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## LIAISON TEACHING OF PSYCHIATRY IN LAW SCHOOLS<sup>1</sup>

FRANKLIN G. EBAUGH and ROLAND A. JEFFERSON

Contemporary attitudes toward crime and the criminal, diverse and chaotic as they may be, stand generally in recognition of the inadequacy of existing means of dealing with the problem. Penal institutions at best are provable failures, and it is clear to many that the device of punishment, as standardized by legal procedure, is frequently an evasion of justice and of common sense. Perhaps there is no greater evidence of the bankruptcy of existing agencies than to witness today the tendency to regression to primitive modes of physical torture for remedial punishment such as the whipping post and ducking stool. Neither greater severity nor greater leniency under the present conditions can be looked upon as anything but futile. Obviously, a new approach to the entire problem of crime and punishment is needed or at least worth trying.

Psychiatry has applied the discipline of science to the study of criminal behavior, and believes that it has discovered facts which must be considered when dealing with the problems of his origin and disposition. Science has heretofore been concerned chiefly with theories as to the causes of criminality, and has never really entered into the problem of control or prevention. Library shelves are replete with scientific volumes concerning heredity, the criminal type, criminal insanity and what not, most of which are either entirely outmoded or concerned with sensational and rare states rather than with the problem as a whole. Of recent years, however, psychiatry, under the influence of the genetic-dynamic and psychoanalytic schools, has approached the study of anti-social behavior in a novel way. It has concerned itself not so much with hereditary patterns as with the influences of environment, and the growth and development of the personality. The dynamics of mental processes and of human motivations have been studied, and it is from this approach that the psychiatrist has applied his discipline to the problem of crime. It is our contention that only along such lines, centering the attention not so much upon legal abstractions as upon the individual and the total situation, can a true solution to the problem be expected. The ex-

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perience of psychiatrists in the field of delinquency where there has been some opportunity not only to study but to control and prevent through what might be termed psycho-social therapy has resulted in considerable success; sufficient at least, to indicate the possibility of such a method.

At present, the outstanding barrier to progress in the control of crime and medico-legal jurisprudence appears to be a lack of understanding between medical and social science and law in regard to these problems. Yet a workable liaison between the two fields is absolutely essential. To this end, it would seem necessary that the student of law receive instruction as to the teachings of science as a part of his preparation for dealing with problems of social adjustment. Similarly, the student approaching the study of human behavior through the fields of psychiatry, psychology or sociology should receive instruction in theory and practice of law.

It is well known that in Germany and Italy institutes of legal medicine have arisen to meet this need and that training for jurists in criminal law in these countries includes the teachings of science under the heading of criminology. But there is no such provision in this country where most law schools are completely lacking in such instruction.

Exact knowledge as to the status of psychiatric teaching in the law colleges of the United States, as obtained from the following questionnaire, which was sent to the deans of seventy-eight approved schools, shows quite clearly this lack:

- I. Is psychiatry a part of the curriculum in your school?.....
- II. Number of hours devoted to teaching of psychiatry in your school?..... School year given?..... Requisite or elective?.....
- III. Is this course given by:
  1. Physician?.....
  2. Lawyer?.....
  3. Psychologist?.....
- IV. Topics of lectures given:
- V. Are there clinics given to supplement lectures?..... Number of clinics.....
- VI. Do you feel as Dean of Law School that courses in psychiatry are worth while and should be included in your curriculum?
- VII. Do you plan to arrange for teaching of psychiatry in the future?

VIII. In that this questionnaire is purposefully brief, we would appreciate any additional comments pertaining to this subject that you care to add.

Following is a summary of the data obtained:

No. of questionnaires sent..... 78

No. of replies received..... 73

*Formal Instructions in Psychiatry—6 Schools*

<i>Name of School</i>	<i>Required or Elective</i>	<i>Number of hours</i>	<i>Number of Clinics</i>	<i>Taught by</i>
University of Denver	Required	23	5	Physician
Yale University	Elective	2 hrs. per week for 1 semester	6	Physician and lawyer
University of California	Elective	2 hrs. per week for 1 year	0	Physician and psychologist
Boston University	Required	2 hrs. per week for 1 term	0	Physician and psychologist
Catholic University (Washington D. C.)	Required	2 hrs. per week for 1 term	0	Physician, psycholo- gist and lawyer
J. B. Stetson Univer- sity (Florida)	Elective	1 hour per week 2 semesters	Varies	Physician and psychologist

Courses given which include some psychiatric instructions—7 schools.

University of Colorado  
Northwestern University  
University of Pennsylvania  
University of the Phillipines  
Washington University  
University of North Dakota  
University of Wisconsin

Have given courses, but are now discontinued—1 (Washburn University).

Have given a seminar in psychiatry—1 (University of Wisconsin).

Contemplate giving instruction in psychiatry—14.

University of Iowa  
University of Kentucky (no definite plans)  
DePaul University (no definite plans)  
Western Reserve University (no definite plans)  
Tulane University (no definite plans)  
Washington University (no definite plans)  
University of Illinois  
Duke University  
University of Wisconsin  
University of Michigan (no definite plans)

Comments on the value of psychiatry to law students....	60
Is worthwhile .....	22
Possibly worthwhile .....	1
Insufficient time for psychiatry.....	5
Worthwhile but no time.....	19
Worthwhile but no money.....	3
Awaiting standardization and acceptance.....	3
Should be pre-legal.....	9

Thus it is to be seen that only six out of the seventy-three schools from which information was obtained include any formal instruction in psychiatry, whereas seven more give courses which embrace some psychiatric teaching. Eight others contemplate the addition of some such course in the near future. Of the sixty deans offering comments as to the value of psychiatric teaching only ten definitely considered it not worth while. Lack of time appeared to be the chief excuse for its omission. It is interesting that some considered the proper place for such teaching to be in the pre-legal education. One cannot help but draw the conclusion that these individuals do not believe that psychiatric knowledge has much to do with the practical aspects of jurisprudence.

The results as a whole, however, are encouraging. The trend of thought indicated is certainly toward the acceptance of psychiatric teaching, and it is to be hoped that this means as well the inclusion of the work from allied fields such as psychology, sociology and the like.

During the past three years the authors have been engaged in what they are pleased to call "Liaison Teaching of Psychiatry" in the law college of Denver University. The course extends over twenty-two hours and is required. It is given to Second Year Classes and consists of twelve didactic lectures given at the law college and clinics held at the Colorado Psychopathic Hospital. The course is inaugurated with introductory lectures on how mental diseases develop and then takes up separately the various mental reaction-types, including organic, delirious and hallucinatory, etc. These lectures are descriptive and interpretive and stress the medico-legal aspects. Juvenile delinquency is taken up separately, and, in closing, there are general lectures of summary and elucidation of the psychiatric attitude upon the motivation of criminal conduct and methods of management. The clinics, five in all, include presentations of various patients, demonstration of therapeutic measures and hospital management.

As indicative of the extent of interest shown in this course an attempt was made to keep account of the various questions asked. Below is a tabulation of 198 questions checked from students during the recent course, (1931):

Legal	51	33.2%
Psychiatric	86	49.4%
Social-Penological	35	17.4%

In order to clarify this table, a few questions typical of each group are given below:

#### Psychiatric

1. A sense of guilt applies to which phase of the manic-depressive psychoses?
2. Where are you going to draw the line between a fit of anger in a normal person and a psychotic act?
3. What is the relationship of physical illness to mental disease?

#### Legal

1. Why is insanity a legal term?
2. Explain why the criminal act should not be the focus of attention.
3. Do you as a psychiatrist believe all criminals to be insane?

#### Social—Penological

1. What has psychiatry to offer in penitentiary problems?
2. What do you think of the Canadian plan?
3. Do you advocate the psychiatrist as an officer of the court?

It is obvious that there are many handicaps to a brief course of this type; for instance, the discussion of mental mechanisms is inadequate and not thoroughly understood by the law student. Likewise, the few clinics given do not adequately cover the field, and may give to the student a distorted view of psychiatry. We feel, however, that these handicaps can be remedied by increasing the number of hours, or preferably, by arranging for the law student to spend time in the hospital and out-patient clinics. Possibly a period analogous to an internship should be required of all undergraduate and graduate law students who plan to enter the field of criminal law. White has previously stressed this requirement as well as the importance of giving proper examination and establishing appointments to important position on the basis of training and examination requirements.

We feel however, that even such an inadequate course accomplishes much and gives a point of view to the law student concerning psychiatric patients. For instance, a recent graduate has reported to us the recognition of a hypo-manic client whom he was able to pro-

tect and safeguard from extensive and embarrassing litigation. Likewise, many graduates have indicated a greater sympathy with the psychiatric attitude toward paranoid individuals. In general, there seems to be more of a feeling of rapport and interest between the recent graduates and present day psychiatric developments. In many instances these educational developments appear to have been passed on to older members of the legal profession, many of whom voluntarily attended both clinics and lectures. Whereas the modern psychiatric position holds that crime is a designation for but one type of social maladaptation, it by no means considers all criminals to be mentally abnormal. That all criminals are alike is obviously untrue, and yet until some scientific classification is made acceptable and embodied into legal usage for purposes of adjudication, no progress is possible. Alexander and Staub in a recently translated monograph entitled "The Criminal, the Judge and the Public," have attempted a scientific classification which, in our opinion, is of great merit and deserves consideration. They divide all criminals into: first, the chronic type; that is, those who by reason of their mental make-up, tend toward criminal behavior; and second, the accidental type; essentially non-criminal, including the criminal by accident (manslaughter), and the criminal by exception—entirely situational, to which all normal individuals are liable.

The group of chronic criminals are obviously those with whom society is chiefly concerned. The accidental type is small in number and the problem of punishment is relatively simple—punishment is usually superfluous, rarely useful in this latter group. Chronic criminals may be further subdivided into three main groups: First, the normal criminal; second, the organic criminal; third, the neurotic criminal. Under the group of so-called normal criminals are included the gangsters, racketeers and other professional criminals. This class is distinctly a social rather than a psychiatric problem, and is made up of individuals whose social and educational background has influenced them to accept criminality as the norm. A second group designated as organic, includes individuals who suffer from organic disease and are, as such, strictly medical problems. Curiously enough, although this group is numerically of the slightest importance, it has been the recipient of the greatest attention from so-called forensic medicine. Typical of this group are the paretics, epileptics, the gross mental defectives, etc. The problem presented is essentially one of diagnosis and treatment and can be resolved upon a strictly medical plane. The third group, one of major importance, is termed neurotic

criminality, and includes individuals whose anti-social behavior is conditioned by unconscious conflict just as the paralyses of the hysteric or the obsessions of the psychasthenic are conditioned. In fact, this type of criminality is considered by psychiatry to be but another neurosis, the etiology of which is largely psychological in origin.

The disposition of the normal criminal, as has been indicated, is not so much the concern of psychiatry, but it may be said in passing that segregation and compulsive labor with the idea of restitution for property and other losses involved in his crime, would seem to be a reasonable method of control. It has always seemed absurd to us that a theft or depredation upon property be punished without thought of restitution to the individual citizen or citizens damaged.

As for the neurotic criminal, it is frequently the case, depending largely upon individual circumstances, that punishment does nothing more than appease the sense of guilt and give sanction for further criminality. The great need of these individuals is for intensive study and treatment by individuals trained in the dynamics of human behavior. Those who are not readily amendable to treatment should be segregated until such time as it is felt that they are capable of social adjustment. While this segregation will be effective for the safeguarding of society, it will do nothing to improve the criminal unless it is accompanied by sound psychotherapy.

It may not be necessary to change essentially present day court procedure in order to bring about such dispositions, nor to have psychiatrists as officers of the court. But, it is essential and incumbent upon lawyers and jurists whose duty it is to effect justice and impose sentences, that they acquaint themselves with the knowledge of the human personality, the teachings of psychiatrists, psychologists, and sociologists upon which basis alone, can there be equitable and scientific adjudication.

It is a strange thing that no jurist has ever made a scientific inquiry into the results of his decisions in criminal cases. Yet some such method of constant check is only scientific and, to say the least, reasonable. When the time comes that our benches are manned by jurists of scientific training and disposition, whose knowledge exceeds that framed in legal terms and includes the findings of science in the field of personality and its problems of adaptation, and when they may safely, under the law, act upon that knowledge, tremendous strides will be made in the disposition and control of criminals.

The problems of civil as well as criminal jurisprudence bring the psychiatrist into contact and frequently into conflict with estab-

lished legal procedure. As an expert, he is frequently called upon to testify as to the sanity or insanity of a given individual. Inasmuch as the legal concepts of sanity and insanity are inseparable from the concept of responsibility, it must be said that, common usage to the contrary notwithstanding, a declaration of insanity is not tantamount to a declaration of irresponsibility. This arises out of misconceptions as to the application of the word insane. There is no confusion in the mind of the psychiatrist as to this term. He knows full well its legal meaning. He also knows that the law varies widely, and wisely, in its own interpretation of this term. Insanity before the law is obviously different, depending upon the type of cases involved; for instance, as in commitments, or in legal, testamentary capacity, or as in problems of criminal responsibility. The psychiatrist never uses the term except in its legal sense since it has no meaning for him from the medical standpoint. The whole problem of responsibility is without his special province, and all that he can be truthfully called upon to do in any case is to state the condition of the patient as he finds him—not in terms of sanity, or insanity, but what may be demonstrated in the way of disease; that is, what the patient says or does or shows as a physical sign of illness. Hypothetical questions in which the alternative of sane or insane is put to the psychiatrist, cannot and should not be answered since one cannot answer in truth. Moreover, as is frequently the case in criminal procedures, the question of responsibility upon the basis of sanity or insanity determines the punishment, and we are faced with the possibility that the perpetrator of an insane act may go free. This is beyond doubt utterly irrational, and places the psychiatrist in the position where he may be used as a stepping stone to freedom and immunity from the natural consequences of illegal behavior. It opens the pathway for corruption, partisan testimony, and all the time wasting, expensive procedure of the modern so-called "battle of the alienists." Yet the answer is comparatively simple—when there is a possibility of a plea of insanity or suspicion of such by officers of the court, a trained psychiatrist should be employed or the individual sent to a mental hospital for observation and a complete study made in an impartial way and submitted to the court. Moreover, these findings, if they are to be contested, should be done so before the court and not before a jury which is obviously incapable of rendering a sound judgment as to mental illness, though their judgment as to guilt and responsibility may better be considered adequate. The sum and substance of the whole matter is that neither insanity nor responsibility are

admissible as medical terms and that no physician should be called to render an opinion on either. His responsibility is to demonstrate the presence or absence of mental disease and perhaps to state whether he thinks it has or has not a bearing upon the acts of the individual.

In order to further demonstrate the feasibility of such a plan, a table is included giving the data on 115 criminal cases studied since 1927 in the Colorado Psychopathic Hospital under the Colorado Law passed at that time:

Total Number of cases studied	115
Number of cases contested	13, or 11.35%
Decisions contrary to our findings	6, or 5.22%

It is to be noted that only 13 of these cases were contested, of which number the recommendations of the psychiatrist were eventually followed in 7. In all, there have been only six decisions contrary to recommendations.

#### SUMMARY AND CONCLUSION

The main thesis of this paper has been that the education of all individuals and particularly jurists who plan to take an active part in the management and control of criminality, must include a sound training in psychiatry, psychology, sociology, and other fields related to the study of human behavior. Inasmuch as the legal profession is the most intimately concerned, it necessarily follows that some such educational provision be included in the curricula of our law colleges.

Although problems of civil law such as contracts, torts, dependency, testamentary capacity and the like, have not been discussed in this article, it is self-evident that the need for close coordination between law and psychiatry is as great in this field as in that of criminal jurisprudence. The primary significance of the mental condition of the individual in the adjudication of civil cases is well recognized by the law. Problems in which the psychiatrist must take part arise so frequently in such cases that what has been said regarding his function and his province elsewhere must apply here as well.

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