

Persuasion of Law Students To a Psychiatric Perspective

WILLIAM D. WEITZEL, M.D. and
JOHN BATT, J.D.*

The need for the establishment of dialogue and a sharing of perspectives between psychiatry and the field of law has been long acknowledged. Ranking legal scholars have affirmed often that psychiatrists can teach lawyers much about the interpersonal dimension of the legal decision-making process and thereby provide a greater understanding of the clients with which they work.^{1,2,3}

This communication reports on the introduction and evolution of an elective seminar for second and third year law students at a progressive southeastern state university's college of law. The new addition of a psychiatric perspective to this law school's curriculum proved a frustrating but rewarding undertaking. Our observations are offered with the intention of encouraging others in similar ventures and because we believe we are evolving a unique and highly effective pedagogic style for a law school setting.

Both authors believe that educating law students with respect to the philosophy, theory, and practice of psychiatry can lead to constructive collaboration between the professions on a more sophisticated and positive level. An additional motivation for the psychiatrist's involvement with this seminar rests with his hope that his participation would positively influence the subsequent behavior of practicing lawyers both in the local community and statewide as a consequence of their having developed a more informed data base regarding what psychiatrists and other mental health professionals can contribute.⁴

Evolution of Seminar

In 1975 Hirsch reported that among the 148 American Bar Association approved schools that he surveyed, 79 had courses in Law and Psychiatry.⁵ In keeping with the generally positive endorsement that this survey conveys about the place of psychiatry in the law school curriculum, the first author originally sought involvement in the law school during the 1975-1976 academic year. Overtures were made by contacting various administrators and law faculty members to see if there might be some interest in developing a seminar in collaboration with medical school psychiatry faculty members. The initial negative response carried the message that the law students had

*Dr. Weitzel is an Associate Professor of Psychiatry in the College of Medicine and Lecturer in the College of Law at the University of Kentucky in Lexington. Professor Batt is Professor of Law in the College of Law at the University of Kentucky.

voiced no interest in this field, and so there was no need for a collaborative seminar. Approximately nine months after this attempt at liaison, the second author proposed a collaborative effort in teaching a two credit hour seminar entitled "Law, Psychiatry, and Public Policy." Since the university's law school and medical center are within a five minute campus walk, general psychiatry residents were invited to participate; enrolled law students were given the opportunity for a scheduled visit at the University Hospital Inpatient Psychiatry Service during which time they observed selected case staffings and long term treatment planning meetings.

During the first semester that this seminar was offered (spring 1977) approximately 35 law students participated. Psychiatry residents attended sporadically but usually with not more than two in attendance at a time. The authors assigned topical reading for class discussion relevant to many aspects of legal psychiatry. A narrow and formal classroom approach was chosen to allay possible institutional anxiety (*i.e.*, a non-radical departure from usual law school classroom norms was used). The second time the seminar was given (Fall 1977), the experience was remarkably different. Fourteen students registered for the seminar which had been scheduled in conflict with another elective seminar, "Law and Medicine", that was taught by a charismatic and politically successful clinical faculty member. This time our seminar was presented in a more loosely organized and less formal way, (*i.e.*, the students influenced the pace with which the material was covered, chose topics for discussion, and were encouraged to express not only what they thought but what they felt. An opportunity was given for more inter-active exchanges among participants around materials provided for reading prior to the class.) The seminar developed a definite experiential quality for participants.

See Table 1 for display in sequence of the topics discussed in each seminar.

Written and verbal responses were elicited from the second group of seminar participants.

Evaluation of Seminar

To our initial surprise, we found the law students hungry for discussion of real life material in a non-disputatious format. Although medical school teaching centers use case material to teach what is known and then directly apply it to patient care situations, law schools emphasize the mastery of analytic skills which are applied in very theoretical situations (usually appellate-court cases). Many law school faculty describe seminars such as this as non-substantive law ("junk food") laced with fuzzy concepts which seldom lead to resolution of client problems. In fact, despite some notable exceptions such as New York University, the University of Pittsburgh, the University of Virginia and others, law school faculties, by and large, seem to eschew involvement with clients or discussion of concrete and current examples of client problems as a recognized part of a good law school curriculum.

A summary of the written and verbal responses acquired from the second group of students is shown in Table 2.

What the students found most commendable in their written response and

verbal feedback has intrigued us (*i.e.*, small size of the class, the opportunity to speak up about highly charged social-psychological issues in a non-judgmental atmosphere, and an endorsement of the informality of the class setting along with the opportunity for spontaneous participation). We feel that this is a critical finding from a law-psychiatry pedagogic perspective. We can at least tentatively conclude that what we designate as the psychiatric pedagogic style in a law school setting creates an expectation conducive to open affective communication.

Discussion

Most students who participated in this seminar had some prior acquaintance with the methods and approaches of psychiatry through exposure in family law and criminal law courses taught by the second author. The students brought with them the flexibility to consider a semi-determinist view of man and were not frozen exclusively into a free will model. Students seem satisfied when shown that clinical psychiatry had practical applications in understanding client-centered case material.

Observation and further reflection leads us to make the following suggestions as to why this successful seminar was not welcomed from the start. We will hypothesize that it is significant from a dynamic perspective that there exists a resistance integrant in law school systems. In many ways, law schools are quite closed cultural systems. Frequently they are geographically separate from the rest of the university campus; but even when geographically a part of the campus setting, a law school is, in a sense, culturally and psychologically insular. Law faculty and law students tend not to have a great deal of contact with the other inhabitants of the campus. Our view is that the resistance phenomenon is a product of this very special cultural setting and a product of the collective personalities of the dominant faculty. This resistance factor must not be neglected by any psychiatrist who decides to work within the law school arena. At this juncture we offer our impressions with respect to this matter of the resistance integrant.

One becomes a law school faculty member because he has done outstanding law school work. Very few law school faculty members have substantial practice experience.⁶ Moreover most law school faculty members have had almost no exposure to behavioral sciences either as undergraduate students, as law students, or later in life.⁷ Success in law school and later faculty membership depend upon not only superior intellectual capacity but also on one's preferred mechanisms of defense. We find abundantly present in the law school arena the operation of intellectualization and rationalization. Through the use of intellectualization, ideas, concepts, questions, models, etc. are used to avoid contact with any emotion that creates personal discomfort. Those who discuss nothing but the procedures for committing psychiatrically dysfunctional people can avoid the critical question of how people come to the point of such psychiatric dysfunction. Repression is also used by many law school faculty members in order to screen out discomforting emotions. Finally, some law professors fail to confront the realm of the emotional through the use of rationalization, *e.g.*, it will be argued by law faculty that legal education is doing its job well and there is no need to deal with something as soft-headed and as inexact as

psychiatry. This opinion will, of course, be held by faculty who cannot support their position that legal education is, in fact, doing well and by faculty who know very little about the field of psychiatry.

The authors decided to conduct the seminar in what could be described as a clinical manner. The assumption was made that the traditional case method of instruction widely used to teach substance and procedure in law school would be of little help to those who must grapple with the real life problems that occur in lawyer-client interactions. This seminar experience for the students was calculated to be divergent from that which they had undergone for most of their law school education. In law school the student is encouraged to question, argue, digest, and tear apart ideas presented to him.⁸ A standard teaching technique in law schools is the Socratic method. This technique causes the teacher many times to do little beyond asking questions, and answers are seldom forthcoming from him. Therefore, the law faculty takes on the appearance of people who demand but do not give. The case method approach develops a high degree of analytical skill but usually does not succeed in providing students with the means needed to handle other aspects of their professional relationships.

The authors decided upon a particular psychiatric pedagogic approach to the seminar. Following the lead of Abraham Maslow, we decided that the skills relevant for effective lawyer-client interaction could be most readily taught in an environment in which the self-actualizing aspects of personality could be promoted.⁹ It was our view that by satisfying basic needs, by promoting self-esteem on the part of the participants, and by allowing opportunity for expressive emotional interchange, our students could be better prepared to deal with some of the emotionally charged aspects of law practice. To this end, we encouraged our students to be open and spontaneous. We ourselves attempted to behave in such a manner and to maintain a non-judgmental posture with respect to the students' attitudes, ideas, and emotions. We encouraged our students to be not only accepting of self in an emotional and dynamic sense but accepting of others. At times we were all hard pressed to hue to our ideal because there certainly were many different perspectives on such volatile topics as child abuse and battered wives. However, we feel that the general openness of the environment allowed us to move through these danger zones without any significant casualties.

In addition to spontaneity and acceptance of self and others, we attempted to promote a perspective which allowed the student to focus on concrete human problems (*e.g.*, a husband and wife warring over a child in a custody dispute or a defendant who faces either prison or long term hospitalization as a result of the failure or success of his insanity plea). We encouraged our students to be independent, but we also allowed them to turn to us for support when he or she walked out onto a psychological, emotional, or intellectual limb. We tried to recognize that not only is independence a virtue, but we gave positive recognition to the fact that people need to be dependent and nurtured and that it is all right to show that side of oneself in the seminar. We also attempted to look for fresh approaches to problems. We allowed the students to import into the seminar questions from other courses, but we attempted to offer as frequently as

possible some kind of perspective which they had not been exposed to before. This was possible because the law faculty member had taught a number of the substantive and procedural courses and was well familiar with the standard approaches.

Perhaps a term invented by Alfred Adler, "*Gemeinschaftsgefühl*", describes the flavor of the learning environment we have attempted to develop.¹⁰ This self-actualizing and informative seminar is conducted so as to allow students to develop feelings of identification, sympathy, and affection in spite of occasional anger, impatience, or disgust.

Most students found in this seminar an opportunity to discuss emotionally charged issues involving personal and professional identities under the guise of case examples. Vigorous discussion of the changing roles of men and women in the context of child custody dispute analysis graphically demonstrated this point to us. The participation of other professional students (general psychiatry residents) struggling with similar professional and personal issues further legitimated the law students' search for professional and personal identity.

Since the seminars were developed primarily for law students, the emphasis was on the education of law students. The psychiatric residents who attended reported that many times they were at quite a loss about what the disagreements and details of the class discussion were all about. Our difficulty in meeting the needs of both professional groups probably resulted from the different emphasis and professional data base that each had already acquired. In order to meet the educational need of both groups, careful attention would have to be paid to the common problems of insuring that each professional group of students is taught the fundamentals of the other's field before proceeding to advanced problems that would lend themselves to collaborative work and productive solutions.¹¹

Conclusion

The contribution of psychiatrists in teaching law students a psychiatric perspective is proving useful to those self-selected students who participate in seminars such as we have described. The primary worth of these curriculum additions seems to be in the horizon-broadening aspects of the material and class discussions at both intellectual and emotional levels along with the surcease from the usual competitive classroom experience. We are now teaching this seminar again during the fall of 1978 semester and have a student group of 25. As a consequence we have been able to teach and influence more than 70 students during the last two years, and we believe we are beginning to have a definite impact in the area of mental health law. Already psychiatry faculty at the medical center and in the community are being consulted more actively in cases involving child custody, child abuse, and wife battering. Those psychiatrists who choose to involve themselves in collaborative psychiatry and the law seminars will find them stimulating, mind expanding and instructive. Such seasoned faculty members will serve as even more useful instructors of legal psychiatry in the familiar confines of the medical center and as consultants among their colleagues.

TABLE I
DISCUSSION TOPICS

SPRING 1977

1. Introduction to Interface of Law & Psychiatry.
2. Discussion of "What is Mental Illness?"
3. How does a psychiatrist do an evaluation?
4. Determination of competency to stand trial.
5. Legal tests of mental responsibility (insanity).
6. How to qualify an expert.
7. How to examine an expert.
8. Standards in civil commitment.
9. Restrictions/use of privileged communications.
10. Malpractice in psychiatry.

FALL 1977

1. Introduction to Interface of Law & Psychiatry and discussion of student expectations.
2. The purview of psychiatry (with 100 page handout on "Current Theories of Personality and Psychopathology" from *Comprehensive Textbook of Psychiatry*).
3. Tests of mental responsibility (insanity).
4. How to examine a psychiatric expert.
5. Child custody determination.
6. Parental Rights in child custody determination.
7. Child abuse
8. How to select a jury (use of psychiatric advisor).
9. Summing up and student feedback.

TABLE II
ACCOLADES AND SUGGESTIONS

ACCOLADES:

1. Free to express an opinion without faculty ridicule or judgment.
2. Not dehumanizing and impersonal like other law school classes – got to know some classmates.
3. Learned some suggestions about how to deal with people – non-existent in other law courses.
4. Small class size was very important – valuable interaction with colleagues – learned about aspects of people I was previously unaware of.
5. Helped me understand a psychiatrist's approach to issues – found them dedicated and grounded in principles.
6. Impressed with the significance of interpersonal events in our lives.
7. Many participants marvelled at the lack of bitterness between classmates and attributed this to seminar format and faculty behavior.
8. Good to have a psychiatrist there *i.e.*, participants could try out their own formulations, receive his point of view, and learn more about psychiatry by listening to him. Such topics as these don't lend themselves to Black Letter Law.

SUGGESTIONS:

1. Keep the class small.
 2. Bring in more psychiatric residents and other professional students.
 3. Continue to include a visit to the psychiatric ward.
 4. Use video tapes to demonstrate interviewing techniques and patient case examples of legal dilemmas.
-

References

1. Stone HF: The future of legal education. *Am Bar Assoc J* 10:233-234, 1924
2. Griswold E: Law schools & human relations. *Chicago Bar Record* 37:199, 1956
3. Brennan WJ: Quoted in Donnelly: Some comments upon the law and behavioral science program at Yale. *J Legal Ed* 12:83-90, 1959
4. Weitzel WD: Public skepticism: Forensic psychiatry's albatross. *Bul Am Acad Psych and Law* 5:456-463, 1977
5. Hirsh HL: Educational opportunities in law and medicine in law and medical schools. In: *Medicine, Law, and Public Policy*, edited by Kittrie NN, Hirsh HL and Wegner G (vol. 1) AMS Press, Inc: New York 1975, pp. 179-187
6. Watson AS: The quest for professional competence: Psychological aspects of legal education. *U of Cincinnati L Rev* 37:93-166, 1968
7. Stone AA: Legal education on the couch. *Harvard L Rev* 85:392-441, 1971
8. Peszke MA: What kind of psychiatry in law school? *J Legal Ed* 23:309-317, 1970
9. Maslow AH: *Motivation and Personality*. Harper and Row: New York, 1954, pp. 199-260
10. Adler A: *Social Interest*. Putnam: New York City, 1939
11. Bent RJ and Marquis HL: The development of a seminar in law and the behavioral sciences. *J Legal Ed* 23:89-93, 1971