

## Comments on the Review by Abraham L. Halpern, M.D. of Careers of the Criminally Insane

When a book is published its contents must speak for themselves. In most instances it is inappropriate for a book's author(s) to respond to reviewers. In the case of Dr. Halpern's review of our book, we feel an exception to this general rule is warranted, due to the number of factual errors that misrepresent the design and context of the research and the inferences that may be drawn from it. The order of our corrections corresponds to the natural history of the Baxstrom patients.

The first error pertains to what is the "true" Baxstrom patient group. Dr. Halpern implies that we chose to include inappropriately a number of patients who were not "true" Baxstrom patients. In fact, the group that has been called the Baxstrom patients in the literature and litigation was defined not by us, but by the transfer of the patients to whom the *Baxstrom v. Herold* decision was applied by the New York State Departments of Mental Hygiene and Correctional Services. As did Hunt and Wiley and all the researchers who have examined this patient group, we included all the patients who were transferred under the state agencies' interpretation of *Baxstrom*. This group was all those patients in Matteawan and Dannemora whose actual sentence or the maximum sentence possible for incompetent defendants had expired and for whom judicial review on the issues of mental illness and dangerousness was mandated by the U.S. Supreme Court. It was not a matter of whom we "chose" to include, but those who were included by the historical events.

In the latter part of the review, Dr. Halpern indicates that individuals were transferred into Dannemora from prison for reasons other than mental illness. One can only assume that, since upon admission every patient had a diagnosed mental illness, and since Dannemora was a Correctional Department Mental Hospital, need of treatment for mental illness was a reason for most of the population being there.

Having become residents at Dannemora and Matteawan, these individuals, Dr. Halpern says, were retained "as long as they were considered mentally ill" (apparently he here contradicts his point we have just discussed) and "that dangerousness had nothing to do with it." If we read the *Baxstrom* decision, Footnote 5, we see that:

In oral argument, counsel for respondent suggested that the determination by the Department of Mental Hygiene to retain a person in Dannemora must be based not only on his past criminal record, but also on evidence that he is currently dangerous . . . Under this procedure, all civil commitments to an institution under the control of the Department of Correction require a determination that the person is presently dangerous; all persons so committed are entitled to a judicial proceeding to determine this fact except those awaiting expiration of sentence . . .

Estimations of dangerousness were a significant factor in the continued retention of the Baxstrom patients.

Dr. Halpern suggests that it was inappropriate to lump together for statistical analyses patients transferred from Matteawan with those from Dannemora. In fact, we did such collapsing only after we had first done analyses that showed no significant differences

between the two groups on all indicators of behavior. Dr. Halpern simply assumed that there must be differences. When effort was made to assess this issue empirically, however, there were no substantial differences.

Dr. Halpern raises two points concerning the regular procedures under which patients were transferred from Dannemora and Matteawan: 1) that blacks were discriminated against; and 2) that the presence of families was a significant factor facilitating release as required by statute. Pertaining to the first point, Dr. Halpern's desire to attribute prejudice to the Dannemora staff is simply not supported by the statistics. Whether or not there were black correction officers is irrelevant to the impact that race had on transfer decisions. As discussed on pp. 77-83, initial descriptive statistics appear to indicate that race was the primary characteristic in determining who had been transferred out of Dannemora and Matteawan to civil facilities. When statistical controls were introduced, however, race was an insignificant factor. Dr. Halpern's contentions are not supportable by the empirical verifiable facts.

The second point concerning Dr. Halpern's lack of surprise at our finding of the importance of support persons in the community in the release of the Baxstrom patients to the street — regardless of their level of in-patient assaultiveness — confuses the data. Dr. Halpern speaks of the criteria for release from Matteawan and Dannemora, while the data from our book to which he refers relate to decisions made at the civil facilities to which they were transferred, decisions to release them to the street. Dr. Halpern's discussion of this issue is unrelated to the content of the book in these regards.

Finally, two quick corrections: first, the reasons attributed to us for why psychiatrists inappropriately confined the individuals for long periods, i.e. "ignorance, chicanery, callousness or self-interest," are Dr. Halpern's words and are not taken from the book under review; and second, the research was carried out and the manuscript written with the assistance of psychiatrists, the then New York State Department of Mental Hygiene Deputy Commissioner, John Cumming, and a current officer of the American Academy of Psychiatry and the Law, and of a renowned lawyer at the University of Michigan, all of whom qualify as experts in psychiatry and correctional issues in psychiatry.

The remarks here are intended only to clarify some of the more important factual points that were obfuscated by the errors and rhetoric of Dr. Halpern's review. With our remarks, his review, and the six others<sup>1</sup> that have appeared in other journals of psychiatry, criminal justice, and sociology, we feel the prospective readers will be in a more advantageous position to assess the merits of our research and this report of it.

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1. American Journal of Psychiatry 132 (December, 1975): 1340, Irwin N. Perr; American Journal of Orthopsychiatry 45 (October, 1975) 898-9, Jeremiah S. Gutman; Journal of Criminal Law and Criminology 66 (December, 1975): 516-7, Richard Moran; Federal Probation 39 (September, 1975): 71, Colin S. Sheppard; Social Forces 54 (March, 1976): 719-20, Joseph S. Roucek; and Sociology 2 (June, 1975): 154-5; C. Ray Jeffery.