censes happen to coincide with an era of apparent oversupply of mental health professionals, creating the appearance of a conflict of interest for ethics committees (perhaps they could be constituted by respected retired colleagues who are still performing their community service). Although the book was subsidized by the company that provides malpractice insurance to members of the American Psychoanalytic Association, I am concerned that unscrupulous trial lawyers will misuse it to bring unjustified malpractice suits against analysts and, possibly, against other mental health professionals.

Although King Solomon would have been too wise to step into the morass of ethics work today, we can turn to Nathaniel Hawthorne for the psychological acumen of great literature. Many critics consider *The Scarlet Letter* to be the United States' best novel. It is an extraordinary case study of the psychology of sin—its impact not only on the sinners but also on those who sit in judgment. The townspeople's gradual capacity to forgive Hester Prynne for her adultery and to admire her for her many virtues was constrained by their need to use her as a target of projection, which Hawthorne characterizes as "the propensity of human nature to tell the very worst of itself, when embodied in the person of another" (6, p. 135). Hester's estranged husband becomes obsessed with Hester's infidelity and in tracking down and destroying her lover. Toward the end of the novel, Hawthorne describes the self-destructiveness of this obsession with the sins of others:

> In a word, old Roger Chillingworth was a striking evidence of man's faculty of transforming himself into a devil, if he will only, for a reasonable space of time, undertake a devil's office. This unhappy person had effected such a transformation by devoting himself, for seven years, to the constant analysis of a heart full of torture, and deriving his enjoyment thence, and adding fuel to those fiery tortures which he analyzed and gloated over. (6, p. 141)

So Hawthorne can serve as an astute consultant to all of us, warning us of some of the risks inherent in the nonetheless necessary work of enhancing professional ethics.

I hope this book will enjoy the wide readership it deserves.

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Genetics and Criminality: The Potential Misuse of Scientific Information in Court, *edited by Jeffrey R. Botkin, William M. McMahon, and Leslie Pickering Francis. Washington, D.C., American Psychological Association, 1999, 277 pp., $39.95.*

As a means of ordering human affairs, law is in ongoing dialogue with the surrounding society and culture. Law is also in dialogue with social, behavioral, and medical science. The evolution of science—the rate of change in scientific concepts, methods, and theories—typically outpaces law and social policy. This is especially the case in the field of mental health law. For its part, law finds itself in a constant catch-up position in relationship to evolving scientific concepts. Nevertheless, unless law and social policy evolve in relation to changing knowledge and cultural circumstances, they gradually lose their effectiveness in ordering human affairs, and their perceived credibility and relevance to daily life become archaic or outmoded.

Criminal responsibility is based on notions of moral agency and responsibility and the assumption that human beings are reasoning beings and responsible for their choices. These notions of personal responsibility are rooted in the Greco-Roman and Judeo-Christian foundations of Western culture. In this context, *actus non facit reum, nisi mens sit rea* (a guilty act is not a crime without a guilty mind). Conversely, an individual may be excused or, better, his or her criminal responsibility reduced or exculpated if "guilty mind" is absent in the commission of a crime. This is the conceptual basis for the insanity defense.

Emergent models of mental functioning and psychopathology from the fields of neurobiology and genetics pose enormous challenges to basic assumptions concerning moral and legal conceptions of free will and responsibility. Are certain people genetically predisposed to crime or violence? How does this affect our understanding that individuals are responsible for their choices? Does a genetic predisposition constitute an underlying disease, disorder, or defect that would exculpate criminal acts? Could the state involuntarily commit individuals who show a genetic predisposition to violence? Is there genetic determinism, and how will this affect criminal prosecutions and defense?

Genetics and Criminality addresses these issues in a book funded by the Ethical, Legal, and Social Implications Branch of the National Human Genome Research Institute at the National Institutes of Health. The symposium brought together an interdisciplinary panel of experts in philosophy, behavioral genetics, and law to comment on the emergent knowledge and potential implications. The four-part book deals with 1) foundational concepts of mental health and disorder, free will and responsibility, and the insanity defense, 2) current behavioral genetic research, 3) potential applications and misuses of genetic information in legal contexts, and 4) a summary assessment of the current state of knowledge. Chapters such as "The Genetics of Behavior and the Concept of Free Will and Determinism," "Genetic Research on Mental Disorders," and "Criminal Responsibility and the 'Genetics Defense' " introduce the reader to the state of the fundamental concepts and state of the knowledge.

The volume is rather technical and aimed at advanced readers such as advanced trainees and practitioners in foren-

sic psychiatry or psychology. Most of the legal commentators conclude that increasing understanding of behavioral genetics is unlikely, at least in the short run, to cause major shifts in our current understanding of criminal responsibility. One comes away from reading the book aware of the early stage of certainty in this area, the still relatively weak status of behavioral genetics in psychopathology, the firm certainty of future challenges to Western moral and legal foundations of free will and responsibility with the maturation of this science, and some of the likely uses and misuses of this information in the criminal arena. The book—prescient in its outlook and truly the stuff of science fiction—is recommended to the student of moral responsibility and behavioral science.

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Mastering Forensic Psychiatric Practice: Advanced Strategies for the Expert Witness, *by Thomas G. Gutheil, M.D., and Robert I. Simon, M.D. Washington, D.C., American Psychiatric Publishing, 2002, 176 pp., $29.95 (paper).*

> Every Sunday I go to kneel in mass and ask God's forgiveness for making another lawyer.
>
> —Dennis Patrick Cantwell (1)

Professor Cantwell loved and honored his eldest daughter, who is an attorney, as he loved all of his family, and I know and they know that he was joking when he spoke of asking for divine forgiveness. Dare we wonder if Professor Cantwell, of beloved memory (2), may well have faced the same or similar challenges described by Professors Gutheil and Simon in this text, which all of us who choose to provide forensic opinions may confront?

Professors Gutheil and Simon provide a cornucopia of wisdom for the forensic expert. Those who have provided forensic opinions for a period of years and are just now reading this text will find themselves nodding with rueful smiles.

I have been fortunate. The overwhelming majority of the attorneys with whom I have worked have conducted themselves with the highest ethical level of gracious, professional demeanor. Nevertheless, there have been a few occasions where the words of Professors Gutheil and Simon ring all too true. Here are examples of those few occasions when their warnings were appropriate.

"The attorney is not under oath." What does that really mean? I was aghast to hear an attorney state during a closing argument that I did not have certain qualifications that, in point of fact, I had never claimed to have. This went unchallenged by both opposing counsel and the sitting judge. I was left wondering what was going on. The answer is all too simple. "The attorney is not under oath." In reviewing the matter with another attorney after the trial was over I was informed, "They do that all the time!" Do they? Do they indeed? Not having read Gutheil and Simon this was news to me!

"Be minimal at deposition; then expansive at trial." This is true advice, which I have learned the hard way in a forensic tête-à-tête.

"Be prepared." Correct again. Any attorney's hesitation in preparation may well stem from a wish to keep down costs. I have learned to insist on proper preparation, which necessarily includes examination of the entire database.

"A conservative is a liberal who has just been mugged." How very true. As counterintuitive as it feels to me, I have learned, again the hard way, to request from the start that a check for a reasonable sum accompany the records-to-be-reviewed.

An attorney asks you to see and examine an individual as part of your forensic work. Does this establish a doctor-patient relationship? What will you do? How will you address this issue? On page 22, Professors Gutheil and Simon present a model Consent for Forensic Examination. The following consent form is an excerpted and paraphrased version presenting the pertinent sections of this vital and valuable consent form.

> I understand that the doctor is not acting as my physician.
>
> I agree to give up my rights to have the doctor keep secret what I tell him or her.
>
> I agree that the doctor can make reports for attorneys and to judges in a courtroom.
>
> I understand that this examination may help my case, hurt my case, or have no effect on my case that I can see.
>
> This document is to be signed by the examinee in the presence of the attorney, who must endorse in writing that he or she has fully explained all of these issues to the examinee and that the examinee understands these issues.

This form alone may well constitute a reasonable and proper ethical litmus test for an attorney. If the attorney is willing to have the examinee sign this form and to sign this form himself or herself, well and good. If the attorney hesitates, then perhaps you as the forensic expert know that you may well need to withdraw.

On page 48 and again on page 88 Professors Gutheil and Simon point out, "Some attorneys view the expert as the hood ornament on the vehicle of litigation that the attorney drives to court." I found the repetition of this insight to be empowering. James Thurber might endorse that the safe word for such attorneys is "strange." Fortunately, I have found such attorneys to be in the minority.

I fully concur with the endorsement on the book's back cover by Case Western Reserve University Professor of Psychiatry Phillip J. Resnick, long one of my heroes: "This book provides trenchant analysis of complex ethical and practical issues in expert-attorney interactions. It sparkles with wit and resonates with wisdom born of experience."

This text is a must read for all who choose to provide forensic opinions. Further, it is a recommended text for a course in forensic ethics for both students in colleges of medicine and students in schools of law. I plan to keep this quintessential text on my desk and to refer to it regularly in my ongoing and future forensic work.

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