

Thomas G. Gutheil, MD: A President for the New Millennium

Robert I. Simon, MD

J Am Acad Psychiatry Law 28:9–13, 2000

Character is a man's guiding destiny.—Heraclitus

Writing a biography is like painting a portrait. The multifaceted personality and character of Thomas G. Gutheil, MD, the 26th President of the American Academy of Psychiatry and the Law, present a rich and varied palette of colors from which to paint a word portrait. Such a portrait, however, would fill all the pages of this journal. It is with great personal pleasure and deep respect that I draw this brief biographical sketch of an extraordinary human being.

Dr. Gutheil was born in New York City on June 11, 1942. His father was a psychoanalyst who trained under Wilhelm Stekel, one of Freud's original disciples. Dr. Gutheil's mother was a psychiatric social worker. Both parents, but only a few family members, escaped from Vienna just before the Nazi *Anschluss*, which was foreseen by Dr. Gutheil's father. A younger brother, John, who was an attorney practicing in New York, died several years ago.

Dr. Gutheil, who has four children, lives and works in the Boston area. He is married to Shannon T. Woolley, EdD, psychologist, actor, and playwright. Her first play, *Love and Work*, which is based on the notorious *Bean-Bayog* case, was performed off-Broadway and workshopped at New York's Lincoln Center. She is currently at work on a second play.



Thomas G. Gutheil, MD

The Evolution of a Forensic Psychiatrist

Dr. Gutheil was educated at Harvard College (where he was in the same house as Dr. Ezra Griffith, editor of this Journal). He attended Harvard Medical School and took his psychiatric residency training at the Massachusetts Mental Health Center. He followed in his father's footsteps, pursuing a candidacy at the Boston Psychoanalytic Institute. At the same time, Dr. Gutheil was director of an inpatient unit at Massachusetts Mental Health Center. A patient who had been hospitalized on Dr. Gutheil's unit ultimately died because of a serious delay in his treatment due to the then-current right to refuse treatment case, *Rogers v. Okin* (later, *Rogers v. Commissioner*). Dr. Gutheil's outrage at this "legally mediated death" was gradually channeled into a bur-

Dr. Simon is Clinical Professor of Psychiatry and Director, Program in Psychiatry and Law, Georgetown University School of Medicine, Washington, DC. Address correspondence to: Robert I. Simon, MD, 7921-D, Glenbrook Rd., Bethesda, MD 20814-2441.

geoning interest in legal and forensic issues, a transition that led to "a profound career shift of midlife crisis proportions."

A young resident on his service, Dr. Paul S. Appelbaum, collaborated with Dr. Gutheil on the first formal study of overt drug refusal. A seminal article, co-authored in 1979 with Dr. Appelbaum, was entitled, "Rotting With Their Rights On: Constitutional Theory and Clinical Reality in Drug Refusal by Psychiatric Patients." The collaboration with Dr. Appelbaum opened a door to a brilliant forensic career that continues to this day.

Early cases in which Dr. Gutheil testified regarding seclusion and restraint as well as treatment refusal were to be the florescence of a wide range of forensic interests and activities. Dr. Gutheil co-authored with Dr. Appelbaum the *Clinical Handbook of Psychiatry and the Law*, which received the 1982 American Psychiatric Association Manfred Guttmacher Award for outstanding contribution to the forensic psychiatric literature.

In 1997, Dr. Gutheil retired from 30 years of state service. He now does research, teaching, writing, and consultation. His more than 200 publications have been translated into several languages.

A Life of Achievement

Dr. Gutheil is Professor of Psychiatry at the Harvard Medical School. He has been associated with the Massachusetts Mental Health Center, Boston, for more than a third of a century. A nationally known teacher, lecturer, author, and consultant on medico-legal issues, risk management, and malpractice prevention, Dr. Gutheil is the first Professor of Psychiatry in the history of the Harvard Medical School to be board-certified in both general and forensic psychiatry. He is currently Assistant Director of Medical Student Training and Co-Director of the Program in Psychiatry and the Law, Massachusetts Mental Health Center. He is also former Visiting Lecturer, Harvard Law School; Lecturer in Psychiatry, Tufts Medical School; President, Law and Psychiatry Resource Center; special consultant to the Risk Management Foundation of the Harvard Medical Institutions; Director, Charles C. Gaughan Fellowship in Forensic and Correctional Psychiatry; and Affiliate Member, Boston Psychoanalytic Society and Institute.

Dr. Gutheil served as an American Psychiatric Association delegate to the American Bar Association's Task Force on the Insanity Defense. In addition, he

has served as consultant to the American Bar Association's Task Force on Competence to be Executed and as Special Consultant to the Department of Justice of the Federal Government of Canada. He has been a consultant or expert witness on cases in 39 states. Dr. Gutheil received the Seymour Pollack award from the American Academy of Psychiatry and the Law for distinguished contributions to the teaching of forensic psychiatry and the "Teacher of the Year" award from Continuing Medical Education (CME) and the *Psychiatric Times* in 1995. He was awarded the 1997 Prix Philippe Pinel from the International Academy of Law and Mental Health for significant contributions to teaching and research in legal psychiatry. Dr. Gutheil was also honored with the prestigious 2000 Isaac Ray Award from the American Psychiatric Association for outstanding contributions to forensic psychiatry and the psychiatric aspects of jurisprudence. Dr. Gutheil has been elected a Fellow of the American Psychiatric Association.

Dr. Gutheil won a second Guttmacher award for his chapter contributions to *Psychiatric Uses of Seclusion and Restraint* and a third Guttmacher award, in 1998, for his contribution to the article entitled, "On Wearing Two Hats: Role Conflict in Serving as Both Psychotherapist and Expert Witness," authored with Dr. Larry Strasburger and Archie Brodsky, and published in the *American Journal of Psychiatry*. Dr. Gutheil is the only psychiatrist in the United States to have shared in three Guttmacher awards.

Dr. Gutheil contributed to the chapters on the psychiatric record and legal issues in inpatient psychiatry for *Inpatient Psychiatry: Diagnosis and Treatment*. He also wrote the chapter on legal issues in psychiatry for the fifth and sixth editions of the *Comprehensive Textbook of Psychiatry*. He is senior editor of a decision-analytic textbook, *Decision Making In Psychiatry and the Law*. In total, he has been author or co-author of more than 200 articles, books, or book chapters in the national and international clinical and forensic literature as well as several teaching audiotapes and videotapes. His audiotape series, "How to Avoid Psychiatric Malpractice" (CME), is reported to be the best-selling home study course in psychiatry.

Up Close and Personal

I have had the great pleasure and good fortune of knowing Dr. Gutheil for the past two decades. Dur-

ing this time, numerous personal and professional experiences with Dr. Gutheil have served to illustrate his outstanding character, extraordinary creative energy, and dazzling intellectual powers. I marvel at the natural exuberance and joy that finds expression in his work.

William Osler described three distinct classes of writers in his article entitled, "Creators, Transmuters and Transmitters." The most common were the transmitters, writers who popularized the ideas of other authors. Less common were the transmuters, writers who put their unique spin on the works of others to provide a new perspective. Rarest of all were the creators whose ideas were entirely original, bursting forth fully formed like Athena from Zeus' head.

Dr. Gutheil is one of those rare creators. His articles on drug refusal, legal defenses as ego defenses, treatment boundaries, chemical sanity, patient participation in "Tarasoff" decisions, the therapeutic alliance in liability prevention, and many others are original, important contributions to the forensic psychiatric literature. His article on the medicolegal issues surrounding the management of borderline patients is a recognized classic. "Bad feelings plus bad results" as a motivator of lawsuits against physicians is now grasped by many clinicians—thanks to Dr. Gutheil.

I have listened to Dr. Gutheil speak on a number of occasions and have always come away inspired and greatly informed, if not overwhelmed. It is not an exaggeration to say that many of Dr. Gutheil's "free associations" while lecturing are creative nuggets from which a number of articles could be fashioned. In fact, that is exactly what happened during one of Dr. Gutheil's "boundary" lectures. He mentioned, as an aside, that the space between the therapist's chair and the door is potentially rife with opportunities for the clinician to cross treatment boundaries. From this "aside" I encouraged and subsequently collaborated with Dr. Gutheil to write the article, "Between the Chair and the Door: Boundary Issues in the Therapeutic 'Transition Zone,'" that was published in the *Harvard Review of Psychiatry*. This is just one example of countless encounters where I, as well as many others, have borne witness to his immense intellectual powers and irrepressible creativity. Psychiatry and forensic psychiatry have been the fortunate beneficiaries.

In addition to his creativity, Dr. Gutheil is a masterful teacher and clinician. In my opinion, he is one

of the most able and esteemed teachers in forensic psychiatry today. He has traveled extensively throughout the United States and in other countries to speak on forensic psychiatric issues to appreciative audiences. Dr. Gutheil has a well-deserved national and international reputation as an outstanding teacher. I have had the misfortune, on a number of programs, to follow Dr. Gutheil as a speaker. Trying to speak to an audience after Dr. Gutheil's lecture is like offering cold gruel to people who have just feasted at a banquet.

I recall the experience of actually preceding Dr. Gutheil to a lectern. My talk was entitled "The Meritorious Case: Choosing Wisely." I commented that in every forensic case, the forensic psychiatrist descends, Dante-like, into the personal hell of litigants. Dr. Gutheil, commenting on my talk, noted that Milton thought that the devil was more interesting than God. While this may seem like a trivial example, it well illustrates how Dr. Gutheil can enrich a discussion by the sheer force of his spontaneous intellectual brilliance, as well as his generic optimism. John Milton was quoted by Dr. Gutheil to tell the audience that forensic psychiatry can be fun. I believe that he has done much to inspire psychiatrists of all ages to enter the field of forensic psychiatry. Dr. Gutheil has been most generous with his time and efforts in educating others. His energy and enthusiasm as a teacher can be electrifying.

Another example of Dr. Gutheil's dedication to teaching comes to mind. He and I were on opposite sides of a high profile case. Dr. Gutheil's books, *The Psychiatrist as Expert Witness* and *The Psychiatrist in Court*, had just been published. The attorney who retained me relished the thought of "skewering" Dr. Gutheil on cross-examination regarding these books. He would attempt to portray Dr. Gutheil as a professional witness who writes about how to be a professional witness. The case eventually settled. The attorney was disappointed about "losing the opportunity to get Gutheil." I asked Dr. Gutheil later if he was concerned about having his books used against him. He answered that if lawyers read the entire work rather than self-serving snippets, the educational intent of his scholarship would become clear. He further stated that his publications were another aspect of his teaching that he valued above all other concerns, including potential problems they might create for him during cross-examination.

Dr. Gutheil's devotion to teaching and to his pro-

fession was exemplified by his recent trip to Dallas, Texas, in 1999 to speak at the invitation of the Texas Medical Association. The trip from Boston was delayed in Atlanta because of bad weather. He was unable to attend a dinner party that evening in Dallas that he had anticipated with pleasure. I saw him the next morning prior to his scheduled lecture. Dr. Gutheil never complained about the grueling, frustrating flight from Boston to Dallas. He spoke to about 50 psychiatrists for 45 minutes and then left for home. Before he left, I asked him why he would come such a long distance to speak to a relatively small group, given his extremely busy schedule. His answer was quick and straightforward. He said, "I enjoy teaching and I feel an obligation to the profession." A vulnerability of Dr. Gutheil's is his difficulty in saying "no" to the many psychiatrists and lawyers who ask for his time and expertise. As a result, additional stress often burdens a professional schedule of activities that most forensic psychiatrists would find unmanageable.

Except for one occasion, I have never heard Dr. Gutheil grouse or complain. He was irate when a bar association ethics committee rejected his complaint about an attorney not paying a substantial bill. What really galled Dr. Gutheil was the reply from that bar association that the unpaid bill was a problem for collection, not an ethical matter. In all the time that I have known Dr. Gutheil, I have never observed any meanness or hostility in his character, a generic trait or occupational hazard for some forensic psychiatrists. He is a good, kind friend to many people, generously assisting them in their personal lives and professional careers. His mood can be best described as optimistic, steady, and remarkably "flap free."

Dr. Gutheil has demonstrated calm and excellent judgment in a variety of very difficult circumstances. He once described to me his response, uttered while under intense cross-examination, to a belligerent attorney I would soon be facing. The attorney asked derisively, "Aren't you an 'o-fer,' Doctor?" Dr. Gutheil asked for an explanation. The attorney, moving in for the kill, snarled, "Well, Doctor, in the two memories cases that you testified, you lost. You're 'oh' for 2, right?" Dr. Gutheil calmly replied, "I give my honest opinion, the jury determines who wins or loses." His character is totally devoid of vanity or posturing and its attendant defensiveness. As Emerson observed, "Character is always known." But often, good character is not accorded the same

respect as "brains." In Dr. Gutheil, we have the happy marriage of both.

A third area of Dr. Gutheil's forensic career is that of accomplished clinician. One of the most important contributions Dr. Gutheil has made is to remind psychiatrists repeatedly of the necessity to maintain a clinical, psychodynamic perspective in their work when confronting legal issues. An excellent example is the suggestion that an attempt should be made to involve the patient when the duty arises to warn and protect endangered third parties. Dr. Gutheil also has pointed out that warning an endangered third party is rarely sufficient, but that more needs to be done clinically. This advice is so important because clinicians can easily become entangled and ensnared in perceived legal dilemmas to the detriment of managing the patient properly.

Another personal encounter that I had with Dr. Gutheil will help illustrate his excellence as a clinician. Some years ago, we were talking in a hotel lobby in San Francisco at an AAPL meeting. We got into a discussion about boundary violations in treatment, a developing interest of mine. I mentioned that I had concerns about having attended the wedding of a patient whom I had treated for a long time. The problem became particularly acute when I found myself in the reception line where everyone was kissing the bride (my patient). Dr. Gutheil, ever the clinician, supportively inquired if any boundary violations had preceded my accepting the wedding invitation, since attending the wedding could have been an advanced boundary violation. He was making the important clinical point that boundary violations can begin innocently enough but then can become progressively more serious and damaging to the patient and the treatment.

Dr. Gutheil's extensive understanding of basic clinical issues has always impressed me. These personal examples I proffer are not unique to me. Ask hundreds of psychiatrists and forensic fellows who have worked with him and each one will give similar testimonials to his ability as a clinician. I have heard many of Dr. Gutheil's former and current forensic fellows proudly declare, "I have trained with Dr. Gutheil." In recognition of years of dedicated mentoring, Dr. Gutheil was recently honored as the recipient of the Lifetime Achievement Award in Mentoring at Harvard Medical School—an award he treasures. Each faculty member, house officer, fellow, and student at the medical and dental school

was canvassed. Two hundred faculty members were nominated for this prestigious award.

I have observed a quality in Dr. Gutheil's personality and character that I have never seen before in an adult to the degree that it is present in him. Goethe said, "If you want to get pleasure out of life you must attach value to the world." Dr. Gutheil has the ability to fully focus his intelligence and energy on the activity of the moment, much like a child who is fully absorbed in play. A number of years ago, a group of forensic psychiatrists were being briefed on how to write questions for forensic board examinations. To be generous, the teacher and topic were deadly boring to almost every psychiatrist in the room. But there sat Dr. Gutheil in the front row, fully engrossed in the matter at hand. He asked questions that mercifully kept the rest of us awake and, at least marginally, interested.

At the recent AAPL Annual Meeting in Baltimore (October 1999), I was amazed as I watched Dr. Gutheil's full engagement in the following educational programs: "The Civil Commitment Trial of Dr. Daniel Paul Schreber"; "Prison Art I and II: Through the Eyes of the Beholder"; "Diagnosis Without Examination: Doable? Acceptable?"; "Attorneys and Experts: Forensic Twilight Zone"; "Patterns of Weapons Use Among Stalkers"; "Peer Review of Expert Psychiatric Testimony"; "Facilitating Attorney-Expert Collaborations"; and "Courts of Church, Temple, Mosque Need Our Expertise." I do not include in this list Dr. Gutheil's teaching in the

forensic review course, his participation on committees, and his many other administrative duties at the meeting.

Dr. Gutheil would be the first to acknowledge that he has the tendency to overcommit himself, but once committed, he is never superficial. Like the happy child at play, he remains ever curious and totally engrossed in the world about him. In my opinion, among all of his marvelous traits, his childlike, but never childish, ability to commit himself totally to and enjoy the task at hand clearly distinguishes him from all his peers. This is the quintessential Thomas G. Gutheil, MD.

I thought I could conclude this brief biography best by referring to my endorsement on the cover of Tom's recent book, *The Psychiatrist in Court*. I wrote, "How fortunate is the psychiatrist who reads this book, written by a creatively gifted, witty and renowned forensic psychiatrist on how to survive and even thrive in court. This is a classic, one-of-a-kind book that is vintage Dr. Gutheil—always interesting, enormously informative, and just plain fun to experience." How fortunate AAPL is to have Dr. Gutheil setting the standard for presidential leadership at the start of a new century. Although it is hard to imagine what AAPL will be like in a hundred years, Dr. Gutheil's abilities and character will guide a destiny that holds great promise. With Dr. Gutheil as our leader, AAPL has no Y2K problem. He is truly a president for the new millennium.