Journal of Criminal Law and Criminology

Volume 54
Issue 4 *December*

Article 3

Winter 1963

The Psychiatric Examination

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THE PSYCHIATRIC EXAMINATION*

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The psychiatrist is frequently called upon as an expert witness in criminal cases. To what extent is the cause of justice promoted by reliance upon his opinion? Do counsel delve sufficiently into the bases which may or may not support a psychiatric opinion, and, if not, what questions can be put to the witness to elicit support for his opinion, or to uncover the weaknesses therein? Finally, what are the philosophy and techniques that comprise a well conducted psychiatric examination and an accurate psychiatric appraisal? In the following article, Dr. Meyers considers these and related questions of concern to the legal and medical professions alike.—EDITOR.

The examination of the patient for a psychiatric appraisal is a vital and important procedure. In many instances it becomes a matter of life or death, or perhaps the whole future of the examinee's life. Increasing emphasis is being placed upon the work of psychiatric experts and their opinions in the field of law. It is more necessary than ever that any opinion rendered be based upon substantial evidence. Too often conclusions given are the result of impressions, intuitions, and even hunches.[1] It is not necessary to guess, for modern techniques are reasonably accurate and are sufficient to support conclusions in the great majority of cases.

Recently, consequent to hearings conducted by a special commission of the Assembly of the State of California to study the question of legal insanity, Mr. J. Miller Leavy, a deputy district attorney for Los Angeles County, appeared on television in Los Angeles and declared that since psychiatric opinions are based entirely upon what a prisoner tells the doctor, and because clever prisoners could lie and fool the doctor, reliance upon the work of the psychiatrist is dangerous and a threat to the cause of justice.[2] This is, of course, a case of "a little knowledge is a dangerous thing," for Mr. Leavy's experience in the courts, in which he has had occasion to cross-examine and work with many psychiatrists, results in a distorted and biased view. He unfortunately is not in a position to be able to see psychiatric service at its best. What he says is only partially true, for the expressions of the prisoner, while an essential source of information for the doctor, are not the only source, by any means. The experienced examiner is able to gather much more data about the prisoner than just the words expressed by him.

The skepticism voiced by Mr. Leavy is, unfortunately, shared by many others in the legal field.[3] But, of even more importance than its place

* This article is a revision of a paper presented by Dr. Meyers before the American College of Neuropsychiatry, January 20, 1963, in Miami, Florida.

[1] "Nothing does more discredit to psychiatry than an opinion on criminal responsibility in a capital case based on one or two interviews and supported by minimal evidence of mental abnormality." MACDONALD, PSYCHIATRY AND THE CRIMINAL 32 (1958).

[2] SPECIAL COM'N ON INSANITY AND CRIMINAL 1962). See also Graham, *What To Do With the Psychopath*, 52 J. CRIM. L., C. & P.S. 446 (1962): "It is no secret that the courts and legislatures have been reluctant to date to accord the same prestige to psychiatry as to the other sciences. . . . But . . . despite widespread divergencies of opinion among them in many areas of their study, psychiatrists have been able to define and diagnose certain categories of mentally sick individuals."

[3] In a discussion of the American Law Institute's Model Penal Code Proposal relative to mental disease, Freedman, Guttmacher & Overholser, *Mental Disease or Defect Excluding Responsibility*, 118 AM. J. PSYCHIATRY 33 (1961), state "The question clearly should be, How may the courts optimally elicit testimony from the psychiatrist concerning psychopathology so

in legal procedures, the psychiatric examination is OFFENDERS, STATE OF CAL., FIRST REPORT (July 7, necessary to the treatment and correction of mental and emotional problems.[4] It is a strange anomaly that elaborate routines are found necessary for the diagnosis of physical ailments, but that the personality and character factors of the diagnosis are left to chance conclusions and views. The most superficial details seem to suffice to support a decision. Everyone is, in a sense, an amateur psychiatrist, free with his diagnostics and advice. No area of medicine demands precise appraisal as much as this one. The psychiatric examination is a procedure of fundamental importance in both medicine and law. There is little place in either of these disciplines for flimsy and shaky opinions or conclusions. The study of the emotions and the mind has always had a metaphysical quality to it which has fostered the sidestepping of the procedures of science. But the mind and human subjective experience need the careful investigation that scientific precision provides, perhaps even more than the more concrete behavioral problems.[5]

In order adequately to examine a psychiatric problem, the examiner must have some theory of behavior and mind. Only with such a theory can he make an orderly inquiry, for he must know what he is looking for.[6] Actually the matter of what personality concept is adopted is secondary, as long as it is well learned and encompasses the whole spectrum of human conduct. The most popular theory today is that of Freud, which his disciples, in their ethusiasm and conviction, preach as truth and the proved explanation. Actually, proof is lacking, but the premise is logical if its initial bases are accepted. This same situation prevails with the teachings of Jung, Adler, Sullivan, or others. A workable theory is one proposed by Anderson:

> "The fact of structuralization, and the fact of the need to maintain the structure [one's moral standards] intact, produces the consistency of behavior with which we are familiar in all people. The pattern of life of every individual is a living out of his life image: it is his road map for living. People can be counted on to believe according to their patterns. This consistency is not voluntary or deliberate but compulsive, and generally outside of awareness."[7]

Perhaps the safest base from which to derive a theory is anatomy, physiology, and the findings of experimental psychology and research. Not all answers are immediately forthcoming from these sciences, but their empirical studies may supply a foundation for whatever hypothesis is formulated. Freud and the others become more practical on this basis. It is possible, with a current knowledge of the workings of the mind to adopt an eclectic theory if one is not commited to a preestablished school.[8]

Modern scientific thought requires that clinical conclusions follow an accepted order. With a firm base on which to proceed the doctor may go on by means of the rules of deduction or by inference.[9] It must be recognized that anything that unsettles the theoretical base on which conclusions would rest will nullify or weaken any conclusions or interpretations placed upon the data of the examination. Here is the source of much error, for most opinions are inductive and as such can offer no positive proofs. Personality theories currently in vogue are not rigorously formulated; often only loose and vulnerable inferences can be drawn

that its own legal question concerning responsibility may be answered with maximum information at its disposal?"

[4] Brancale, *Psychiatric, Psychological and Case Work Services*, in CONTEMPORARY CORRECTION 194 (Tappan ed. 1951), calls attention to the fact that there are in an average adult correctional institution two to four percent suffering some form of latent psychosis and about ten to fifteen percent are mentally deficient. "Yet it is found that many of them have rather normal personalities aside from their intellectual deficiencies, and there is no need to transfer them to another institution merely because of their low intelligence." In addition to the above there are also a relatively small percentage of organically damaged individuals.

[5] PAP, AN INTRODUCTION TO THE PHILOSOPHY OF SCIENCE 3 (1962): "The scientific mentality may be roughly characterized as the tendency to suspend belief until evidence of the appropriate kind is produced and then to believe the proposition in question only to the degree that the available evidence warrants it, without excluding the possibility of a future disconfirmation." See also Alexander, *Differential Diagnosis Between Psychogenic and Physical Pain*, 181 J.A.M.A. 855 (1962). Here is a rather unique demonstration of an objective detection of subjective values.

[6] KARL A. MENNINGER, A MANUAL FOR PSYCHIATRIC STUDY (1952).

[7] Anderson, *The Self-Image: A Theory of the Dynamics of Behavior*, 36 MENT. HYG. 230 (1952).

[8] Thomas J. Meyers, "Mind" (unpublished manuscript presented before the Pennsylvania Osteopathic Association, May 1962).

[9] FRANK, PHILOSOPHY OF SCIENCE (1957), quotes Whitehead, "It is legitimate . . . to abstain from the criticism of scientific formulations as long as the superstructure 'works.' But to neglect philosophy when engaged in the reformation of ideas is to assume the correctness of the chance philosophic prejudices imbibed from a nurse, or a schoolmaster or current modes of expression."

from them. Northrop, in speaking of legal principles, states:

> "The more empirical the determination, the richer the content of living law.... Fully adequate inductive investigation must supplement and simplify [the studies of McDougal] by concentrating attention on the empirical determination of the logico-meaningful or philosophically basic doctrines held in common by large numbers of people in the particular society being studied."[10]

The differing convictions held by psychiatrists, acquired usually by the indoctrination of their training and the development of their thought over the years of their clinical and professional contacts, often account for the differences of opinions based upon the same examination detail.[11] Some indoctrination in legal principles and values is an almost necessary qualification of forensic examiners.[12] The psychiatrist is certainly expected to be familiar with sociological values, so that his conclusions may fit into a practical and workable interpersonal setting.[13]

On the basis of the psychiatrist's concept of personality, regardless of what it may be, inquiry by means of the examination is pointed to the clarification of individual functioning values. For practical purposes, the overall objectives of the examination may be crystallized into three categories: Values, Facade, and Content.[14] Values represent the basis of one's life, the intent behind each act, and the direction in which one is going.[15] The examination of the patient today is not primarily interested in the detection of psychoses or major psychiatric nosologies; at least such detection is not the chief concern of this paper. The methods commonly used for this purpose are printed in nearly every text-book on psychiatry. Rather the objectives aimed for are concerned with finer nuances of personality and are needed not only for diagnostic purposes but facilitation of therapy. Inquiry into the values of the patient is not directed, at this point at least, toward psychotic distortions, but rather toward those things about a person that make him the particular individual he is.[16] Values are not always shown, for they may not fit well into the social milieu, and their social acceptance is essential.[17] This consideration calls for the second of the categories, facade. Under this heading are the defenses, the assumed attitudes and poses, both conscious and unconscious, which make life tolerable and possible. There is always an emotional force behind a facade.[18] The emotional variations found in patients reflect individual differences among them. The presence of emotional pressures is always important and is nearly always related to a facade of some kind. Stevenson and Matthews state:

> "[H]ostilities and blocking betray emotional tension, so may their opposite, a quickening of the speed of speech as if from some internal pressure. We must watch also for a change in the tone of the voice, irrelevant laughter, dryness of the mouth, restless movement of the hands and body, slight flushing of the face, a turning away of the eyes, the glistening of early tears...."[19]

Regardless of the skill of the examinee as a malingerer, he will never have a perfect facade. When he has successfully fooled an expert, it is by maneuvering some examination technique away from a direct finding. The number of such skillful individuals coming for appraisal are few and far between. The great majority of patients cooperate

[10] NORTHROP, THE COMPLEXITY OF LEGAL AND ETHICAL EXPERIENCE 114 (1959).

[11] Meyers, *The Riddle of Legal Insanity*, 44 J. CRIM. L., C. & P.S. 330 (1953).

[12] WEIHOFEN, INSANITY AS A DEFENCE IN CRIMINAL LAW 84–108, 201–52 (1933). This reference contains a rather detailed description of the legal concern about mental conditions, and how matters of law become an inextricable part of expert opinion.

[13] LEWIN, FIELD THEORY IN SOCIAL SCIENCE 238–97 (1951). This is a discussion of group and individual behavior as influenced by the totality of a situation.

[14] WEIHOFEN, *op. cit. supra* note 12, at 46. "It is interesting that Overholser stated in 1929, The individual is not a thinking machine, governed entirely by ethical or legal considerations of right and wrong, his mental process manifests itself in a tripartite mode—Cognitive, or intellectual; conative or volitional; and affective or emotional. Mental sanity requires a more or less healthy functioning of all three facets...."

[15] WOLFF, in VALUES AND PERSONALITY (1951), has described values of life in terms of existential psychology: "Existential psychology, an interpretation of data in terms of an individual's value system, has its application in existential psychotherapy."

[16] "To be aware of our body in terms of things we know and do, is to feel alive. This awareness is an essential part of our existence as sensuous and active persons." POLANYI, THE STUDY OF MAN 31 (1959).

[17] "An individual who is forcibly moved from his own to another country with a different culture, is likely to meet the new set of values with hostility. So it is with an individual who is made a subject of re-education against his will. Feeling threatened he acts with hostility." LEWIN, RESOLVING SOCIAL CONFLICTS 64 (1948).

[18] Stevenson & Matthews, *The Art of Interviewing*, 2 G.P. 62 (1950).

[19] *Ibid.*

freely and willingly and develop considerable interest in the proceedings.[20] When in the quiet of the consulting office and the patient is there voluntarily, the resistances he shows are usually part of the defense facade which makes up much of the problem under study.

Content represents the least difficult of the material to be elicited, for there are instruments that measure rather accurately many of the personality factors. The presence of ideas of a strange nature may not have a bearing on content, but rather reflect values. However, intellectual potential, artistic ability, sensuous capacity, cultural development, as well as such characteristics as introversion and extroversion, are part of a person's makeup and are definite traits which may be used or not used. Content often determines the direction of one's life, leading the person into a particular profession or trade. It is not always consistently governed by the emotional value engendered within the person, nor does it always represent the best performance of the individual. Content in some ways influences behavior, whether it be manifested or not. The behavior of the patient under study represents a mingling of all the factors and forces within the subject. The examination serves to identify the parts and synthesis of them.

The cross-sectional part of the examination is literally a survey of the current span of the patient's life. His values and facade are actively functioning, and the products of his earlier experiences are on display as the result of his living efforts. Outlines in psychiatric texts serve as a basis for appraising the various personality facets. Menninger's book offers a good outline.[21] A particularly careful inquiry into all details is given in Muncie's textbook.[22] The cross-sectional investigation includes an appraisal of the actual functioning of the patient being examined, the ramifications of his life, his affiliations, family, loves, friends, social mores, religion, employment, amusement outlets, and also his fantasy life.

From here it is but a step to the longitudinal study. As Appel and Strecker note:

> "When it comes to the longitudinal view of the patient's personality development of the forces that have contributed to the present perspective it is a different matter. Here there is a great difference among psychiatrists. Some of us are near-sighted, others wear tinted glasses while others are thought to see only astigmatically."[23]

Much of the material of this study is concerned with the development of a clear-cut picture of the patient as a living, developing individual.[24]

Current advances in modern science have been fantastically phenomenal. The achievement of Mariner-II is almost incomprehensible, yet it is the product of human planning and intellectual acumen. In the face of such performance, the matter of inquiry into the nature of the behavioral pattern of an individual seems elementary to an extreme.[25] Nevertheless, in practice, doubt has been cast upon the pychiatrist's ability accurately to identify everyday problems which he is amply equipped to define. Psychiatrists are asked to give an opinion and are not too often expected to demonstrate what they present.[26] To some extent this failure to request support for the opinion represents faith in the doctor's ability to be accurate, but in other instances it is because the challenger, if there is one, knows no better.

The psychiatrist can support his points. However, to do so, he must establish the base on which

[20] DAVIDSON, FORENSIC PSYCHIATRY 24 (1952), states that when a person is warned what he tells will be used in the report, "it might be expected that such a warning would dry up the patient's flow of words, but it usually has no such effect."

[21] MENNINGER, *op. cit. supra* note 6.

[22] MUNCIE, PSYCHOBIOLOGY AND PSYCHIATRY 38-192 (1939).

[23] APPEL & STRECKER, PRACTICAL EXAMINATION OF PERSONALITY AND BEHAVIOR DISORDERS (1936).

[24] Modern training of psychiatrists provides work in a Child-Guidance service where the trainee learns first hand the growth and development of children, and hence the background of adults.

[25] While the gap between physical sciences and humanistic sciences is wide, there is a definite trend toward bringing the two disciplines together. Mathewson, *Science for the Citizen: An Educational Problem*, 135 SCIENCE 1376 (1962), states, "The hope that science could help reveal the absolutes of good and evil, truth and beauty, life and existence has faded, but the rifts between men of science and men of religion and the arts that arose over the question of man's true powers have remained. Communication between the scientist and the humanist has broken down at a time when our society requires wisdom and consensus within the intellectual world."

[26] The word "proof" is used in a legal sense and not in the sense of scientific terminology. In inductive processes there is no proof, and deductive proof is conditional and syllogistical. The following is an example of legal proof:

> "Depending upon the injuries involved, it may be advantageous in certain cases for medical experts to explain relevant theories to the jury, since the jury must be made to understand that protestation of pain where there is apparently little physical cause for pain is not necessarily malingering, . . . it must be phrased as 'reasonably certain' in some courts, and as 'reasonable probability' in others." Olender, *Proof and Evaluation of Pain and Suffering in Personal Injury Cases*, 1962 DUKE L. J. 367.

his conclusions are founded. As mentioned earlier, the rationale may vary with the school of thought of the expert. It is well to remember that the theories of Freud and others are not proved (nor are they disproved).[27] Referral to the works of the founder of a school of thought is not a proof. More substance than this is required. In the same vein testimony that is limited to quoted statements of the examinee does not present proof of the opinions derived from them, unless the expert shows the significance of the whole situation.[28] While such a showing would be theoretically impossible, data relative to a situation should include, besides the statements made, the way in which they were made, the general attitude of the subject, the force behind the statements, and the accompanying inferences and expressions.[29] Practically all current authorities on acceptable interviewing techniques insist that direct questioning is the most ineffectual means of eliciting information.[30] The experienced psychiatrist is able by his indirect methods to elicit a comprehensive picture of the make-up of his patient. This, however, is only part of the whole picture, for the use of tests often throws a different light on the interview material. The use of certain questions is an almost essential part of an examination to make sure that all the necessary information has been brought out.[31] It should be remembered that symptoms are usually exaggerations of normal mechanisms.[32] Taken singly, symptoms demonstrate very little; however, in a totality they are very much like the pieces of a jig-saw puzzle and make an intelligent and clear picture. The physical examination is often overlooked in the examination procedure. Frequently it does not contribute notable information, and often an examination by some other physician may have been made at some recent time. Yet very often the physical may confirm suspicions entertained by the examiner about his case. Emotional tension is detectable by autonomic signs, which frequently leave their mark on the body indicating a chronicity that is consistent with certain behavioral conditions.[33] Then, of course, at times a central nervous system, or systemic, disease process may be uncovered, to explain aberrant actions.

The collection of examination data is difficult and its appraisal almost impossible without a good knowledge of approximate norms. Here is an area with a tremendous literature, none of which specifically pins down an answer to all the norms one needs for evaluation of a single case.[34] It is the educated and experienced expert who supplies the answer, for he brings to the examination a broad collection of exposures and study. The appraisal of values in the patient requires a comparison with norms to determine their significance. Usually areas of conflict come to light very soon when this comparison is made, for attempts by the patient to fit his values into an area of social

[27] In further elaboration of this point, Hobbs, *Sources of Gain in Psychotherapy*, 17 AM. PSYCHOLOGY 741 (1962), contends that the old concepts of cure by psychotherapy are not sound, that insight is not a cause of cure, but a result along with other changes. He also shows that interpretations, whether based on one school of personality dynamics or another, are about as ineffective in one instance as the other.

[28] Legal or otherwise. See also, Littman v. Bell Telephone Co., 315 Pa. 370, 172 Atl. 687, 692 (1934). The Pennsylvania Supreme Court held inadmissible a physician's statement that the plaintiff suffered "The pain he complains of . . . [because] pain being a subjective phenomenon only the person who experiences it is competent to testify as to its actuality." Also Olender, *supra* note 26, at 371, "Measurement of pain depends upon how much analgesia is required to relieve the pain."

[29] Deutsch, *Associative Anamnesis*, 8 PSYCHOANAL. Q. 358 (1939), is designed for this purpose.

[30] An exception to this is a study by Marjerrison, Freedman & Cutler, *Structured Interview Method for Psychiatric Research*, 135 J. NERV. MENT. DIS. 346 (1962).

[31] See Stevenson & Matthews, *supra* note 18; MENNINGER, *op. cit. supra* note 6, at 20, 25; and DAVIDSON, *op. cit. supra* note 20, at 30–32, each of which lists a series of questions which are for points that the examiner must cover to elicit the information necessary to make his report or opinion pertinent to the purpose of the examination. The questions probably cannot be answered satisfactorily by direct questioning.

[32] Siegal, *On the Prevalence of Some Common Neurotic Characteristics in Normal Man*, 182 J.A.M.A. 1031 (1962), points out that common neurotic traits are also very common in a great majority of so-called normal persons. See also Kubie, *The Fundamental Nature of the Distinction Between Normality and Neurosis*, 23 PSYCHOAN. Q. 167 (1954).

[33] Meyers, "An Enquiry into the Objective Measurement of Emotion" (unpublished Ph.D. Dissertation, 1949, in Honnold Library, Claremont University College, Claremont, California); DUNBAR, EMOTIONS AND BODILY CHANGES 81–110 (2d ed. 1938).

[34] The author has prepared a number of unpublished studies on various norms. These are, "The Psychodynamics of the Female Pelvis," presented before the Los Angeles Obstetrical and Gynecological Society; "Feminine Resistance," presented before the American College of Osteopathic Obstetricians and Gynecologists, Las Vegas, 1961; "Man and his Ego," before the Auxiliary of the American College Osteopathic Obstetricians and Gynecologists, Las Vegas, 1961; "The Influence of the Family on Mental Health." These deal with the masculine-feminine values of modern American society. See also Saul, *The Distinction Between Being Loving and Being Loved*, 19 PSYCHOANAL. Q. 412 (1950).

acceptance are often accompanied by stress and emotional upheaval and rebellion.[35] Anderson states:

"In general the disability of the neurotic individual is determined not so much by the discrepancy between his assumptions and the actual reality situation, but rather by the discrepancy between his assumptions and the assumptions of the specific cultural environment with which he tries to identify himself."[36]

Values and their facades are the revealing signs of the individual. When a picture of the patient in these terms is well elicited and then compared with norms, he stands out in bold relief as an individual, and his character structure is presented as if projected onto a photograph. The development of the facade, or the defenses of the psyche, is the veneer of civilized conventional life. It is dependent upon the demands of the social setting and emphasizes the need for acceptance.[37]

Many studies, for example, on the etiology of schizophrenia point to social factors which in one way or another show rejection or overprotectiveness to be prevalent and possibly causative.[38] The facade cloaks the pain of such a background. Only by penetrating this armor can the full extent of the real values be revealed.[39] Humans frequently live their lives with no disturbance of the facade, and with only partial realization of the social worth of their values. The examination procedure needs some identification of the nature of the character expressions noted. In other words, defenses should be known as defenses and not be considered true personality values. Common defenses are such feelings as guilt, shame, and grief, which Daniels has pointed out as the screen behind the causative structures in most cases of depression.[40] Conte and Stubblefield, in discussing the depressed worker,[41] describe him as one who works hard at what he does. His activities are relatively few in number, but he is extremely wrapped up in those that he does pursue. He is perfectionistic and approaches every problem with the feeling that it must be accomplished correctly. Sometimes he lacks color, charm, and spontaneity. Usually he is shy, sensitive, and seclusive, but he is often respected because of his conscientiousness, thoroughness, and meticulous devotion to duty. These are defense mechanisms and represent a facade, biding the real personality values.[42]

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[35] Whitehorn, *Social Dissatisfaction and Personality Disorder*, Soc'y Transactions, Boston Soc'y Psychiat. and Neur., meeting of Mar. 28, 1947, 62 ARCH. NEUR. & PSYCHIAT. 515 (1949), which shows the close ties of the individual with his social milieu. Also Scott, *Critical Periods in Behavioral Development*, 138 SCIENCE 949 (1962); SELYE, THE STRESS OF LIFE 27 (1956): "Experiments on animals have clearly shown that each exposure leaves an indelible scar, in that it uses up reserves of adaptability which cannot be replaced."

[36] Anderson, *supra* note 7, at 243.

[37] Kubie, *supra* note 32, contends that whenever there is a dominant unconscious pattern of behavioral expression there will be behavior that is repetitive, insatiable, and stereotyped, and that this is a sign of the neurotic process.

[38] Sanua, *Socio-Cultural Factors in Families of Schizophrenics: A Review of the Literature*, 24 PSYCHIATRY 246 (1961); Henry, *Permissiveness and Morality*, 45 MENT. HYG. 282 (1961).

[39] The common understanding of defenses is that stemming from Freud. See ANNA FREUD, THE EGO AND MECHANISM OF DEFENSE 45–57 (1946): "To these nine methods of defense, which are very familiar in the practice and have been exhaustively described in the theoretical writings of psycho-analysis (regression, repression, retroaction-formation, isolation, undoing, projection, introjection, turning against the self and reversal) we must add a tenth . . . sublimation, or displacement of instinctual aims."

In a more technical presentation BERGLER, PRINCIPLES OF SELF DAMAGE 100 (1959), states, "The neurotic symptom in my opinion does not present a 'substitute gratification' but rather a *substitute for a twice filtered substitute gratification*. This seems to me to be the invarying sequence of events:

Layer I An unconscious wish (x) or a stabilized 'end result of the infantile conflict' emerges from the id.

Layer II First veto of the superego forbidding x.

Layer III First defense of the unconscious ego, denying guilt for harboring x, and admitting the opposite wish y.

Layer IV Second veto of the super ego, forbidding the substitute of y.

Layer V Second defense of the unconscious ego, reverberations of substitute wish y, are smuggled through the 'cordon sanitaire' in threefold guise: (a) a promise to pay 'conscience money' in the form of conscious disadvantages, suffering, guilt, penance for y, (b) an alleged authorization for substitute wish y in the form of 'lip service conformity to ego-ideal precepts,' (c) a consciously visible rationalization which blends the afflicted person to the real internal facts.

Layer VI The second defense mechanism always corresponds to the external act, whether normal, neurotic or psychopathic. An analysis stands or falls on making the correct distinction between id wish and secondary defense."

[40] Daniels, *Psychotherapy of Depression*, 32 POST-GRAD. MED. 436 (1962).

[41] Conte & Stubblefield, *The Industrial Physician and the Depressed Patient*, 29 INDUST. MED. & SURG. 471 (1960).

[42] Stevenson & Sheppe, *The Psychiatric Examination* in 1 AMERICAN HANDBOOK OF PSYCHIATRY 216 (Arieti ed. 1959), state, "It is possible to take a harmfully one-sided view of the patient's symptoms by considering them exclusively as defenses. Such narrow-

It is only by recognizing norms of behavior and adjustment that the identity and strength of defenses can be recognized. The training and background of the psychiatrist indoctrinate him with a knowledge of these factors. Some concern has been expressed that medical education, which is preoccupied with the abnormal, distorts the perspective of the doctor when he looks upon the normal.[43] Perhaps this is true to some degree, but modern medical education extends into allied fields such as anthropology, sociology, and psychology. The doctor has available to him consultants in all fields. It is probable that the modern psychiatrist has a good appreciation of the average levels of behavioral performance or norms. These are everyday experiences, but basic to the action patterns of men and women today are the peculiarities of their sexes and the attraction between them. Social structure is built upon the relationship of men to women and vice-versa. Psychological values correspond with the social demands upon individuals who make up the great body of society. Freud's work established some norms which may have been applicable in his day, but today it is necessary to modify his views somewhat.[44] A scale of norms in terms of the current revolutionary changes in our contemporary social and political structure is essential if an appraisal of abnormality is to be made. The work of Anderson has been mentioned earlier in this paper,[45] and with it, other studies appearing in current literature, such as those by Whitehorn,[46] Arsenian,[47] Maholick and Shapiro,[48] and Katz, [49] for example, present a picture of what is happening to current values. The average patient examined by the psychiatrist is influenced by these values, and his behavior is conditioned by them. The adjustment effort shows up in the facade, and the degree of effort to maintain the facade can be measured by the level of tension attending it.

The measure of tension for most practical purposes is based on the psychiatric examination in its totality. However, certain findings appear to be almost direct indications of a rise in tension above the expected norm. Unstable psychological controls, both inner and outer, reflect heightened tension. This instability may be reflected in irritability, anger, belligerence, erratic performance, restlessness, flushing of the face, or silence with tightened muscles. Further evidence is obtained by measure of the blood pressure, pulse, respiratory rate, electrical resistance of the skin, as well as flushing and sweating of the skin.[50] All such signs should be carefully noted.

The examiner should not trust his memory in proceeding with the examination, but should use some guide to assure completeness of the information gathered. Most authorities recommend some procedure to accomplish this. Menninger suggests a lists of topics, such as the following:

1. Identification
2. Perception
3. Intellection
4. Emotion
5. Behavior
6. Self-Concept
7. People
8. Work, Play, Money
9. Philosophy & Religion
10. Defenses
11. Anxiety
12. Insight
13. Facade
14. Assets
15. Summary[51]

John MacDonald gives the following questions the examiner should have answers for, when examining for the court:

1. Did the suspect at the time of the act with which he is charged, know the nature and quality of the act?
2. Did he know the act was both morally and legally wrong?
3. Was he acting under an irresistible impulse?
4. Was he by reason of disease of the mind unable to choose the right and refrain from the wrong with respect to the act charged?
5. Was he at the time of the criminal act capable of forming the intent to commit the act?
6. Was he under the influence of drugs or alcohol at the time of the act?
7. Is he likely to benefit from psychiatric treatment?

ness can lead to absurdities such as the explanation of a schizophrenic psychosis as an escape from difficulties in living."

[43] Simburg, *The Misuse and Abuse of Certain Mental Health Concepts*, 36 MENT. HYG. 589 (1952).

[44] Shaffnew, *Thoughts About Therapy Today*, 43 MENT. HYG. 339 (1959). Here is an almost soul baring discussion of some rethinking by a psychoanalyst about psychoanalysis.

[45] *Supra* note 7.

[46] Whitehorn, *Basic Psychiatry in Medical Practice*, 148 J.A.M.A. 329 (1952).

[47] Arsenian, *Situational Factors Contributing to Mental Illness in the United States: A Theoretical Summary*, 45 MENT. HYG. 194 (1961).

[48] Maholick & Shapiro, *Changing Concepts of Psychiatric Evaluation*, 119 AM. J. PSYCHIATRY 233 (1962).

[49] Katz, *The Role of the Father*, 41 MENT. HYG. 517 (1957).

[50] Meyers, *op. cit. supra* note 33.

[51] MENNINGER, *op. cit. supra* note 6, at 91.

8. Is he likely to be a danger to himself or others if released?
9. Is he able to understand the nature of the proceedings against him and is he able to assist his attorneys in his own defense?
10. What is the psychopathology of the suspect and his criminal act?[52]

Special tests should be used to establish the functioning level of the various facets of the personality.[53] There are standardized procedures available, but they must be given with precise attention to all details of administration. Memory and judgment are of vital importance, especially if the subject is in litigation of some kind. A poor memory is suggestive of pathology and calls for a careful inquiry into the subject's mental flexibility and the degree and nature of concreteness of his thinking. The measure of organic involvement may be estimated by these tests in many cases, and the direction for further probing may be indicated. The development of tests and an examination technique that will detect finer shades of brain tissue destruction remain for the future. Evaluation of mood as well as psychomotor activity is not particularly difficult with available procedures which have been in use long enough so that their application has been almost standardized.[54] Other personality facets are accessible to commonly used tests and require no further discussion at this time.

Content represents a major area for investigation. The most frequently called for is determination of psychotic involvement. Here classical psychiatric examination techniques bring out the presence of delusions, hallucinations, or distorted thought content.[55] In the appraisal of ambulant cases it is well to make some estimate of creative ability, intelligence, artistic and mechanical potentials, as well as innate qualities such as introversion and extroversion. The use of psychological tests and the services of the psychologist are often required for this. A well talented individual with great stores of unexpended energies can be expected to be active and perhaps troublesome, if he is not doing something that channels his energies into constructive projects.

The standard scope of the psychiatric examination has been outlined by the American Psychiatric Association as follows:

"The diagnosis of mental illness is exclusively the function of the trained medical expert, the qualified psychiatrist. The full and complete diagnosis of the presence or absence of an illness should be based on the *synthesis* of data from several sources which in our present state of knowledge regarding mental illness we believe to be relevant factors. The raw data can be classified into two categories—observational and historical. Observational findings include information from the following area:

1. General physical examination.
2. Neurological examination.
3. Laboratory test results, such as x-rays, various tests of the blood, urine, spinal fluid, gastric juice, electroencephalogram, etc.
4. Mental status (observation of behavior, thoughts and feelings)
   (a) during an interview.
   (b) during a period of hospital observations as reported by the nurse, psychologist, social worker, nursing assistant, occupational therapist, recreation therapist, volunteer worker, or others who may have an opportunity to report observations of the individual.
   (c) Structural psychological test data.

Historical findings in several areas and several sources are considered:

1. Personal history
   (a) Developmental history as related by the individual and family members and as may exist in records of agencies and institutions.
   (b) Medical history, previous symptoms and illness and treatment.
2. Environmental history
   (a) Cultural and sociological background.
   (b) Genetic—hereditary characteristics.

... the diagnosis must reflect a comprehensive

[52] MACDONALD, *op. cit. supra* note 1, at 39. DAVIDSON, *op. cit. supra* note 20, at 28, also gives a list of questions of a similar nature which the examiner should be able to answer.

[53] WELLS & RUESCH, MENTAL EXAMINERS HANDBOOK (2d ed. 1945).

[54] Stevenson & Sheppe, *supra* note 42, at 228. In addition the use of psychological tests is valuable in assessing mood and emotional levels. This should be correlated with appraisals of tension.

[55] It is interesting that WILLIAM ALANSON WHITE in his AUTOBIOGRAPHY, at 50 (1938), tells how, when he first went to Binghampton Hospital as a new resident physician, he talked to one of the patients who had all the characteristics of paresis, but he recognized none of them.

medical judgment in which the proper weight is given to all of the data available."[56]

There remains in this discussion the consideration of tips and clues in the search for information. The examiner to be effective must be keenly alert to every detail. For example, during the examination of a man arrested for an homosexual approach to a vice-squad officer, he was found to have a very active gag reflex. With such a reaction it is highly improbable that he would be a soliciting oral homosexual partner, though it conceivably could be so. Another man, a dentist, was arrested and charged with sexually fondling the genitals of some adolescent boys, which he denied. Examination brought out an almost obsessional interest in large penises, driving him to watch men expose their organs in rest rooms, locker rooms, etc. This fact saved him from a felony conviction, for it was shown that he had little interest in boys who would have small sexual organs. Points of this kind are not proof in themselves of anything, but they serve to start inquiry into areas that otherwise might be overlooked. Specific investigation very often requires the use of direct questioning. Gregory gives as suggestions:

> "[T]here are certain techniques that may be helpful to bear in mind: (1) *narrowing* involves asking a sequence of questions that proceeds from general to specific issues; (2) *progression* involves arranging a series of questions to progress from less intimate to more intimate matters; (3) *embedding* involves concealing a significant question in the midst of a sequence of questions that appear routine and affectively neutral; (4) *leading questions* are based on an assumption which has not been previously admitted;... (5) *hold over* questions involve ignoring emotionally charged material about which a patient blocks early in an interview and asking about it later on in another context; (6) *projective questions* involve general attitudes and values...."[57]

To this series another might be added: *delayed explosion* questions which dawn upon the patient after he leaves the interview and prepare him to be ready for their exploration at the next session.

Points of individual peculiarity should be noted such as tattoos,[58] unusual acts,[59] physical disabilities,[60] skin disorders,[61] and, perhaps of the most widespread significance, general movement idiosyncracies. Lowen, in a very interesting study of physical patterns of behavioral tendencies, gives suggestions of character traits from gross movements.[62] For example, in describing the "hysterical character" he writes:

> "Most evident was the fact that the area of the face extending between both cheek bones and across the bridge of the nose had a dead appearance. The skin was fairly taut and dry and looked cadaverous. The eyes had a frightened look. The mouth was tight and the lips reached forward. The shoulders were high, straight and very stiff. The arms were thin giving the shoulders a bony appearance. The upper half of the body was thin and very stiffly held. The chest was rather soft, but the back was very rigid. The color of this part was very white. In contrast the part of the body from the pelvis downward was full and soft. The skin here had a tan coloration and the legs were quite hairy."[63]

And a further description, to show the incisiveness of Lowen's appraisals, relative to the schizoid character:

> "The shoulder segment in the schizoid character shows a characteristic disturbance. The arms have power but the movements of hitting are split. The body does not take part in the action. This is a different quality than the disturbance found in the oral character. There the arms appear disjointed and one senses that the evident muscular weakness is the responsible factor. In the oral character, the movement looks impotent...."[64]

[56] Hoch & Darley, *A Case at Law*, 17 AM. PSYCHOL. 640 (1962). See also GREGORY, PSYCHIATRY 68–99 (1961): "The first essential of the psychiatric examination is a word picture of the patient which may be organized under three headings: A, B, & C,—Appearance, Behavior and Conversations." And see MACDONALD, *op. cit. supra* note 1, at 45: "Intuition is an important part of the psychiatric examination if the intuitive judgment is regarded with a healthy skepticism and accepted as a signpost for further investigation."

[57] GREGORY, *op. cit. supra* note 56, at 80.

[58] Ferguson-Rayport, Griffith & Straus, *Psychiatric Significance of Tattoos*, 29 PSYCHIAT. Q. 112 (1955).

[59] Waggoner, *The Early Recognition of Behavioral Disturbances*, 29 INDUST. MED. & SURG. 465 (1960).

[60] Gelb, *Personality Disorganization Camouflaged by Physical Handicaps*, 45 MENT. HYG. 207 (1961).

[61] Gilberstadt, *A Model MMPI Profile Type in Neurodermatitis*, 24 PSYCHOSOM. MED. 471 (1962).

[62] LOWEN, PHYSICAL DYNAMICS OF CHARACTER DISORDER 358 (1958). In this same connection in the author's paper "The Psychodynamics of the Female Pelvis," it was shown how the individual reveals herself without being aware of it. Basic knowledge of this kind allows the examiner an advantage in his inquiries.

[63] *Id.* at 247.

[64] *Id.* at 335.

The background of the patient also offers tips that are helpful; for example, asthma in early life suggests a rather dependent, possibly overprotected individual. Other illnesses imply patterns in the background as well as in the current behavior. Accident prone persons, detectable by a history of much medical care and many hospitalizations, will have attacks of jitters when discussing problems in the area of their major conflicts. Dunbar states:

> "An obvious fact, already emphasized but to which too little attention is generally given is that all patients are not tense in the same way. Some patients who are tense show this in an appearance of stiffness, jerky movements, or a high strident voice, whereas others give no obvious evidence of tension so that one is surprised to discover in the course of physical examination how tense they really are. . . . Patients with hypertension, gastro-intestinal disease, or some other smooth muscle spasm, on the other hand are likely to have a generalized tension which often escapes notice because of the appearance of quiet control."[65]

Dunbar presents in her book a very detailed history and examination procedure for psychosomatic and functional nervous conditions.[66] Of particular interest is her method of using free association as an examination technique.[67] There is a wide application for free association, not only as Dunbar uses it, but also with pictures and diagrams, as well as drawings performed by the patient. In much of this approach the intent is, of course, to elicit information that is spontaneous and often in areas unintended, by the subject, for revelation. Some skill is required in using free association as an examination method, and many failures in the results obtained may be due to poor technique.

An examination approach which is an aid in correlating the information given by the subject and the truth is the use of the polygraph, or lie-detector. This is usually an instrument that simultaneously records the blood pressure, depth of respiration and its rate, pulse, and electrical resistance of the skin.[68] Closely related to the polygraph is the plethysmograph, which is an instrument used for measuring variations in blood flow in the finger tip, the pinna, and upper and lower extremities.[69] Narcoanalysis also has been mentioned from time to time as a means of clarifying questionable data and bringing out hidden memories. However, Davidson quotes Redlich as saying "Only individuals who for conscious or unconscious reasons are inclined to confess, will yield to interrogation under narcoanalysis."[70] Regardless of such skepticism the work of Grinker and Spiegel will forever keep narcoanalysis in the armamemtarius of the psychiatrist.[71] There is a generous amount of literature available on the techniques of narcoanalysis, and its shortcomings.[72]

[65] DUNBAR, PSYCHOSOMATIC DIAGNOSIS 176–78 (1943). "Coronary occlusion and hypertensive cardiovascular disease seem to occur particularly frequently in *top dogs* and *would-be top dogs*. Anginal syndrome is a frequent finding among *prima donnas* or *big frogs in small puddles*. Rheumatic fever and rheumatic heart disease occur among *teacher's pets* and martyrs. Patients with cardiac arrhythmias, although they have something of the prima donna, give the impression of *children in the dark* . . . ."

[66] *Id.* at 21–124. Also WEISS & ENGLISH, PSYCHOSOMATIC MEDICINE 59–108 (1949), where there is included a detailed study procedure for visceral problems. Each author reflects his earlier indoctrination. A technique known as associative anamnesis was developed in Deutch, *supra* note 29, and 1 DEUTCH & MURPHY, THE CLINICAL INTERVIEW 14–30 (1953). In addition see Whitehorn, *Guide to Interviewing and Clinical Personality Study*, 52 ARCH. NEUR. & PSYCHIAT. 200 (1944): "If one is studying the personality of the patient, there is no such thing as 'irrelevant talk.' The irrelevance is merely a condition of the interviewer's mind—he doesn't know what to make of it. . . . The inexperienced interviewer may wonder how he can get the facts required for a respectable record while letting the patient ramble. . . . Actually, much of the information needed will come out spontaneously, and opportunities will arise spontaneously for the necessary factual questions. . . ."

[67] DUNBAR, *op. cit. supra* note 65, at 97–105.

[68] DAVIDSON, *op. cit. supra* note 20, at 36, calls attention to the fact that lie detectors are still imperfect and are frequently misleading; also such tests cannot be used as evidence in court.

[69] Bigelow, Bryan, Cameron, Ferreri, Koroljon & Manus, *A Preliminary Report on a Study of a Correlation Between Emotion Reaction and the Peripheral Blood Circulation Using a Strain Gauge Plethysmograph*, 29 PSYCHIAT. Q. 193 (1955). The results reported by these authors suggest that plethysmography can be a valuable method of studying emotions.

[70] DAVIDSON, *op. cit. supra* note 20, at 36.

[71] GRINKER & SPIEGEL, MEN UNDER STRESS xii, 484 (1945). In rather close relationship to the detection of hidden memories and emotions, it will be of interest for the reader to review The Fact-Diagnostic Experiment mentioned in RAPAPORT, EMOTIONS AND MEMORY 53 (1950). The limitations of such a method are shown by the conditions: "[T]he fact-diagnostic association experiment is reliable only if, first, the stimulus words related to the crime situation are interspersed among *assuredly neutral* words; secondly, if a sufficient number of *assuredly innocent* subjects is used for control; and thirdly, if the experimenter decides in advance which reactions will be considered crime indicators."

[72] HORSLEY, NARCOANALYSIS (London 1943), gives a bibliography of 75 titles relative to the subject. Additional reference is found in KRAINES, THE THERAPY OF THE NEUROSES AND PSYCHOSES (1948).

Handwriting as a method of personality analysis occupies a precarious position between being accepted and being considered pseudo-science. However, there is some credence given to it as a clue to the person who does the writing. Roman, for example, states:

> "The facts we have been considering guided psychologists to the intensive study of handwriting, which became the *science of expressive movements*. Recently, aware of the projective forces released in handwriting, psychologists placed graphology in the realm of the projective techniques. . . . We employed it to get more information about a topic of special interest to us, namely the relation of muscular coordination and tonus to the personality patterns."[73]

There are a number of principles and guide posts that can be used in the examination process. These are mentioned toward the end of this paper with the hope that they will be remembered longer, and that in looking at this study in retrospect, their applicability will all the more readily be perceived.

The first principle is that human beings are not accurate in their accountings. This may be an unconscious fault, but the statements given are essentially a current experience. The detail and precision of recall are determined and conditioned by contemporary values. Outright distortion and malingering are purposeful, but still detectable. To be suspicious of the truthfulness of all statements is helpful. Differences in the conclusions of different examiners may result from this factor, for some examiners seem able to bring out more accurate statements than others.[74] Next, the rule "Every excess implies a defect"[75] is rather consistently true. Whenever excess or defect is present, the examiner should look for its opposite, which frequently is hidden behind the facade of excess. Excessive preoccupation with intellectual pursuits, for example, is often accompanied by a deficiency in muscular or motor activity. Undue indulgence in muscle building, risk taking, and other recognized masculine activities very frequently represents a facade disguising a poor masculine psychosexual identification. Closely allied to this rule is another one, "The mind pleads guilty to a lesser offense to hide a greater one."[76] Literally, "I could not have murdered that man in Los Angeles, because I was robbing a jewelry store in Pasadena at the time," or "I cannot be guilty of homosexuality because I am obviously masculine. I am a fighter, a petty thief and a robber."

Another point to keep in mind is that, "attention is focused on only one point at a time."[77] This explains, in a way, why attention is a key item in the personality survey, for it is necessary for attention constantly to shift from focus to focus in order to maintain a good contact with the environment. When the foci are not in the areas of sensory pickup, a degree of preoccupation, possibly with inner conflicts, is revealed. In this same context, an undue effort to center attention on the examiner or the examining situation is cause for note and exploration. When there are disturbances within the mind of the patient, he must draw in his resources from the periphery of his life space causing a restriction in his interests and an emphasized degree of egocentricity. There is probably a restriction proportionate to the amount of inner disturbance. The organic problem with the attendant concreteness in thinking, and loss of abstract ability and flexibility, illustrates this very well.[78]

Another rule which will be helpful is that anxiety has a relationship to hostility, and for practical

[73] Roman, *Tension and Release*, PERSONALITY 51 (Apr. 1950):
"We met this need [to measure writing] by developing and constructing a special instrument that became known as the *Graphodyne*. The Graphodyne . . . permits mechanical transmission of writing pressure from a moveable stylus to a recording device through two tambours. . . . During the writing the variations in writing pressure changes are transmitted through an air system to an inkwriter, recording on a kymograph."

[74] Higgard, Brekstad & Skard, *On the Reliability of the Amnestic Interview*, 61 J. ABN. & SOC. SCI. 311 (1960): "The findings of this study indicate that in many respects, the mothers' statements [about their children] were not particularly accurate as reports of prior events. It appears that the amnestic material did not reflect the mother's earlier experiences and attitudes as their current picture of the past . . . . What did not seem obvious when we began this study is that 'reliability' of their picture of the past varied so greatly for different types of amnestic material and from one mother to another." Also relative to disagreement between psychiatrists, see Beck, Ward, Mendelson, Mack & Erbaugh, *Reliability of Psychiatric Diagnosis: 2. A Study of Consistency of Clinical Judgements and Ratings*, 119 AM. J. PSYCHIATRY 351 (1962). "While reliability was not significantly influenced by individual biases or only by differing capacities to make observations, it was significantly influenced by the individual differences in interviewing techniques. . . ."

[75] RALPH WALDO EMERSON, Compensation, ESSAYS AND REPRESENTATIVE MEN 56 (New York, Coolins Clear Type Press).

[76] BERGLER, THE BASIC NEUROSIS 65 (1949).

[77] YACORZYNSKI, MEDICAL PSYCHOLOGY 148 (1951).

[78] GOLDSTEIN, THE ORGANISM (1939).

purposes an estimate can be made that there is about as much hostility, latent or overt, as anxiety in the psychopathology and symptomatology of the patient.[79] Hostility under the surface is responsible for much antisocial behavior and for shows of aggressiveness either toward others or to the self.[80] This seething force within is often hidden by the facade and may not show itself unless deliberately uncovered.

Finally, it is well to remember that behavior patterns do not change in their basic structure. A behavioral act might be accidental if performed once; coincidental, if twice; but when it is expressed three or more times it is a plan. Such a plan is a syncytium of values covered by a panoply of conventionality. Many acts of homicidal as well as suicidal violence are the products of such mental structures.[81] The genesis of this mechanism is in the developmental period of life, and it may be expected to persist.[82] Recidivism is really a built-in behavior stutter. Careful study of a person's life cycle shows a way of doing and acting that is quite individualistic. Clinical prediction can, with some confidence, be based upon what is discovered about a person's past.[83]

By use of these rules some appraisal of what the patient does not tell can be made. In a way the psychiatric examination is a sounding of the depths of the patient's personality. Using the approach which has been presented in this study, starting from a general area and then narrowing it down to details, concentrating on the facets that show deviation from a normal expectation, a rather clear picture of the functioning subject can be obtained.

The value of the data collected becomes fully appreciated in the analysis and study. It is a process somewhat like putting a jigsaw puzzle together, where every piece must fit. When the total picture takes form, the missing pieces can with increasing ease be identified. A diagnosis can be made, although diagnosis per se has lost some of the urgency of the Kraepelinian era. The Standard Classification of the American Psychiatric Association is the one to be used. The diagnosis is a relatively easy task if a set of questions, as mentioned earlier, has been answered by the data. The school of personality theory followed by the examiner forms a structure upon which the material of the examination may be hung.[84]

In the summation and synthesis of the examination data, a diagnosis should be determined, the etiology and development of the condition clarified, the areas of predisposition brought out, the degree of impairment determined, the amount of current stress uncovered, the defense mechanisms and their strength evaluated.[85] In addition, a determination should be made as to the preferred method of disposition of the case, that is, how safe is the patient, what is his ability to control himself, and what would be the most effective method of treatment. Some estimate should be made of a practical goal and of the obstacles to a successful treatment result.[86] Certainly with this much information at hand, errors such as those mentioned by Mr. Leavy will not occur very often.

Conclusions

This study presents some answers, but it also poses questions, and issues a challenge. Basic is the philosophy involved. In this space age the wide-spread consciousness of the disparity between

[79] Saul, Emotional Maturity 74 (1947).

[80] Meyers, *Suicide: A Medical Problem*, 28 Acta Crim. et Med. Leg. Japon. 1 (1962).

[81] Cohen, Murder, Madness and the Law (1952). See also Wertham, The Show of Violence (1949).

[82] Saul, *op. cit. supra* note 79, at 159–71. Examples of this will be noted in Levy, *The Act as a Unit*, 25 Psychiatry 295 (1962). Also in Sullivan, The Psychiatric Interview 13 (1954); Wolff, The Expression of Personality 6 (1943). Extensive work has been reported by James, *Morphological Form and Its Relation to Behavior*, in Stockard, The Genetic and Endocrinic Basis for Differences in Form and Behavior 525 (1941). See also Anderson, *supra* note 7, at 228. A word of caution is voiced by Balshan, *Muscle Tension and Personality in Women*, 7 Arch. Neur. & Psychiat. 446 (1962), that the patterning of physiological activity is investigated with few variables.

[83] Johnson & Szurek, *Etiology of Anti-Social Behavior in Delinquents and Psychopaths*, 154 J.A.M.A. 814 (1954). Also Johnson & Robinson, *The Sexual Deviant (Sexual Psychopath)—Causes, Treatment, and Prevention*, 164 J.A.M.A. 1559 (1957): "They are events that occur, not uncommonly, and they are events to be observed and recorded, if the observer possesses an open mind and knowledge, persistence, patience, skill, and experience to uncover these stubbornly elusive facts."

[84] Herein, of course, rests the weakness of the psychiatrist's opinion, and also a reason for the differences in the interpretation of similar data by different psychiatrists.

[85] Whitehorn, *Guide to Interviewing and Clinical Personality Study*, 52 Arch. Neur. & Psychiat. 197 (1944). An excellent outline for the organization and correlation of the examination data is given in this article.

[86] Nikelly, *Goal Directedness: A Practical Goal for Psychotherapy*, 46 Ment. Hyg. 523 (1962): "Happiness is the ultimate goal of nearly all human activity. Psychotherapy regardless of the complexity, cannot exclude an analysis of the ingredients that comprise the meaning of happiness or purpose of man's life."

the preciseness of material science and the rather loosely woven fabric of the humanities, as well as the inability to apply known scientific formulae to behavioral problems, is the crux of the matter.[87] To an increasing degree the psychiatrist is under pressure to answer questions that cannot be answered. On one side there is a request for exactness, and on the other, provision is allowed for the fact that exactness is not expected. There has been much criticism of the "battle of the experts" that frequently occurs in court proceedings.[88] While this is over-emphasized, there is an implication which psychiatrists should and must take seriously. There is an expectancy of performance that is classed in scientific terms and values. In short the psychiatrist is looked upon as a scientist. All of this is not entirely clear in the minds of those who regard the psychiatrist in this light. There occurs from time to time a disillusionment usually on the basis of a failure of an individual psychiatrist to live up to an expected performance. Recently, a Los Angeles physician who is attending a local law school stated, "I am not a psychiatrist because I did not serve a psychiatric residency, but I am legally a psychiatrist because with my M.D. degree I am permitted to practice all branches of medicine."[89] This sort of thing, plus the vagueness of the law in specifying what an adequate examination need be, makes for statements such as Mr. Leavy found himself compelled to make.[90]

The great problem of obtaining an accurate appraisal of the psychiatric case results from the inability of some individual examiners to penetrate the facade of the patient, and from the tendency of some to make the examination itself a brief one visit session, rather than from any lack of acceptable procedures. The gist of this presentation is to illustrate these points. Many so-called experts who attract public recognition should not be pointed to as authorities. The most positive person is usually the one who has only a limited knowledge; the informed individual is more humble. The need for the expert has never been greater; the need for assured expertness is just as great.[91]

There are many factors that will influence the examination approach, for not always are the circumstances and milieu ideal. The doctor must

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[87] Part of the problem in this regard is due to a failure in the area of communication. C. P. SNOW, THE TWO CULTURES AND THE SCIENTIFIC REVOLUTION (1959). Also Stevenson, *The Psychobiologic Unit as a Pattern of Community Function*, 37 ARCH. NEUR. & PSYCHIAT. 742 (1937): "The primitive concept of psychobiologic unit takes man's workings at their face value and attempts no such segregation as the spiritual and the mundane, the emotional and the intellectual, or the physical and the mental. . . . At the other extreme, a similar integrated concept of the psychobiological unit has come about in a different way. Whereas the unity of the naive reflects the absence of analysis, the integrated picture, at the other extreme, is the result of a synthesis accompanying or following careful scientific study and a critical appreciation of parts."

[88] Psychiatrists have shown a sensitivity to these criticisms and have gone along with proposals to set impartial panels of experts. It is questionable whether the American adversary system will permit this idea to go very far. Psychiatrists have been accused of shading their opinions to fit the side hiring them. This was exemplified in the action of a Los Angeles Municipal judge who refused to accept a psychiatric report on a defendant appearing before him, stating that any psychiatrist whom he would hire would be expected to lean in his favor. The implications of such a charge are very serious.

[89] 76 Los Angeles Daily J., Jan., 1963, p. 1. See also Ibanez, *Bridging the Gap on Concepts of Mental Illness*, 75 Los Angeles Daily J., Dec. 26, 1962, pp. 1, 9. Ibanez was speaking before the Lawyers Club of Los Angeles and gave an account of the background of modern psychiatric knowledge, almost directly Freudian. However, he quoted Dr. Parlour of Los Angeles as saying that an organic base for behavior will be found within ten years. This possibly may be true, but a positive assertion now suggests that Ibanez' interpretations will be colored by this view.

[90] The Criminal Division of the Los Angeles Superior Court a few years ago showed some recognition of this problem by circulating to the members of its Psychiatrists' Panel a recommended outline for the examining of prisoners. However, there was no compulsion to follow this recommendation. Currently each examiner is ordered to read the preliminary transcript and, if there is one, the Probation Officer's report on the case before interviewing the defendant.

[91] Silving, *The Criminal Law of Mental Incapacity*, 53 J. CRIM. L., C. & P.S. 129, 140–41 (1962):

"The mere fact an accused talks rationally and is able to 'tell his attorney of the events as he recalls them' has been held by the United States Supreme Court insufficient to qualify him as capable to stand trial. Clearly he must be able to interpret the events meaningfully and not merely to relate them, particularly where a significant element of the offense charged is his mental relation to the events. . . . Accordingly, 'fitness to proceed' should be cast in terms of the defendant's capacity to conduct the criminal proceedings against him in a meaningful manner, rather than in terms of 'capacity to assist in the defense.' This calls for a high degree of performance capacity.

". . . It is unnecessary to delve into intricate problems of the philosophical struggle between realism and idealism or of the possibility of giving either of these positions a meaningful linguistic expression; for surely in law a past event is meaningful only when it is or can be proved. . . . [F]or legal purposes a past event is but its present mental reflexion. . . . Since a person's mental experience is never truly conveyable to another, the subject who has a mental experience . . . would seem to be the approximately best qualified witness to that experience."

be prepared to function under any and all conditions and cannot be expected to choose the setting and the patient. He notes everything, however, and later must gauge the effects of the surroundings on the data collected. The most frequent restriction placed upon the examiner is that of time; the leisure that would ideally make an examination an optimum approach is not always available. It becomes necessary, then, to use short-cuts and other devices to come to an impression that is practically reliable. The avoidance of rigidity, so essential to an ideal inquiry, is difficult to achieve when certain essential information must be elicited in a restricted time period. The astuteness and flexible awareness of the examiner shows itself in work and instances of this kind. The demands upon the examiner for exactness and for data that often are practically impossible to obtain may seem unreasonable and unscientific, but the issues at stake frequently compel an answer, which the examiner must supply. For this reason both an element of preciseness and a breadth of knowledge and experience are basic items in the qualifications of psychiatric examiners.

In light of these considerations it seems ironic that not all psychiatric training programs include adequate indoctrination and drill in the examination techniques. Not all trainees have an aptitude for examination, so that even good teaching fails in its objectives. Many institutions for the development of psychiatrists are service-oriented and handle large numbers of patients; their routines are directed toward the movement of these cases and only secondarily toward the detailed and personalized approach to the individual case. For this reason the doctor bases his diagnostic impressions upon information collected by psychiatric social workers, clerks, psychologists, nurses, and others, and does not himself have the opportunity to develop a skill in eliciting the history background. Further, some psychiatrists who learned well when in training become engaged, after entering practice, in work that does not emphasize the examination procedure, such as administration, specializations in psychoanalysis or other treatment techniques, or even teaching and research. Laws often specify that examiners are to be chosen from the staffs of state hospitals, assuming that an impartial expert will thereby be obtained. There is no assurance that either impartiality or expertness is attained this way. Examining psychiatric patients is like any other skill, it must be practiced constantly to preserve and maintain a sharpness in its application.

It is strange that the law should be so concerned with the matter of justice for all, as Silving states, "As there must be no punishment except where there is guilt."[92] And that the courts should be so casual in the way in which mental capacity is determined.

Science has made great inroads into our way of life. DuBridge states:

> "A few years ago all of these different branches of science—geology, physics, biology, chemistry, astronomy—were somewhat compartmentalized, and each subject built up its own techniques and its own knowledge somewhat independently of all the others. Today this is no longer true. Chemists, physicists and biologists join in studying the molecular basis of life."[93]

Trevarthen comments on this same point:

> "Intelligence is composed of things which have been the province of philosophers until very recently—the will, consciousness, and the building of concepts and judgements in the mind and the relationship between reality and what we personally experience to be true.... But for the complete picture—we are very far away from that."[94]

Despite the hope of research men, the present policy of relegating to the psychiatric social worker the initial intake routines of most psychiatric centers,[95] is not in the best interests of precise psychiatric appraisals. Psychologists are indoctrinated in academic and research disciplines and are not always at home with clinical diagnostic procedures.[96] The use by examiners of questionnaires, superficial conclusions, and reliance to too great an extent upon intuitive ability leads to error.[97] Differing functions call for differing degrees of preciseness, but in the training of psychiatrists

[92] *Id.* at 144.

[93] DuBridge, *The Values of Science*, 26 ENGINEERING AND SCIENCE 22 (1962).

[94] Trevarthen, *Exploring the Neural Mechanisms of the Mind*, 26 ENGINEERING AND SCIENCE 24 (1962).

[95] Ostrower, *Study, Diagnosis and Treatment: A Conceptual Structure*, 7 SOC. WORK. 86 (1962).

[96] Sward, *Are Psychologists Afraid of Therapy?* 5 AM. PSYCHOL. 50 (1950).

[97] Maholik, *Responsibilities and Functions of Community Health Centers*, 114 MENT. HYG. 390 (1960); Maholik & Shapiro, *supra* note 48. In the operations under Dr. Maholik's direction, the institutions are obviously treatment oriented not appraisal centered. In contrast, Amerongen, *Initial Psychiatric Studies*, 24 AM. J. ORTHOPSYCHIATRY 73 (1954), and Whitehorn, *Basic Psychiatry in Medical Practice*, 148 J.A.M.A. 329 (1952), emphasize the traditional approach with stress upon a thorough knowledge of the patient.

and in the situation where a psychiatric opinion is of primary concern there is no room for compromise with the need for meticulousness.

In summary, the philosophy and principles of the psychiatric examination are presented. The search for proof is no different here than in other areas of science, except that the human unknown cannot be accurately measured. Legal proof fits in the area that Plato calls the lowest degree of knowledge—sense observation. (The supreme degree is knowledge by pure intellect.) The general course of the examination is discussed with guides to its maximum objectivity. It is emphasized that the charge that the psychiatric examination is dependent exclusively upon what the patient tells the doctor is not correct. Cues and clues are suggested to assist in the collection of data. It is necessary to have a scale of norms and a disciplined ability adequately to perform the function of administering the psychiatric examination.

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