

## Book Reviews

Alan R. Rosenberg, Editor

MENTAL HEALTH AND LAW: A SYSTEM IN TRANSITION. By Alan A. Stone. National Institute of Mental Health Center for Studies of Crime and Delinquency Monograph (Washington D.C.: DHEW Publication No. (ADM) 75-176, 1975). Pp. 266. 1975. \$2.65

Legal psychiatry has always been seen as outside the mainstream of psychiatry. One of the main tasks of legal psychiatrists is to educate other psychiatrists and other mental health professionals concerning the body of law and precedent that has developed regarding the legal treatment of the mentally disabled and then persuading these people to keep up with new developments in this field.

In 1973 the Center for Studies of Crime and Delinquency of the National Institute of Mental Health decided that one effective way to spread knowledge would be to have a recognized authority in the field write a "monograph" which could be produced inexpensively and distributed widely. Alan A. Stone, professor of law and psychiatry at Harvard University, received a contract to produce the current work. The Center for Studies of Crime and Delinquency made it clear that it was not imposing a point of view on Stone, nor was it endorsing his point of view. Its role was merely the sponsorship of an educational effort.

Stone, with the assistance of Clifford D. Stromberg, produced this book by April, 1974. By the time the manuscript was ready to go to press — so fast-moving is this field — there had been sufficient new cases so that it was necessary to add an appendix to include them.

The 266-page paperback volume that resulted has already received wide praise. It won for Stone the Guttmacher Award of the American Psychiatric Association in 1976; it has been described by Richard Bonnie on Legal Psychiatry as an example (with Robert Sadoff's *Forensic Psychiatry* and Ralph Slovenko's *Psychiatry and Law*) of "the mushrooming interest in cross-disciplinary work" that has been evidenced in recent years. This journal is now belatedly getting around to reviewing this important educational effort.

Most of us would consider *Mental Health and Law* a book, although it describes itself as a monograph. My dictionary defines "monograph" as (1) "a treatise on a particular subject," (2) "an account of a single thing or a class of things," and (3) "a highly detailed and thoroughly documented study or paper written about a limited area of a subject or field of inquiry." The present book fits the first and third of these definitions but certainly not the second. It is not an account of a single thing or a class of things,

because Stone makes it clear that modern psychiatry cannot be considered in isolation. What we do with mental patients depends not only on the resources available in the mental health system but also on the attitude we have about the criminal justice system, which is an alternative used to control some individuals, and also the availability of social security and welfare benefits which may provide an alternative to the mental health system.

Although this work may possibly qualify as a monograph, let us consider it a book and a very good one. Its only aspect which might throw it into the monograph category is its very reasonable price; it can be obtained from the United States Printing Office for \$2.65. The low price is, of course, motivated by the desire to have this book achieve a maximum educational impact, and encourages its use as a text in short courses for psychiatric residents.

Stone reviews the whole field of modern legal psychiatry and devotes special emphasis to some very important newer topics. One such topic is the concept of dangerousness and the predictive techniques that are available to psychiatrists. Stone concludes that the legal emphasis on near-certainty in the prediction of dangerousness to justify a civil commitment, a change in emphasis caused by a new stress on individual freedom, is not a psychiatric reform; "rather, it is abolition disguised as reform." He thus argues against the recent tendency to equate civil commitment with criminal detention. Stone gives brief but effective treatments to such recent topics as the right to treatment, the right to refuse treatment, and institutional peonage. He deals with the special problems of the mentally retarded, the juvenile correctional system, and the aging. He also deals with such other standard legal psychiatric topics as civil commitment, the commitment of quasi-criminals (sexual psychopaths and defective delinquents), criminal responsibility, and competency to stand trial. His final chapter deals with a topic which is increasingly being discussed, the most effective role for lawyers and ombudsmen in the mental health system.

If one is out to criticize, Stone can perhaps be faulted on his somewhat scanty consideration of guardianship and financial responsibility of the mentally disabled. He includes this topic in his chapter on aging, but probably it deserves a chapter of its own. Also I would have been interested in Stone's thoughts on the role of psychiatric testimony in adoption and custody cases, an important, growing field. But this is said merely to fulfill the reviewer's obligation to find some fault. The book is comprehensive, thoughtful, informative.

Stone tends to be both provocative and sound. Some of his important points:

There is an interrelationship among the criminal justice system, the welfare system, and the mental health system. "What has happened in the last two decades is that in the name of reform, the professionals within each of these social institutions have taken on the roles, functions, and goals of each other. The probation officer becomes a therapist, the welfare worker becomes a therapist, and the therapist becomes an advocate for welfare rights and a consultant to the criminal justice and welfare systems."

The Professional Standards Review Organization, which was provided in

the Social Security Act of 1973, provides a mechanism by which mental health services can be improved; the tangible standards developed by this approach can help solve the difficult problems which were imported into modern psychiatry by the development of the doctrine of "the right to treatment."

Provocative and helpful is Stone's advocacy of what he calls the Thank You Theory of Civil Commitment. The test he suggests is: "Would a reasonable man, given the patient's serious illness and suffering, be willing to give up a certain amount of freedom in that particular institution in exchange for treatment that in similar cases produces a specific range of results?" Says Stone: "It is my contention that the criteria of serious, reliably diagnosed mental illness, incompetent refusal, reasonable expectation of treatment in a decent institution are the essential ingredients which give moral content and legal justification to the doctrine of *parens patriae*." Stone proposes that dangerous behavior be returned to the province of criminal law, and that the possibility of receiving a benefit should be the justification for civil commitment, deserving the patient's "thank you."

Stone's "monograph" is full of other interesting and useful concepts, but perhaps most useful of all is the fact that it provides a good review of modern legal psychiatry, with the complexities of this field not at all minimized, in a form that should bring these ideas to the widest possible audience.

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PSYCHOSURGERY AND THE MEDICAL CONTROL OF VIOLENCE. By Samuel I. Shuman. Wayne State Univ. Press, Detroit. Pp. 360 with index. 1977. \$18.50.

This volume represents an explication of the theoretical, legal, social and legislative problems arising from the case of *Kaimowitz v. Department of Mental Health* (Civil Action, Wayne Co., Michigan, No. 73-19434, 1973). This emotion-provoking case concerned the legitimacy of an involuntarily committed patient's giving his "informed consent" to psychosurgery for purposes of controlling his "rage and antisocial behavior," as part of a research project of the Lafayette Clinic in Detroit. The well-thought-out plan contemplated placing depth electrodes in the limbic area of the brain to determine suitability for subsequent amygdalotomy. A writ of habeas corpus to release John Doe, the proposed subject, was granted on the grounds that the Michigan criminal sexual psychopath law had been rescinded and that the proposed psychosurgery was "cruel and unusual punishment" precluded by the 8th Amendment. John Doe was released by the court, but the important issue of the ethicality and medical justification for psychosurgery to control violence in certain persons was heard by a panel of three judges. After a prolonged hearing, the judges decided that "When . . . the type of psychosurgical intervention proposed here becomes an accepted neuro-surgical procedure . . . it is possible that the involuntarily detained