The Death of a Friendly Critic

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— By James J. White, '62

Our colleague, Andy Watson, died April 2. Andy was one of the handful of preeminent law professor/psychiatrists. In that role he wrote dozens of articles and several important books, including Psychiatry for Lawyers, a widely used text. I do not write to remind us of his scholarly work, of his strength as a clinical and classroom teacher, or of his prominence as a forensic psychiatrist. I write to remind us of his powerful criticism of our teaching. On the occasion of his death, it is right to recognize his influence on the law school curriculum and to consider whether his criticism of the law school classroom calls for yet greater changes.

From his first association with law teaching, Andy worried and wrote about the collision of the first-year law school classroom with our students’ expectations. In Andy’s mind students are drawn to law by three important factors: “First, many if not all law students have a strong psychological need to come to grips with the powerful and disquieting emotion of aggression. This primeval instinct in us all provides the driving force for many of the things we do in life, and is the locus for a large part of all the socializing activity every culture imposes upon its members.” According to him, “the second important emotional need in those who choose law, is to seek a high degree of order and predictability in life. While all human beings have this need to predict, law students have it to a higher degree”.

Finally, he argued that “law students have a substantial amount of sheer idealism, coupled with the desire to help people through the use of law as an instrument for social reform”. So students come here to find an acceptable channel for aggression, to find a place where things are certain and predictable and to give tangible expression to their idealism.

According to Andy, these needs are in conflict with and in many cases crushed by the first-year classroom. In a 1963 article he describes the first year of law school as follows: “When an eager and intelligent freshman law student begins his studies, he plunges zealously into the task of learning about the law. He will likely memorize the cases and come to class fully prepared to rattle back the substance of his reading. However, he immediately runs into the fact that regardless of how he presents his material, the teacher will inevitably ask more questions that either directly or by implication indicate he does not understand the case. While a sophisticated observer may know the student has done a good or perhaps even excellent job of dealing with the questions put to him, there is little tangible evidence of this fact to most students. Though it takes some time to make full impact, usually by Thanksgiving holidays, most members of a freshman class are brought nearly to panic by their awareness that they do not understand what is being demanded of them, nor can they figure out how to meet the pressure. The great anxiety produced by this process progressively forces students to make some kind of psychological defense adjustment to avoid and diminish ongoing pain. The anxiety-muting defensive maneuvers, instead of settling on the specific stress situations of the classroom, will be generalized progressively to block emotional awareness.” The student’s hope to find expression for his powerful feelings of aggression is frustrated, for the student finds himself the object of others’ aggression, particularly the professors.

His layman’s belief that law is certain and predictable is subjected to early and repeated attack; in fact those who openly seek certainty — “tell me the rule” — are likely to receive a sarcastic or dismissive response.

The effect of the first-year classroom on the student’s idealism is only slightly more subtle. Idealistic thinking or expression of emotional concern for a particular class, plaintiff or defendant is “sloppy,” not “lawyerlike,” and generally failing “to think like a lawyer.” Of course, all of these descriptions are unconscious condemnations of the student’s idealism.

And for law professors, the operators of this asylum, Andy saves his sharpest bite: “It would not be kind or generous, or even true, to say that law teachers, electing to avoid the living adversities of the courtroom, express their fighting instincts by demolishing law students’ heroes and hero worship. It is true, however, that law students feel this has happened.” Elsewhere he is even more harsh: “I also observed that law faculties...
have what might be fairly described as a strong antipathy for so-called 'bread and butter' matters and for the work-a-day 'messy' or 'grubby' details of dealing with law practice. . . . I would state categorically that what attracts interest and curiosity is that which ties in with one's needs, drives and internalized attitudes and is psychologically compatible with them. I view this rejection of the practical by law professors as a reflection of psychological conflict in them." So Andy was not bashful in stating the problem or identifying its cause.

Of course, many things have changed since Andy wrote these words in the 1960s. Clinical law has come to the law schools. Fewer classes are taught by the Socratic Method than formerly. And I suspect the "Socratic Method" of today has far less sarcasm, ridicule and anger than in 1963. We should give Andy credit for some of these changes. It is always difficult to trace new ideas and practices to their source, but surely one of the sources of these changes is Andy's advocacy. In his prime Andy was a prodigious writer, a frequent and outspoken panelist at law schools and elsewhere, and a contributor to journals such as The Journal of Legal Education.

I believe he justly deserves some of the credit for our new willingness to recognize our students' emotions, to deal more fully with the grubby details of law practice and to free our students to acknowledge their feelings. We can take pleasure in the incremental changes that have occurred in our classrooms partly because of Andy's criticism of our old ways. And even today we should give grudging heed to Andy's admonitions, for surely his work is not done.