

# Psychiatry, the Law, and Public Affairs

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The law is a public affair. The involvement of psychiatrists and psychiatry in legal and judicial proceedings themselves, not to mention the ever-increasing media commentary, is an opportunity to educate the public, but it also entails the very real risk of compounding public misinformation and misgivings about our field. The American Psychiatric Association has both a professional staff Division of Public Affairs and a membership component, the Joint Commission on Public Affairs. Staff and members field queries from the public and the media, plan educational campaigns in collaboration with advocacy organizations, prepare and distribute fact sheets, media kits, and issue kits for members, brochures for the lay reader, booklets for important audiences including clergy, educators, and legislators, and many other resources. Given their critical influence on the lay-person's image and understanding of psychiatry, the participation of forensic psychiatrists in the public affairs activities of our major professional organization is not only welcome, but vital.

As the trailer for the Court Television channel reminds us time and time again, the framers of the United States Constitution meant for trials to be open to the public. U.S. courtrooms were built with galleries for observers. Newspapers reported on sensational trials in great detail. Law has always been a public affair. But the advent of television cameras in courtrooms takes public scrutiny to a whole new level. And the role of forensic psychiatrists and psychiatry is also a matter of public discussion. Should the adoptive or biological parents of a child three or four years old be granted custody? Should the man convicted of shooting fellow passengers on the Long Island Railway have

been allowed to defend himself? Is the man convicted of being the Unabomber mentally ill, and if so, what are the implications for trial, verdict, and sentence?

The public's faith in psychiatric knowledge has been undermined by the seeming ability of the opposing sides to find experts to testify on the opposition's behalf in every case, and by their belief that the streets are full of perpetrators exonerated on grounds of insanity. The John Hinckley case brought this issue to a head. At the outset of that case, in 1981, the American Psychiatric Association (APA) had no official position on the insanity defense. The APA Division of Public Affairs put together a press kit composed of background articles from the scientific literature and the names and contact information of psychiatric ex-

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perts. Our press kit quickly became a best seller at the courthouse in Washington, DC. But as the trial wore on, the information in the kit proved inadequate to the questions raised in the public mind. Critics of psychiatry in the courtroom had a field day.

After the verdict was rendered, states and organizations clamored for revision of the insanity statutes. A fast track, four-member task force chaired by Loren Roth, MD, and including Shervert Frazier, MD, who chaired the JCPA at that time, produced a comprehensive policy statement for the APA and marshaled it through expedient Assembly and Board review and ratification. Their report set forth the APA view of the legitimate use of the insanity plea and the appropriate use of psychiatric testimony. The report earned widespread support, including endorsements by pundits and in media editorials. It gave the Association a basis for testimony at federal and state hearings on changes in insanity defense laws.

The Public Affairs efforts of the APA are governed by two complementary structures: the staff Division of Public Affairs (DPA) and the membership Joint Commission on Public Affairs (JCPA). The JCPA is composed of a chair appointed by the APA President and the Speaker of the Assembly, seven members—one representative chosen by each of the seven geographic areas of the APA—and consultants and corresponding members chosen by the APA President and Speaker. The consultants and corresponding members bring diverse perspectives and major public affairs expertise to the JCPA. There are members

who have produced public television programs, had regular radio call-in programs, and worked with ethnic minority communities. Participation by forensic psychiatrists who serve as expert witnesses and commentators in sensational cases will be increasingly important as the public scrutinizes court cases and psychiatric viewpoints more intensely.

The JCPA meets three times a year. We discuss the implementation of public affairs priorities specified by the APA Board of Trustees and items referred from the legislative body of the APA, the Assembly. We also propose new public affairs priorities; and we address the implications of APA activities and public events for the public image and understanding of psychiatry. Forensic and other legal issues figure large in each of these categories. The Board of Trustees may stress its priority for parity insurance coverage for mental illnesses or express concern about psychiatric testimony. There may be discussion about Church of Scientology activities, or as mentioned above, the trial of a defendant whose mental state is in doubt. We try to anticipate the queries we can expect about APA positions on assisted suicide, homosexuality, and affirmative action and to suggest the appropriate APA response.

“Spin” has acquired a terrible connotation. Yet reframing an issue is not only legitimate but essential. Some years ago, a landmark study of sexual misconduct by psychiatrists was published in *The American Journal of Psychiatry*. Unfortunately, although there was some evidence that members of other professions and medical specialties were comparably

guilty of these kinds of transgressions, there was no comparable study. Newspapers and advice columns seized on the bad news to corroborate every negative fantasy people had about psychiatry. State legislatures from coast to coast passed laws imposing sanctions for this particular kind of misbehavior. But we also had reason to be proud. We were the profession that examined its own weaknesses, had the courage to publish data about them, and had the discipline to address the weaknesses, both in ourselves and in others. We were able to present this "take" on the study on the television program "Larry King Live"; and we are considered to have the strongest ethics code and process in all of medicine.

The JCPA and DPA also consider the membership of the APA as a "public." All physicians, with pressures on their time and incomes, are looking hard at their memberships in professional organizations. There are more and more subspecialty interests, each with its own—or several—organizations, each of those with its own dues to pay, newsletters to read, meetings to attend, committees to work on. The APA is expensive. Is the APA worth the price? Is the APA doing everything possible to defend the traditions of the professional interests of patients and psychiatrists? The APA has a number of vehicles for communicating with members: *Psychiatric News*, more than 10 national newsletters, as well as District Branch newsletters, the Annual Meetings, with presentations by APA officers, in May and October, internet listserves, and now a website and FastFax service. There is more information avail-

able than any of us could possibly absorb—so, inevitably, members are annoyed and angry because they do not know that the APA is doing just what they wish the APA were doing.

News has to be presented repeatedly to make an impression, but without boring the members who heard or read it the first time. We look constantly for new and more effective ways to present information about the Association. Last year, for example, we inaugurated an annual, one-page, bullet point summary of what the APA has accomplished over the past 12 months. We worked with *Psychiatric News* to inaugurate a new section in the newspaper, detailing how members could obtain important resources from the APA.

Every time the APA adopts a priority or a position, this gratifies some members and enrages others. Should we take positions on issues not precisely limited to psychiatry? Do the members understand the nature of the positions we take, the process by which we take them, and the rationale for taking them? The DPA and JCPA help the Board inform the membership and field questions.

The natural, but unrealistic, hopes and expectations of APA members are another frustration. Members of the JCPA weigh in with many of the same questions. Why can we not stop the movies and television from portraying psychiatrists as Svengalis or caricatures of Sigmund Freud? Why does no one inform the public about the impressive improvements in psychiatric diagnosis and treatment? Why can we not make the media grasp the differences between "doctors" of psychology and "doctors" of medi-

cine—not to mention generic “psychotherapists”; the differences between the ordinary difficulties of life and bona fide mental illnesses; the fact that divided opinions are not properly described as “schizophrenic”; and the idea that mental illnesses rarely turn people into vicious murderers? Why can we not counter misinformation with full-page ads in the *New York Times* or prime-time public service announcements? The entertainment industry is interested in making ratings and money for sponsors, not in absolute scientific or technical accuracy. Newspaper advertisements, if they are to have an impact, could consume the whole APA budget. Nevertheless, public knowledge and attitudes have evolved over the past few years to a point far beyond what seemed realistic only those few short years ago.

The Division on Public Affairs is the in-house professional public affairs staff of the APA. The DPA staff of 12 answered nearly 2,000 media and 25,000 public queries last year. Media queries are answered with our popular Fact Sheets, with press releases, by staff throughout the APA, and through interviews arranged with psychiatric experts all over the country. Last year, as part of the media initiative of President Herb Sacks, the DPA developed a program called Media DOCs, or Doctors On Call. APA Board members and other APA leaders have been matched, one to one, with influential members of the media, with the object of forming ongoing relationships in which the members of the media look to the psychiatrists for information about current affairs, and the psy-

chiatrists can alert the members of the media to the psychiatric implications of events and the pros and cons of proposed legislation, regulation, and public policy decisions.

A network of District Branch Public Affairs Representatives, each chosen by the leadership of the District Branch, carries the concerns and activities of the DPA and JCPA throughout the country and brings local concerns and information about local activities to the central office. The public affairs representatives and the central office are linked by fax and by an internet listserve on which any member can post a message of interest to others or ask advice from others who have addressed similar public affairs challenges. Thus we learn about an article in the *Washington Times* or a controversial guest on Bryant Gumbel's television show.

At the administrative level, the director of the Division of Public Affairs, John Blamphin, reports to the Medical Director of the APA, Steve Mirin. The Chair of the JCPA reports to the APA Board of Trustees and Assembly (hence the term “Joint”). The chairs of all of the APA Councils (including the Council on Psychiatry and the Law) and Commissions meet together as the Joint Reference Committee (JRC), chaired by the APA President-Elect. The JRC brings all of the components of the APA together, keeping each council and commission informed about the activities of the others and generating ideas for collaboration. It is called a “reference” committee because it also serves as a clearinghouse between components, the Assembly, and the Board.

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The JRC refers an action paper to the components who have expertise and interest in the issue, and tracks and directs its progress back into the decisional structure. As many important issues have a forensic aspect, the Council on Psychiatry and the Law and the Commission on Judicial Action are frequent consultees.

Mastering this structure is the delight of APA veterans and not a task for the amateur. The casual reader may take comfort in the fact that the APA leadership, with the help of outside consultants, is in the process of reconsidering the roles and functions of the Board, Assembly, District Branches, Area Councils, Joint Reference Committee, officers, and components of the Association, with a view to making our structure smaller, more efficient, more logical, and more accessible. We hope to have a strategic plan presented to the Board by summer's end.

We expect to hear from the public and the media when there is an educational program or article about psychiatric research, diagnoses, and treatment; when there is a court case, like those mentioned above, with specific psychiatric implications; when there is publicity about behavior mystifying to the public, such as infanticide or serial homicide; and when psychiatrists themselves are accused of misbehavior—boundary violations, profiteering, inappropriate hospitalizations. We work closely with the Division of Government Relations and Joint Commission on Government Relations. We have prepared Issue Kits to support members and district branches dealing with parity insurance coverage and scope of practice. They contain prepared letters to

the editor, editorials, informational slides, talking points, and statistics. The resources are on computer floppy disk so that they can be customized to location and circumstances. Why reinvent the wheel? Copies have been provided to each District Branch.

The DPA and JCPA also conduct ongoing educational activities for the public. We organize and participate in advocacy and informational campaigns such as Mental Illness Awareness Week, Mental Health Month, screening days for depression and anxiety (an alcohol abuse screening day is on the way), Picnics for Parity, and many others. We work closely with the National and local Alliance for the Mentally Ill, Mental Health Association, Depressive and Manic-Depressive Association, Obsessive-Compulsive Disorders Foundation, and many others. We collaborate with the National Institutes of Health Office of Public Information. The DPA produces and updates, in consultation with the JCPA and other experts, a series of "Let's Talk About. . ." pamphlets on a wide range of psychiatric topics. The booklets are in great demand, especially when a public event stimulates interest in an area. Individual copies are provided free of charge, and bulk quantities are available at modest cost from the American Psychiatric Press. There are also Fact (background) Sheets and media packets on timely topics, as mentioned above. We have an array of larger-scale mental illness awareness guides specifically targeted to members of the clergy, educators, librarians, media, advertising/public relations professionals, and decision makers/legislators containing rele-

vant basics of mental illness and psychiatry as well as additional resources.

All of these resources are available to APA members. The DPA staff will send a booklet to your legislator, school, or member of the clergy, on request, with your personal compliments. Your patients can write to the Division of Public Affairs to request a "Let's Talk About" pamphlet, Fact Sheet, or other information available through the APA FastFax service; or telephone 1-888-267-5400 for the menu, follow instructions, and the paper you need will roll off your fax machine in minutes. We, the members of the APA, are also excellent resources for each other. All over the country, psychiatric groups conduct marches, parades, picnics, public symposia, and lectures at schools and places of worship. They design logos, make T-shirts, and print invitations, announcements, and programs. District Branch Public Affairs Representatives can obtain information—including copies of the materials produced—about all of these advocacy campaigns and events conducted nationally or in other parts of the country through the Division's computerized Idea & Information Exchange database.

The members of the JCPA also take every opportunity to educate ourselves and our colleagues about the realities of public affairs. It is frustrating when isolated ethical transgressions and unfortunate therapeutic outcomes garner publicity while the public goes uninformed about cogent scientific developments and increasingly effective diagnosis and treatment. It seems that every crime is perpetrated by a "mental patient." The willing-

ness of public figures to discuss their own psychiatric illnesses has been enormously helpful in combating the stigma. Every other year, we spend several intense days at our Joint State Legislative and Public Affairs Institute, learning from public affairs and media experts and from our own excellent DPA staff. These are some of the topics that are considered:

- What makes a story attractive to the media?
- How do you get media coverage for your campaign or event?
- Which form of media is appropriate to which kind of story?
- What are the best mechanisms for interacting with members of the media?
- How can a psychiatrist write a Letter to the Editor or guest editorial and get it published in the newspaper?
- What are the essentials of a good radio or television interview?
- How do you cope with a surprise or hostile question?

Some of the readers of this journal are practiced communication experts; but for the rest of you, here are a few highlights and pointers:

- Focus on the message you want to get across.
- Link it to something that has captured media or public interest (is there a difference?).
- Remember that members of the media do not regard good work or everyday events, no matter how im-

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portant, as newsworthy. It's "Man Bites Dog," not "Dog Bites Man," that makes a story.

- Think in terms of a story—a narration with a beginning, middle, and end, an issue with two sides, and an interesting tension between them.
- Remember the working realities of members of the news media: deadlines! You have to answer their calls within minutes, or hours at most, or they will have gone on to someone less informed than you.
- Before being interviewed, decide on one or at most two most important and understandable messages.
- Interviews on the broadcast media are "sound bites"; there is no room for ambiguity or complexity. Otherwise, you will become a boring "talking head" and be cut off. The average TV "sound bite" is 8 to 12 seconds! (Magazine and newspaper reporters may be more interested in background.)

- Be friendly and positive, but stay in control of the interview content. If a question is tangential or even hostile, do what the politicians do: make an immediate transition to your message: "That's an interesting question, but the important point is. . . ."

Legal issues are among the most riveting public affairs issues in psychiatry. Many forensic psychiatrists who explain psychiatric issues to lawyers, litigants, judges, and juries on a regular basis are naturals as public spokespeople. The DPA and JCPA are eager to hear your views and suggestions on the issues you know best and to provide the public affairs resources that you need. Fax us at (202)682-6255, or request public affairs help through the APA Answer Center at (202)682-6000. Give us a "heads-up" and background on legal developments. Volunteer in your District Branch or nationally. We are working for you, and we need to hear from you.