its development provide a strong antidote to the simplistic idea that solves the "problem" of homeless mentally ill by providing "affordable" housing.

In our psychiatric community as well as in the society at large, there is no shortage of finger pointing in assigning the blame for the presence of the homeless. This volume does some finger pointing as well. Yet it provides a very judicial and balanced discussion of the deinstitutionalization in its role of creating the homeless mentally ill.

The discussion of the involuntary commitment is short and will not enlighten forensic psychiatrists. On one hand, involuntary commitment is viewed as the solution to the problem of the homeless mentally ill. The authors indicate that civil commitment based on need-for-treatment criteria may solve some problems. Yet on the other hand, the discussion of treatment and rehabilitation indicated how multifaceted the difficulty is. For commitment to be of value, it must provide more than detention. The authors struggled with this complex issue, and I suspect their own ambivalence explains why the arguments for more relaxed commitment statutes were stated but not particularly forcibly and articulately argued for.

Psychiatrists cannot extract themselves from the societal *zeitgeist*. The respect for individual civil rights is a strong moral force that ceaselessly enlarges its domain. To argue for decreasing such rights is difficult and is met with suspicion and distrust. The authors point out over and over how family, clinicians, and institutions consistently push for autonomy, independence, and ever-higher functioning for those who cannot or will not accept it. Society's treatment of the homeless mentally ill identifies the moral condemnation that dependency carries and the ambivalence that society feels in dealing with those who are dependent.

This volume clarifies many aspects of a thorny difficulty of the homeless mentally ill. There are many aspects that remain unclear. The major theme of this report is that homeless mentally ill are a heterogeneous population that will require individualized solutions. This to my mind is a worthy point to make that despite being homeless and mentally ill, each patient remains a distinct individual in need of an individualized treatment.

Because of this central idea, I strongly recommend this book for residents. For those who are involved with the treatment of the severely mentally ill, I recommend this volume for its wealth of empirical data on these patients and different aspects of their treatment and rehabilitation. This volume will provide a forensic psychiatrist with a good overview of different approaches to the difficulties of treatment of the homeless mentally ill. For an in-depth discussion of involuntary commitment I would look elsewhere.

References

Lamb HR: The Homeless Mentally Ill: A Task Force Report of the American Psychiatric

Association. Washington, DC: American Psychiatric Association, 1984

THEORY AND PRACTICE OF HIV COUNSELLING: A SYSTEMIC APPROACH. Robert Bar, Riva Miller, and Eleanor Goldman. New York: Brunner/Mazel Publishers, 1993. 192 pp, $21.95, paperback.

Reviewed by Sarah DeLand, MD

The authors of *Theory and Practice of HIV Counselling: A Systemic Approach* have succeeded in outlining a useful family/social systems approach to therapy with HIV/AIDS patients and their families and friends. Although none of the ideas presented by the authors are really new, they are brought together in a new way. The monograph is complete, probably because the authors, Robert Bar, Riva Miller, and Eleanor Goldman, are experienced family therapists from the fields of psychology, social work, and medicine, respectively. They have truly brought together a multidisciplinary approach to this difficult and challenging field.

The book does rate highly in completeness. Included are introductory explanations of systemic theory and practice and defining problems in HIV counselling. Once this groundwork is set, part two goes into detailed clinical application, complete with examples of case scenarios. Most clinical situations one can think of are well covered, from pretest counselling to issues of death, dying, and bereavement. I believe that looking at these issues from a family systems approach is essential in dealing with such an illness, considering its potential for blame and social stigmatization. Finally, part three is a nice, concise update of the chronology, epidemiology, and state of HIV/AIDS medical treatment today, provided by two physicians who specialize in such treatment.

The book is concise and extremely readable and provides a valuable resource for the clinician dealing with this population. It is of limited benefit, however, to the forensic psychiatrist. The authors do discuss issues of confidentiality, informed consent for treatment, and consent to participate in drug trials in a meaningful and useful way for application in therapy. However, the medical-legal aspects are neglected; they do not seem to be a focus of this publication. The book reminds us that there are significant legal issues with this particular health problem, but it does not attempt to define explicitly those issues, discuss their treatment, or clarify the current thinking on appropriate legal considerations.

SEXUAL SCIENCE AND THE LAW. By Richard Green. Cambridge: Harvard University Press, 1992. 323 pp. $35.00.

Reviewed by David M. Greenberg, MB, ChB.

The Kinsey Report and studies of Masters and Johnson have stimulated an explosion of sexual research during the

past three to four decades. With the emergence of the discipline of sexual science, some researchers such as John Money have called for the establishment of expert "forensic sexologists." Richard Green's book focuses on the integration of the law and sexual science. Green is a professor of psychiatry at the University of California, Los Angeles, and draws from his experience of more than two decades as a sexual scientist. The timeliness of this volume coincides with the intensification of interest in this area.

The author scholarly reviews the scientific literature and marries this with landmark case law and legal precedence. He also challenges some of the prevailing morals, myths, and attitudes of sexuality and provides valuable insight and critiques. Using quotes from judges and so-called expert witnesses, Green tactfully exposes ignorance, prejudice, and conjecture. His reviews provide entertaining and informative reading while conveying a breath of fresh realism into an often emotionally charged area. The book is well referenced and makes easy reading.

This text covers a variety of areas of sexual science including homosexuality, pornography, prostitution, abortion, sexual privacy, transsexualism, and intergenerational sexuality. The volume fails to address adequately the available material on sex offenders and penile plethysmography. This book is likely to have a broad appeal to forensic psychiatrists and psychologists, sex educators and therapists, and the public. It is highly recommended.