

## Letters to the Editor

### Discussion of "The Baxstrom Affair and Psychiatry"

Sir:

In his recent article, "The Baxstrom Affair and Psychiatry" (Vol. 24, No. 3, July 1979, pp. 663-672), Emanuel Tanay makes a number of factual errors that distort both the research we undertook following the 1966 *Baxstrom* decision and the actual events that occurred.

1. While Dr. Tanay's entire discussion focuses on Dannemora, only 58% of the Baxstrom patients came from there. The other 42% were in Matteawan, the Department of Correctional Services' other maximum security mental hospital. It surely makes Dr. Tanay's job easier to omit Matteawan since in the 1968-1969 *New York State Medical Directory* [1] 16 psychiatrists are listed at Matteawan, 8 of whom were state "qualified psychiatrists" and another 4 were APA board-certified. Further, at Dannemora, the *Directory* lists 7 psychiatrists of whom 4 were state "qualified psychiatrists." Neither in 1966 nor in 1979 was the only brand of psychiatry the board-certified variety and never has it or will it be dominant in institutional psychiatry. To set such standards in analyses such as Tanay's is foolish.

2. Contrary to Dr. Tanay's assertion on page 670, *no* Baxstrom patient was "transferred from civil hospitals because of their violent behavior." Such patients were housed in Matteawan. Further, all such patients were excluded from our study, since they were not included in the *Baxstrom* decision.

3. By relying on data from a book review by Dr. Halpern, Dr. Tanay gravely errs in discussing transfers from Dannemora (and Matteawan) in the years immediately preceding the *Baxstrom* decision. He asserts that only two transfers had occurred. Had he more carefully read Chapter 5 of our book, he would have been aware that in 1965 and 1966, 359 persons were transferred from Dannemora and Matteawan into civil mental hospitals *with* psychiatric and correctional approval; 57 of the 359 persons came from Dannemora.

4. Similarly his argument on the use of age as an "apparent" criterion for transfer is flawed. By comparing the characteristics of the pre-Baxstrom and Baxstrom transfers it was clear that age was a prime determinant regardless of current crime, criminal history, or clinical picture.

5. The *Dixon v. Attorney General of the Commonwealth of Pennsylvania* (325 F. Supp. 966, 1971) decision mandating the mass transfer of patients from Farview State Hospital and its associated research by Thornberry and Jacoby [2] show the inaccuracy of Dr. Tanay's claim that "Dannemora State Hospital was an institution unique to the state of New York."

In sum, the *data* reported in our various "Baxstrom" reports have yet to be questioned by Dr. Tanay or anyone. Rather the disputes focus on the *inferences* drawn from the data, which obviously touch very sensitive nerves. It is a compliment that our work has warranted the considerable attention of such renowned professionals. The historical facts

cannot be as facily dismissed as Dr. Tanay suggests in order to absolve psychiatry from collusion with questionable coercive control practices by correctional agencies.

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### Author's Reply

Sir:

Steadman and Coccozza have published a variety of papers and a book accusing American psychiatrists of being agents of social control, designed to ensure for psychiatry a position of power. The basis for their claims has been the result of so-called Baxstrom Studies, dealing with statistical data derived from a group of inmates of correctional institutions. Drs. Steadman and Coccozza used these statistical data dealing with inmates to generalize about psychiatry. In my paper, I pointed out that they failed to define the population under study to which they refer as "psychiatrists." I called attention to the fact that, at the time when Mr. Baxstrom was an inmate of Dannemora Correctional Facility, there were two members of the American Psychiatric Association in that community, neither one of whom was a board-certified psychiatrist.

The main thrust of my criticism was that the population of these sociological studies designated as "psychiatrists" was undefined. It matters not, for the purposes of my criticism, what criteria have been utilized. Of essence is the absence of a definition of the population under study. "The word 'population' will be used to denote the aggregate from which the sample is chosen" [1]. We are informed in response that my criticism was "foolish." Furthermore, we are told that Dannemora directory "lists seven psychiatrists, four of whom were state 'qualified psychiatrists.'" There is no state qualification of psychiatrists in New York or any other state of the union. Obviously, any state may choose to call a physician a psychiatrist. I had this title bestowed upon me in 1953, by the state of Illinois, prior to my training as a psychiatrist or even acquiring command of the English language. My paper furthermore demonstrated that physicians, whatever their designation, played an insignificant role in the fate of inmates within the correctional system, and, therefore, the so-called Baxstrom Studies provide no data for generalization about American psychiatry.

The closing sentence of the response reveals that Drs. Steadman and Coccozza are more interested in anti-psychiatric propaganda than sociological research. It is absurd to claim as historical fact conclusions about psychiatry based upon the questionable study of decisions made by a handful of physicians working in a correctional facility. The only historical fact contained in the so-called Baxstrom Studies is the failure to transfer mentally ill inmates from a correctional institution to a civil state hospital. This phenomenon was the result of existing legal criteria and not related to psychiatric practice or theory. Isaac Ray [2] said in 1873:

Statistics which are not really statistics are worse than useless; and the reason is that they beguile the student with a show of knowledge and thus take away the main inducement to further inquiry. Why should he look further for truth when it already lies before him?

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[2] Quoted by Halpern, A. L., in "Book Review of *Careers of the Criminally Insane*, by Henry J. Steadman and Joseph J. Cocozza," *Bulletin of the American Academy of Psychiatry and Law*.

### Discussion of "History of Questioned Document Examination in the United States"

Sir:

I read with interest the article, "History of Questioned Document Examination in the United States," by Ordway Hilton (Vol. 24, No. 4, Oct. 1979, pp. 890-897). This article suffers from these shortcomings:

1. It is not a comprehensive historical account.
2. The references are very limited.

The history of questioned document examination in the United States dates back to the colonial period. As soon as English supremacy was established on the North American continent the English judicial system was imported to the colonies. The Sidney case, which was tried in England in 1683, caused a restrictive effect on handwriting testimony for a long time. This restriction continued in force in the colonies for a long time although the English statute was changed in 1854. After independence, the United States still looked to Britain and Europe for the development of professional and academic matters. Upon the availability of the contributions of those British and European authors, the development of document examination began to take shape in the United States. No light was shed by Hilton on this aspect of development.

The old English round hand writing was used in the colonial period [1]. After the Independence, an idea of individualism infused every aspect of development. This tendency was also observed in the field of handwriting. There were four phases in American writing from the beginning to the end of the 19th century:

- (I) old English round characteristics (1830-1840);
- (II) modified round, including the early phases of the Spencerian and the Payson, Dunton, and Scribner (PDS) systems (1840-1865);
- (III) Spencerian (1865-1890); and
- (IV) vertical writing (1890-1900) [2-5].

A great rivalry existed between the Spencerian and the PDS systems. Finally a new American handwriting emerged from the combination of these two systems.

There were also other systems of writing [6,7]. During the end of the 19th century, vertical writing started to flourish. The new style made a long-lasting impact on American handwriting.

If there is no handwriting there is no scope of document examining. During the first three quarters of the 19th century, several authors [8-13] wrote books on the art of writing, the history of ink, and the chemistry of paper making. Their contributions paved the way, to a great extent, toward understanding the various characteristics of handwriting generally encountered in handwriting analysis.

A change was noticed after 1850. The application of scientific methods was introduced into handwriting analysis. This trend was reflected in the following cases. Professor Benjamin Peirce, of Harvard, applied mathematical calculation to the comparison of disputed signatures. He remarked, "The coincidence must have had its origin in an intention to produce it: i.e. it was a forgery by tracing" [14]. Doremus [15] demonstrated by a fluorescence test the presence of eosine ink in a will dated 1862, but since the color (eosine) was discovered eight years after the date of the will the writing was not authentic. The chemical test [15] was applied in the famous trial concerning the Whitaker will in 1878. The will was professed to have been made by Robert Whitaker in 1875. The ink did not show the reaction of iron when tested with potassium ferrocyanide. The writing fluid was imitated, so forgery was established. Later the forgers confessed. The advancement of document examination is noticed in these cases. There is a dearth of famous cases in the article by Hilton.

The new approach in handwriting analysis started from the last decade of the 19th century. Books or monographs on the problems of handwriting identification were published by Frazer, 1894 and 1901 [15,16]; Hagan, 1894 [17]; Keene, 1896 [18]; Ames, 1900 [19]; von Hagen, 1902 [20]; Rexford, 1904 [21]; Adam, 1904 [22]; Osborn, 1910-1929 [23-25]; French, 1922 [26]; and Lee and Abbey, 1922 [27].

The English restrictions on admitting standards continued in force in most of the American states after 1854. Change was very slow. An expert testimony was admissible "though generally of slight weight" in 1907 [28]. It appears, according to Osborn, "As late as in 1911, a state court refused to adopt the new practice of admitting standards of comparison and actually cited an old George the Third opinion in support of the action" [24]. In 1913, Congress, through the efforts of Mr. George W. Wickersham, attorney general of the United States, passed a law affecting the admission of standards for comparison. The question of admissibility of expert testimony in handwriting evidence was settled by 1960 [29]. The law of handwriting evidence applicable in the federal court system was thoroughly discussed by Costain [30].

The applications of modern techniques to document examination were sporadically mentioned. Only one reference to thin-layer chromatography (TLC), which was done in 1976, was cited. Applications of chemical tests [15,16,23,25,31,32], paper chromatography [33-37], electrophoresis [36,37], TLC [38-43], ultraviolet [25,31,44-46], infrared [45,47-50], and other techniques including dichroic filters [45,50-52] have been used by several workers in document examination.

Nothing was mentioned about the effect of drugs on handwriting even though this aspect causes a serious problem to the document examiner. The impairment of motor function or neurologic disorder causes deterioration of handwriting. In 1888, a case of "double consciousness" concerning the comparison of two different handwritings corresponding to the two different mental states of Mary Reynolds was reported by Mitchell [53]. Cases of tremors in handwriting were described by Eshner [54] in 1897. Deterioration can be observed in the handwriting of persons afflicted with Parkinsonism [55,56]. The effect of drugs on handwriting has been studied by several researchers [57-60]. The handwriting of addicts deteriorates when withdrawal symptoms occur [60].

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### Author's Reply

Sir:

In commenting on Dr. Niyogi's letter to the editor it is well to clarify the scope of the paper. It discusses the progress and development of questioned document examination in this country and is entirely limited to consideration of this forensic science endeavor. After all, this discipline of forensic science grew up around the courts and does not represent a specialization of those working in the pure or medical sciences. It has no real roots outside of the need to answer questions for the courts concerning various phases of documents in dispute.

Consequently, the history of handwriting, while necessary to examine and identify writing accurately, is not part of the history of questioned documents. If we include it, the paper will have to become a several-volume book and include the development of the typewriter, writing instruments, paper, inks, all office and business machines that produce documents, and all devices that have been developed to alter or correct documents. Workers in the field struggle with these problems, but they are tangential to the development of the profession.

I know of no evidence to substantiate Dr. Niyogi's claim that early workers in this country derived any help from how the work was done in England and Europe during our early history. In fact the English law, which was referred to, *hindered* proper development of the work; but the three early cases, referred to in my paper as evidence that the work was being done in the early 1800s, each allowed the use of writings outside of the case to be introduced to prove the authenticity of fraudulent nature of the document. These courts at least were *ahead* of the English legislation referred to by Dr. Niyogi.

Only recently did I come again upon a reference by Osborn in *Questioned Document Problems* (2nd ed., p. 395) to the Sylvia Ann Howland case of 1865-1870, in which Prof. Benjamin Peirce testified, as the first important document case in this country. Dr. Niyogi refers to this as an early example of the use of scientific methods in questioned

documents. It might be difficult to say when scientific methods were first used as we know virtually nothing about how handwriting was identified in cases before this, especially those that brought about the Massachusetts, Connecticut, and Vermont decisions previously referred to.

Dr. Niyogi in his eagerness to produce a long bibliography included four publications in the field of graphology, his references Keene [18], Rexford [21], Adam [22], and French [26]. This rather dubious art has nothing to do with scientific questioned document examination as practiced in this country and has no place in a bibliography on questioned document history. It is not unusual, however, for those who have only a chance acquaintanceship with questioned document work to confuse the two very different approaches to handwriting study.

I am indebted to Dr. Niyogi for reminding me of the Lee and Abbey book (his Ref 27). He merely lists it, but it has historic significance. The authors were the first to report on an attempt, not too successful, to classify and file handwriting.

Legal decisions have had an important influence on the scope of questioned document work in the courts, just as they have affected courtroom work of all disciplines of forensic science. Albert Osborn, with the assistance of Elbridge W. Stein, a co-worker and friend, compiled 300 pages of decisions of American courts in his 1929 edition of *Questioned Documents* (Ref 3 of the original article). On page 803, an 1885 Mississippi decision is cited accepting the admissibility of handwriting testimony. The 1960 decision referred to by Dr. Niyogi (his Ref 29) deals only with the federal courts, as Costain points out in his discussion of the case (Dr. Niyogi's Ref 30). The whole subject involving our 51 court systems is far too complex for either of us to try to completely document. It is a task for a member of the Jurisprudence Section to handle in a history dealing with the courts and forensic science.

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