

Mental Health and the Law

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NOT LONG AGO I received a rather urgent call from a librarian at the law school with which I am affiliated. The librarian related his difficulties in helping one of my students with a term paper in the area of "mental health and the law." Having come to the conclusion that the resources of our law library—one of the finest and most complete in the nation—were inadequate to the task, he had investigated our Medical Center library with equally unsatisfactory results. The medical librarians had tried to be helpful, but they were essentially unfamiliar with the field of mental health and the law.

In my efforts to assist this librarian, I had occasion to explain that mental health and the law represents a relatively new field whose development has been so rapid that most libraries and librarians have failed to keep up with it. I further explained the difference between "forensic medicine" and "mental health and the law," clarifying that whereas the former encompasses the intersection of the fields of law and medicine, the latter is made up of the overlapping subject matter of three major disciplines: law, medicine and psychology. It follows that mental health and the law is at once more multidisciplinary in nature and more specialized in content than the wider field of forensic medicine. In order to illustrate these relationships, I offered the following figure. It depicts the multiple areas of intersection of law, medicine and psychology, including the intersection of all three fields that compose the special subject matter of mental health and the law.

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Law — Medicine
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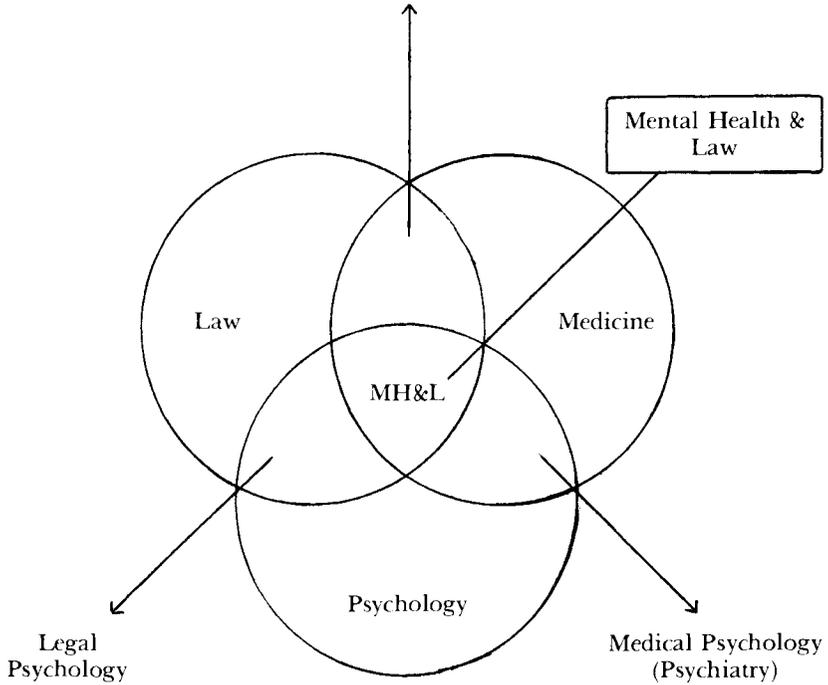


Figure 1

Having verbally clarified the definition of mental health and the law to the satisfaction of my librarian colleague, he suggested it would be helpful if I put my explanation in writing. This paper is the product of that effort. Its aims are to elucidate the major concepts and categories involved in mental health and the law, and to provide basic strategies for approaching research efforts in this developing field.

Historical Background

The librarian who seeks to provide guidance in research pertaining to mental health and the law should be at least broadly familiar with the historical issues that constitute the core subject matter of this field. Throughout history, all societies, primitive and civilized alike, have

Mental Health and the Law

had to provide means for dealing with the severely mentally ill person and his property. Thus, the somewhat harsh but simple and straightforward legal codes spelled out in the Old Testament (e.g., "thou shalt not kill") were modified by subsequent commentaries to accommodate people unable to conform with the codes. Among such people were the mentally ill. Our records of Greek and Roman laws indicate the special concern of antiquity with mental illness as it related to property. One authority has pointed to the Twelve Tables of Rome, promulgated in 449 B.C., as the source of one of the earliest legal references to the mentally disabled.¹ As this authority points out, the term *fool* refers to "any mentally disabled person": "If a person is a fool, let this person and his goods be under the protection of his family or his paternal relatives if he is not under the care of anyone."² During the decay of the Western Empire and throughout the Middle Ages, most laws continued to reflect the concern of society for the property of mentally disabled persons.

The idea of physically confining the mentally ill did not emerge until the eighteenth century. Confinement laws were originally applied only to mentally ill persons who were violent, but they were subsequently extended to the nonviolent mentally ill as well. With the development of the asylum, laws were enacted establishing procedures for the civil commitment (i.e., confinement) of mentally ill individuals not on the basis of criminal behavior, but on the severity of the disturbance.

A series of events in the 1840s marked the beginning of the modern era of mental health and the law. The first and most far-reaching of these events was the *McNaughten* decision of 1843.³ Reflecting the continuing struggle of Anglo-American common law to deal with the mentally ill person who committed a homicide, the *McNaughten* decision set forth specific criteria that would have to be met if the insanity defense was to absolve a person of criminal responsibility. A year later, in 1844, thirteen asylum superintendents founded the Association of Medical Superintendents of American Institutions for the Insane. Among this group was Dr. Isaac Ray, now regarded as the father of modern forensic psychiatry. In 1893, this group changed its name to the American Medical Psychological Association and finally, in 1921, to the American Psychiatric Association.

The year 1845 marked a court decision with fateful implications for the relationship between mental health and the law; this was the year the Massachusetts State Supreme Court handed down its decision: "In the Matter *Josiah Oakes*."⁴ In this little-known case, Oakes claimed he

had been illegally committed to the McLean Asylum by his family. The alleged illegality of the commitment derived from the fact that Oakes was not a violent or dangerous person. Instead, involuntary commitment had followed allegations that he "suffered from hallucinations and displayed unsoundness of mind in conducting his business affairs."⁵ These allegations, in turn, grew out of the fact that Oakes, an elderly and prudent man, had become engaged to a young woman of unsavory character several days after the death of his wife. The court's decision in this matter is noteworthy as a reflection of society's changing conception of mental disability. Going beyond the assumption that society was to be defended against the violence of the mentally ill, the court upheld the involuntary hospitalization of Josiah Oakes for ostensibly therapeutic reasons: "The right to restrain an insane person of his liberty is found in that great law of humanity, which makes it necessary to confine those whose going at large would be *dangerous to themselves* or to others"⁶ (emphasis added).

Each of the historical events described above touches on an issue that would grow into a topic of major concern within the field of mental health and the law. The McNaughten case heralded an awareness of the relation of mental health to questions of criminal law. The Oakes decision pointed to the impact of mental health on questions of civil law. And the establishment of the Association of Medical Superintendents of American Institutions for the Insane tied mental health to administrative law and, more specifically, to the internal regulation of professions.

The twentieth century has been a period of accelerating development in both psychiatry and mental health law. Along with significant advances in the treatment of the mentally ill have come new social costs and areas of potential conflict. Psychoanalysis and psychotherapy now presuppose therapist-patient confidentiality. Psychosurgery entails the risk of irretrievable intrusion. Psychiatric medications may have permanently debilitating side effects. In addition, new economic concerns have entered into the provision of care for the mentally ill, as reflected, for example, in the cost of treatment, the availability of third-party payment, and the possibility of malpractice actions. Social policy issues (e.g., civil rights) and sociological trends (e.g., the declining status of the professional) have also had an impact on the evolution of psychiatry and mental health law. To date, attempts to resolve conflicting interests and divergent social priorities have taken many forms. Legal and judicial activism has kept matters pertaining to mental health and the law before the public, whereas the "advocacy" movement has created a new

subspecialty of legal practice. (Coincidentally, the New York State advocacy agency is named the "Mental Health Information Service.")

In recent years, the field of mental health and the law has become so explosively active that the number of books and articles in the field has reached flood tide proportions. A "Selective List of Books on Law and Psychiatry" published in 1974 contained 137 titles; six years later, a supplementary list added 78 titles.⁷ Perusal of these lists suggests that the field of mental health and the law is complicated not only because of the variety of topics it covers, but by virtue of the fact that any single topic is routinely addressed from the different disciplinary perspectives that jointly constitute the field. Each of these perspectives, in turn, presents its own complications. The nonlegal librarian, for example, is understandably confused on learning that the legal system comprises many different "jurisdictions." In addition to the plethora of statutes reflecting the respective jurisdictions of fifty states and the federal government, moreover, innumerable regulations and local laws pertaining to mental health and the law must be taken into account. Comparably, the nonpsychiatric librarian will quickly discover that the mental health literature bearing on legal issues encompasses a variety of viewpoints corresponding with the multiplicity of legal jurisdictions. These viewpoints represent the competing paradigms or models that provide the basis for diagnosis, treatment and research within the mental health professions.⁸ They include: (1) the biological model, (2) the behavioral model, (3) the dynamic (psychoanalytic) model, and (4) the social model.

Having at this point saddled the reader with some appreciation of the confusing and seemingly imprecise subject matter of mental health and the law, I will now proceed in a more positive spirit to the task of coping with both the multi- and intradisciplinary complexities of the field. To this end, I will consider, sequentially: (1) the various roles of the workers who seek information in this field, (2) the major issues that concern these workers, and (3) the various sources of information to which the workers can be directed.

Information Seekers

The multidisciplinary subject matter of mental health and the law suggests that a wide variety of users will require resources and services. Since both the legal system and the medical-psychological (mental health) system are service systems, a primary type of information seeker is the person who either provides or receives such services. Table 1 lists

these providers and recipients in a way that highlights the broad range of information utilizers in mental health and the law.

TABLE 1
SEEKERS OF INFORMATION

A. RECIPIENTS OF SERVICES

1. Legal Services
 - a. Criminal Law
 - 1) Pre-trial
 - 2) Post trial
 - a) Prisoner
 - b) Probationer
 - c) Post Acquittal—not guilty by reason of insanity
 - d) Parolee
 - b. Civil Law
 - 1) Litigator
 - a) Plaintiff
 - b) Defendant
 - 2) Hospitalized Patient
 - c. Administrative Law
 - 1) Complainant
 - 2) Defendant
2. Mental Health Services
 - a. Patient or Client
 - b. Hospitalized or Out-patient
 - c. Adult, Child or Adolescent
 - d. Subject of a legal evaluation

B. PROVIDERS OF SERVICE

1. Legal Services
 - a. Police
 - b. Judge
 - c. Lawyer
 - 1) Criminal
 - a) Defense
 - b) Prosecutor
 - 2) Civil
 - 3) Advocate
 - d. Correction Personnel
 - e. The Expert Witness
 2. Mental Health Services
 - a. Practitioners
 - 1) Private Practitioners
 - 2) Public or Quasi-Public Practitioners
 - 3) Consultants
 - b. Hospitals
 - 1) Administrators
 - 2) Staff
 - c. Special Committees
 - 1) PSRO
 - 2) Utilization
 - 3) Research (experimentation)
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Mental Health and the Law

Additional mention should be made of trainees and academic researchers. Trainees include students, interns and residents. Academic researchers may represent a variety of fields, including not only law and psychiatry, but political science, police science and the social sciences as well. It is always important to clarify at the outset the specific privileges and responsibilities associated with the respective roles of trainees and researchers, with special reference to the ways in which the information obtained will be utilized.

The listing in table 1 also highlights the importance of accurate labeling as it impacts on information seeking in mental health and the law. The label assigned by a particular system usually defines an individual's privileges and responsibilities, and thereby determines the vantage point from which he will seek information. Consider, for example, the individual who is a "defendant" in a criminal case. If he is in jail, he is also an "inmate." Alternatively, he may be labeled a "detainee" to indicate he is not a "sentenced inmate." The sentenced inmate is kept not in a jail (which is for pretrial detention purposes) but in a prison; he is thereby labeled a "prisoner." (Interestingly, although many correctional facilities are termed "penitentiaries," inmates incarcerated in them have never, to my knowledge, been labeled "penitents.") If the "defendant" is receiving some form of psychotherapy or counseling, he will also be a "patient" to his psychiatrist or a "client" to his social worker. He is simultaneously a "client" to his lawyer.

The point in adumbrating these multiple and to some extent overlapping labels is to emphasize that specific appellations connote important rights and relationships. Thus, a pretrial defendant in a criminal case who is being treated by a psychiatrist is a "patient" to whom all the rules bearing on doctor-patient confidentiality apply. On the other hand, if a psychiatrist is not treating the defendant but is summoned as an "impartial expert" to evaluate the mental condition of the defendant and to report his findings in court, a doctor-patient relationship does not obtain and the psychiatrist owes the defendant no duty of confidentiality. As another example, consider that any prisoner is entitled to "prisoners' rights"; such rights now include, among other things, the right of access to an adequate legal library. If a prisoner is additionally a "patient" in a mental health treatment system, he is further entitled to specific rights delineated as "patients' rights." Finally, if a person convicted of a crime is an adolescent, specific "children's rights" may also apply to him. It should be noted, in passing, that the mutual rights and duties of physicians and patients may change when a patient sues a physician, or when a physician, upon

the complaint of a patient, has his conduct investigated by a professional association.

Major Issues

Having reviewed briefly the variety of parties seeking information pertaining to mental health and the law along with certain complexities involved in labeling these parties, I now turn to some of the principal topics of concern to workers in the field.

Here another complication immediately presents itself. As a multi-disciplinary field, the subject matter of mental health and the law may be classified from any of the disciplinary perspectives that bear on it. Indeed, the basic thrust of a given research endeavor in this field is largely a function of the disciplinary orientation of the investigator; publications, in turn, naturally classify topics according to the orientation of the discipline they represent. A legal casebook will present topics pertaining to mental health and the law from the standpoint of major legal categories. A book or journal addressed to mental health workers, on the other hand, will organize these same topics according to clinical diagnostic categories meaningful to this professional audience. In accord with the expository intent of this paper, I shall attend to both perspectives, presenting brief lists of major topics as conceptualized by the law and the mental health professions. I shall also pause to consider several particularly important items drawn from the legal listing.

Table 2 itemizes the principal topics of mental health and the law from the legal perspective. As already noted, the broad categories within which this classification is framed are criminal law, civil law and administrative law. To these categories, I have added general headings pertaining to expert witnesses, malpractice, confidentiality, and informed consent.

The insanity defense, which falls within the rubric of criminal law, is probably the best known topic within the field of mental health and the law. Self-evidently, this topic involves determining the state of mind of an accused person at the time he allegedly commits a criminal act. I have already pointed to the *McNaughten* decision of 1843 as a juridical landmark in the history of the insanity defense. Here, I would only add that the centrality of this topic to the field has not diminished over the past 140 years; it continues into the present, owing in part to the strong recent movement to abolish the insanity defense altogether.

In contrast to the insanity defense, which relates to the mental condition of an individual at the time of an alleged criminal act, the

TABLE 2
LEGAL TOPICS

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- A. THE CRIMINAL LAW
 - 1. The Insanity Defense
 - Partial or Diminished Responsibility
 - 2. Competence to Stand Trial
 - 3. Juvenile Offenders
 - 4. The Correction System
 - 5. Quasi-Criminal Issues
 - B. THE CIVIL LAW
 - 1. Civil Commitment
 - Patients' Rights, Right to Treatment
 - Right to Refuse Treatment
 - 2. Personal Injury
 - Workman's Compensation
 - 3. Family Law
 - Divorce, Custody
 - C. ADMINISTRATIVE LAW (REGULATING THE PROFESSIONS)
 - 1. Licensing and Certification
 - Discipline and Sanctions
 - 2. Professional Organizations
 - Codes of Ethics
 - Specialty Certification
 - D. GENERAL TOPICS
 - 1. The Mental Health Consultant to the Courts
 - The Expert Witness
 - 2. Malpractice
 - 3. Confidentiality
 - 4. Informed Consent
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issue of competence to stand trial relates to the mental condition of a defendant during the ensuing criminal trial process. In a social sense, this topic is even more important than the insanity defense, as it pertains to many more individuals than those whose sanity at the time of a criminal act is in question. It should be stressed that the general issue of "competence" embodies a major interface between mental health and the law. Within the law, moreover, the question of competence not only enters the criminal justice process, but involves matters of civil law as well.

Issues relating to juvenile offenders are also of great interest today, given society's continuing preoccupation with controlling the violent acts of younger people. Much recent literature addresses the responsibility of youngsters for nominally "criminal" behavior along with the

dispositional problems, evaluational requirements, and special treatment needs of this segment of the population.

A large body of literature—much of it reporting ongoing research—also deals with the correctional system. The lack of mental health services in jails and prisons is a matter of increasing concern, and the difficulties involved in providing such services have been repeatedly documented. It should be emphasized, in passing, that the issue of mental health within the correctional system is important not only to mental health professionals, but to correction officers, wardens and administrative personnel as well.

Within the realm of administrative law, the professional activity of health care providers has been intimately connected with government since medieval times. The history of this relationship and its development in the modern era is a fascinating subject. One important issue within this area concerns the role of the state in licensing and certifying both mental health professionals and mental health facilities. Specific disciplinary proceedings may be initiated, and specific sanctions may be employed, by either the government or the relevant professional organizations. The latter also attempt to regulate their members by promulgating canons of professional responsibility and codes of ethics. Inasmuch as such professional organizations ordinarily correspond with specific subspecialty fields, they further have the authority to accredit special training programs and to grant subspecialty certification to practitioners who complete such programs and pass rigorous examinations.

The first item of the "General Topics" category of table 2 bears special mention. The role of the expert witness, the mental health consultant to the courts, is a topic of major interest in mental health and the law. In a legal proceeding, the expert witness has a unique status that sets him apart from other witnesses: he is authorized to present as evidence his opinion regarding particular questions that bear on his expertise. It stands to reason that whenever such an expert is called to testify, his qualifications become a relevant issue in the proceedings. The nature and extent of a particular expert's qualifications are a function of his training, his passing of specialty examinations and subsequent certification in his field, and his being listed in relevant professional directories.

A considerable body of literature now exists dealing with how the expert witness should comport himself in court. Part of this material concerns specific courtroom techniques, and part of it addresses the special communicational problems of the expert witness in mental health and the law.⁹

Mental Health and the Law

The approach to mental health and the law afforded by the medical-psychiatric perspective is in marked contrast to the legal classification I have considered thus far. In accord with the orientation of mental health professionals, this perspective normally focuses on diagnostic issues attendant to particular medical-legal problems. Table 3 provides some major diagnostic categories, along with two additional topics (mental health evaluations and ethical issues) of relevance to the mental health perspective.

TABLE 3
MENTAL HEALTH TOPICS

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- A. SOME DIAGNOSTIC CATEGORIES OF LEGAL SIGNIFICANCE
1. Mental Retardation
 2. Conduct Disorders
 3. Organic Mental Disorders
 - Dementia, Amnesia, "Convulsive States" (Epilepsy)
 4. Substance Use Disorders
 - Alcohol, Other drugs
 5. Schizophrenic Disorders
 6. Paranoid Disorders
 7. Affective Disorders
 8. Psychosexual Disorders
 - Paraphilias (e.g., sexual sadism, masochism)
 9. Disorders of Impulse Control
 - Kleptomania, Pyromania
 - Intermittent Explosive Disorder
 10. "Non-Mental" Disorders
 - Malingering
 - Adult antisocial behavior
- B. EVALUATION, REPORTING AND TESTIFYING FOR LEGAL PURPOSES
- Psychological Testing
 - Mental Health Reports
 - Expert Testimony
- C. ETHICAL ISSUES
-

Sources of Information

I have, to this point, briefly reviewed the historical development of mental health and the law as a multidisciplinary field, considered the variety of information seekers who might approach the librarian for guidance, and addressed certain topics of special importance to these workers. It remains to outline the wide variety of sources and services

that the librarian can place at the disposal of those seeking assistance. Although the librarian can hardly be expected to master the extensive array of materials now available, he must at least be familiar with, and prepared to refer workers to, the major resources in the field.

First, a preliminary word about the computer search, an important research tool whose applications to the mental health field have been thoroughly reviewed in another paper in this issue. Two major systems of computerized materials exist within the law—the LEXIS system and the WestLaw system—but neither is presently suitable for the initial work in a research enterprise. Although it is conceivable that a computer system suitable for this purpose may be developed in the future, the present systems are too primitive to aid in the preliminary exploration of a topic. It follows that the initial impulse to embark on a search by computer should generally be suppressed. The appropriate place for a computer search will often be an intermediate stage in the research, a point at which basic issues have been clarified and thorough documentation is being sought.

I recommend that an inquiry begin with a good textbook that will enable the worker to situate his topic within the entire field of mental health and the law.¹⁰ Ralph Slovenko's *Psychiatry and the Law* (1973) is the textbook I most frequently recommend. Slovenko's engaging style and vast erudition help place any research topic in proper perspective; his analysis of specific topics also contains suitable leads to other references. Unfortunately, Slovenko's book has not been revised since 1973, and it may therefore lack up-to-date information about issues of ongoing concern. Walter Bromberg's *The Uses of Psychiatry in the Law* (1979) is a more recent textbook. Its subtitle, "A Clinical View of Forensic Psychiatry," accurately describes the perspective of a noted clinician who has been teaching and practicing for almost thirty years. Alan Stone's *Mental Health and Law: A System in Transition* (1975) is another recent work that is both thoughtful and admirably concise. Robert Sadoff's *Forensic Psychiatry* (1975) is subtitled "A Practical Guide for Lawyers and Psychiatrists." It follows that Sadoff has written a "how-to" text that is eminently useful to the practitioner, but may be largely incidental to the concerns of many researchers. For an excellent review of the issues surrounding malpractice, the regulation of psychiatric practice, and the use of expert witnesses, I recommend Seymour Halleck's recent *Law in the Practice of Psychiatry* (1980). Among other noteworthy works are Brakel and Rock's *The Mentally Disabled and the Law* (1971), a thorough and major effort sponsored by the American Bar

Mental Health and the Law

Association; and Sidney Asch's *Mental Disability and Civil Practice* (1973). Regretfully, both works are already somewhat out of date.

Another type of book appropriate to the needs of the beginning researcher is the compilation of source readings intended for classroom use. *Readings in Psychiatry and Law* (1976), edited by Allan, Ferster and Rubin, is perhaps the best compilation of this sort. *Psychoanalysis, Psychiatry, and the Law* (1962), edited by Katz, Goldstein and Dershowitz, is another useful compilation that organizes the subject matter from a psychoanalytic perspective. Related to such compilations but unique to the field of law is the casebook. Utilized extensively in legal training, the casebook gathers together the major cases in a particular area of law, adding valuable commentary and frequently trenchant criticism. In the field of mental health and the law, Alexander Brooks's *Law, Psychiatry, and the Mental Health System* (1974) is unquestionably the most valuable casebook. Brooks not only compiles extensive quotations from the leading cases in this field, but provides excellent commentary and useful reference lists from which further information may be obtained. His casebook has been helpfully updated through a recently published paperback supplement. Miller, Dawson, Dix, and Parnas's *The Mental Health Process* (1976) is another casebook worth examining.

Unfortunately, the subject matter of mental health and the law has not generated a single comprehensive annotated bibliography that subsumes the various reference lists contained in the textbooks, casebooks and compilations of readings. Bromberg, while providing a useful bibliographic essay in his own textbook, mentions the serious obstacles to bibliographic inclusiveness in this field:

A comprehensive bibliography covering the field of forensic psychiatry would involve dovetailing legal decisions by the courts with clinical experience in legal matters by psychiatric practitioners. To join these areas in a common bibliography foreshadows difficulties, because legal writings derive from judicial decisions developed into case law, while psychiatric writings represent individual reactions to contacts with defendants, plaintiffs, attorneys, and judges.¹¹

Although Bromberg's observation argues against the imminent appearance of an inclusive, multidisciplinary compilation, it should not obscure the admirable comprehensiveness of the reference lists appended to certain extant works in the field. The 75-page reading list found in Slovenko's textbook¹² and the many substantial lists found in the Brooks casebook are especially noteworthy in this respect.

Whereas textbooks, casebooks and compilations of readings are essential to the initial investigation of a topic pertaining to mental

health and the law, no substantial research project could be undertaken without a thorough search of the periodical literature. The major journals in the field that adopt the disciplinary perspectives of psychology and psychiatry include: *The Bulletin of the American Academy of Psychiatry and the Law*, *The Journal of Psychiatry and Law*, *The International Journal of Psychiatry and Law*, and *The Journal of Forensic Psychiatry*. Other journals that may contain relevant articles are: *The American Journal of Law and Medicine*, *The Journal of Legal Medicine*, and *Administration and Mental Health*. Additional useful periodical sources include the American Psychiatric Association's biweekly newspaper *Psychiatric News*, the newsletter of the American Academy of Psychiatry and Law, special lists of recent material from the Samuel Bellet Library of the Hospital of the University of Pennsylvania,¹³ and the American Society of Law and Medicine's *Medical Legal News*. A new journal, *Nursing Law and Ethics*, provides articles from the nursing perspective.

Turning to the legal periodical literature, I find a situation in marked contrast to the foregoing. Only one major legal periodical, *The Mental Disability Law Reporter*, deals specifically with the subject matter of mental health and the law. This organ of the American Bar Association's Commission on the Mentally Disabled is a major resource for work in the field, listing recent decisions and statutes as well as discussing proposed legislation.

By contrast, other legal journals only sporadically contain articles of relevance. Occasionally an article of major importance will appear in one of the many law reviews published in the country. Similarly, any of a number of legal specialty journals may occasionally include a significant contribution to mental health and the law. Such journals include: *The Family Law Quarterly*, *The Criminal Law Bulletin*, *Criminology*, *The Mental Health Lawyer News Report*, *The Journal of Health, Politics and the Law*, *The Journal of Social Issues*, and *Law and Human Behavior*.

Because only one legal periodical deals expressly with the subject matter of mental health and the law, it is important for the librarian to refer the researcher to the various indexes that provide access to the vast legal periodical literature. The most important of these indexes are: *The Index to Periodical Articles Related to Law*, *Content of Current Legal Periodicals*, and *The Criminology Index*. Additional indexes that may prove helpful in locating articles from the psychological-psychiatric literature include: *Index Medicus*, *Current Contents: Social and Behavioral Sciences*, *Excerpta Medica: Psychiatry*, *Psychological Abstracts*,

Mental Health and the Law

Chicago Psychoanalytic Literature Index, and *Social Sciences Citation Index*.

Major research endeavors involving mental health and the law will undoubtedly require a visit to a law library, where the worker will have access to resources usually available nowhere else. These resources include two major legal encyclopedias, *American Jurisprudence* and *Corpus Juris Secundum*. Each encyclopedia includes sections dealing with topics relevant to mental health and the law. In addition, most law libraries house multivolume collections of books that provide summaries of cases arranged by topic; *The Decennial Digest* and the *American Law Reports* are two of the major collections providing this service. It goes without saying that law librarians, who can draw on additional services providing the texts of recent decisions, will be able to provide further assistance to researchers in search of up-to-date information. Special libraries housing major collections in the field may provide an invaluable resource under certain circumstances. These libraries include the Bellet Library of the University of Pennsylvania; the Sagall Library of Law, Medicine and Health Care in Boston; and the Milton Helpen Library of Law and Medicine in New York City.¹⁴

The librarian should not overlook the existence of potentially helpful local or national professional groups. Most legal, psychological and psychiatric associations maintain committees dealing with matters that involve mental health and the law. Such committees, whether local or national, may provide consultative services to researchers with specific questions. Finally, a resourceful worker might locate institutions that provide special training programs in mental health and the law. These institutions would undoubtedly have faculty experts willing to provide assistance on particular research projects.

The suggestions contained in this section, however extensive, far from exhaust the valuable resources in mental health and the law. Here, as in so many other fields, assistance to workers is really limited only by the available time and the imagination of the librarian.

Conclusion

The rapid growth of the subject matter of mental health and the law has generated in recent years a burgeoning literature that encompasses not only cases, statutes and regulations, but also a wealth of relevant research projects and commentaries. The evolving character of the knowledge base of this field places unusual demands on the librarian; it points to a need for information from several disciplines that is as up to date as possible. To date, recent developments in the field have not been

disseminated quickly enough, a fact underscored by the documented "knowledge gap" between important changes in the law and the awareness of these changes by the professionals who most require the knowledge.¹⁵

Ultimately, the responsibility for organizing new information in this field and making it accessible to those who need it belongs to the professional librarian. Although this chapter has attempted to provide an overview of the field that will provide a conceptual handle for the general librarian, it has been implicit in this treatment that a dire need exists for librarians with special expertise in mental health and the law. Only through specialized training programs addressing the multidisciplinary complications of the field, that is, will professional librarians be able to organize adequately the continuing stream of new information in this field and disseminate it effectively to the variety of users who will appeal to them in the future.

Appendix

Recommended Core Library for Fellowship Programs in Forensic Psychiatry*

Textbooks

- Bromberg, William. *The Uses of Psychiatry in the Law: A Clinical View of Forensic Psychiatry*. Westport, Conn.: Quorum Books, 1979.
- Brooks, Alexander D. *Law, Psychiatry and the Mental Health System*. Boston: Little, Brown, 1974.
- Halleck, Seymour L. *Law in the Practice of Psychiatry: A Handbook for Clinicians*. New York: Plenum, 1980.
- Sadoff, Robert L. *Forensic Psychiatry: A Practical Guide for Lawyers and Psychiatrists*. Springfield, Ill.: Charles C. Thomas, 1975.
- Schetky, Diane H., and Benedek, Elissa P., eds. *Child Psychiatry and the Law*. New York: Brunner/Mazel, 1980.
- Slovenko, Ralph. *Psychiatry and Law*. Boston: Little, Brown, 1973.
- Stone, Alan A. *Mental Health and Law: A System in Transition*. New York: Jason Aronson, 1976.
- Ziskin, Jay. *Coping with Psychiatric and Psychological Testimony*. Beverly Hills, Calif.: Law and Psychology Press, 1970.

Monographs on Key Subjects

- American Psychiatric Association. *Clinical Aspects of the Violent Individual*. Washington, D.C.: APA, 1974.
- Cleckley, Harvey. *The Mask of Sanity: An Attempt to Clarify Some Issues about So-called Psychopathic Personality*, 5th ed. St. Louis: C.V. Mosby, 1976.
- Goldstein, Abraham S. *The Insanity Defense*. New Haven, Conn.: Yale University Press, 1967.
- Goldstein, Joseph, et al. *Beyond the Best Interests of the Child*. New York: Macmillan, 1973.
- Keiser, Lester. *Traumatic Neurosis*. Philadelphia: J.B. Lippincott, 1968.
- Leedy, Jack J., ed. *Compensation in Psychiatric Disability and Rehabilitation*. Springfield, Ill.: Charles C. Thomas, 1971.
- Monahan, John. *The Clinical Prediction of Violent Behavior*. Beverly Hills, Calif.: Sage Publications, 1980.
- Rada, Richard T., ed. *Clinical Aspects of the Rapist*. New York: Grune & Stratton, 1977.
- Roesch, Ronald, and Golding, Stephen L. *Competency to Stand Trial*. Urbana: University of Illinois Press, 1980.
- Rosner, Richard. *Critical Issues in American Psychiatry and the Law*. Springfield, Ill.: Charles C. Thomas, 1981.

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Research Monographs

- Gunn, J., et al. *Psychiatric Aspects of Imprisonment*. New York: Academic Press, 1978.
- Guze, Samuel B. *Criminality and Psychiatric Disorders*. New York: Oxford University Press, 1976.
- Harvard Medical School. Laboratory of Community Psychiatry. *Competency to Stand Trial and Mental Illness*. New York: Jason Aronson, 1974.
- Lewis, Dorothy O., and Balla, David A. *Delinquency and Psychopathology*. New York: Grune & Stratton, 1976.
- Mednick, Sarnoff A., and Christiansen, K.O., eds. *Biosocial Bases of Criminal Behavior*. New York: Halsted Press, 1977.
- Mohr, J.W., et al. *Pedophilia and Exhibitionism*. Toronto: University of Toronto Press, 1964.
- Monroe, Russell R. *Episodic Behavioral Disorders*. Cambridge, Mass.: Harvard University Press, 1970.
- Robins, Lee N. *Deviant Children Grown Up*. Baltimore, Md.: Williams and Wilkins, 1966.
- Simon, Rita J. *The Jury and the Defense of Insanity*. Boston: Little, Brown, 1967.
- Steadman, Henry J. *Beating a Rap? Defendants Found Incompetent to Stand Trial*. Chicago: University of Chicago Press, 1979.
- _____, and Coccozza, Joseph J. *Careers of the Criminally Insane: Excessive Social Control of Deviance*. Lexington, Mass.: Lexington Books, 1974.
- Thornberry, Terence P., and Jacoby, Joseph E. *The Criminally Insane: A Community Follow-up of Mentally Disordered Offenders*. Chicago: University of Chicago Press, 1979.
- West, Donald J. *Murder Followed by Suicide*. Cambridge, Mass.: Harvard University Press, 1967.

Reference Books

- Allen, Richard C., et al., eds. *Readings in Law and Psychiatry*, rev. ed. Baltimore, Md.: Johns Hopkins University Press, 1975.
- American Medical Association. *Guides to the Evaluation of Permanent Impairment*. Chicago: AMA, 1971.
- Curran, William J., et al., eds. *Modern Legal Medicine, Psychiatry, and Forensic Science*. Philadelphia: F.A. Davis Co., 1980.
- Curran, William J., and Shapiro, E.D. *Law, Medicine, and Forensic Sciences*, 2d. ed. Boston: Little, Brown, 1970.
- Glaser, Daniel, ed. *Handbook of Criminology*. Chicago: Rand McNally, 1974.
- Holder, Angela R. *Medical Malpractice Law*. New York: John Wiley & Sons, 1975.
- Radzinowicz, Leon, and Wolfgang, Marvin E., eds. *Crime and Justice*. 3 vols. New York: Basic Books, 1971.
- Spitz, Werner U., and Fisher, Russell, eds. *Medicolegal Investigation of Death: Guidelines for the Application of Pathology to Crime Investigation*. Springfield, Ill.: Charles C. Thomas, 1973.

Mental Health and the Law

- Wadlington, W., et al. *Cases and Materials on Law and Medicine*. Mineola, N.Y.: Foundation Press, 1980.
- Waltz, J.R., and Inbau, F.E. *Medical Jurisprudence*. New York: Macmillan, 1971.

References

1. Brakel, Samuel J., and Rock, Ronald S., eds. *The Mentally Disabled and the Law*, rev. ed. Chicago: University of Chicago Press, 1971, p. 1.
2. *Ibid.*, p. 2.
3. "M'Naughten's Case," 10 *Clark and Finnelly*, 200-14, 8 English Reports, 1843, 718-24.
4. "Matter of Josiah Oakes," 8 *Law Reporter* 123 (Mass. Sup. Ct. 1845). Cited in Brakel and Rock, eds., *The Mentally Disabled and the Law*, p. 7, note 32.
5. *Ibid.*, p. 7.
6. *Ibid.*
7. Brooks, Alexander D. *Law, Psychiatry and the Mental Health System*. Boston: Little, Brown, 1974, pp. 15-19; and *ibid.*, Supplement, 1980, p. 2.
8. Stone, Alan A. "The Conceptual Ambiguity and Morality in Modern Psychiatry." *American Journal of Psychiatry* 137(Aug. 1980):887-91.
9. See George, Beauford J., ed. *Effective Utilization of Psychiatric Evidence*. New York: Practising Law Institute, 1970; Haugen, Gerhard B. *The Psychiatrist as a Witness*. Mundelein, Ill.: Callaghan, 1966; and Ziskind, Jay. *Coping with Psychiatric and Psychological Testimony*. Beverly Hills, Calif.: Law and Psychology Press, 1970.
10. The majority of the books discussed appear in appendix A. The following do not appear on the list: Asch, Sidney H. *Mental Disability in Civil Practice*. Rochester, N.Y.: Lawyers Co-Operative Publishing, 1973; Katz, Jay, et al. *Psychoanalysis, Psychiatry, and Law*. New York: Free Press, 1967; and Miller, Frank W., et al. *The Mental Health Process*, 2d ed. Mineola, N.Y.: Foundation Press, 1976.
11. Bromberg, Walter. *The Uses of Psychiatry in the Law*. Westport, Conn.: Quorum, 1979, p. 427.
12. Slovenko, Ralph. *Psychiatry and Law*. Boston: Little, Brown, 1973.
13. See Rutenberg, Rebecca. "Library Services for Forensic Psychiatrists." *Special Libraries* 70(March 1979):113-16; and Mattscheck, Barbara. "Development of a Subject Index in Forensic Psychiatry." *Behavioral & Social Sciences Librarian* 1(Winter 1979):113-15.
14. Bellet Library, University of Pennsylvania Hospital, Philadelphia PA 19104; Sagall Library of Law, Medicine and Health Care, American Society of Law and Medicine, 520 Commonwealth Ave., Boston MA 02215; and Milton Helpen Library of Legal Medicine, 520 First Ave., New York NY 10016.
15. Johnson, Ronald E., and Weinstein, Henry C. "Right to Refuse Treatment: The Knowledge Gap." *Journal of Psychiatry & Law* 7(Winter 1979):457-61.

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