

REPORT OF MINORITY-GROUP LAW TEACHERS PLANNING CONFERENCE

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SUMMARY OF THE CONFERENCE

Thirty-five minority-group law teachers and administrators, from 22 law schools met on September 19th and 20th at the Harvard Law School to discuss some of the unique problems that face minority-group faculty members working at predominantly white law schools. There are now approximately 120 minority-group teachers and administrators holding positions at 60 schools. Discussion at the two day conference covered a wide range of topics including the recruitment, advancement, and tenure of minority-group teachers, the minority law teacher in the classroom, the minority administrator, psychiatric dangers for minority law teachers, the problems of publishing, and teaching and activism.

Those in attendance generally agreed that the exchange of views on these and other topics of mutual interest and concern was quite profitable. Participants were surprised at how similar their problems are, and there was general agreement on many points. No resolutions were voted, but a majority in attendance would probably concur in the following conclusions:

I. EMPLOYMENT OF MINORITY-GROUP LAW TEACHERS

1. Law schools are increasingly reluctant to depart from "traditional qualifications" in hiring minority-group faculty. There are few minority-group law graduates with traditional qualifications, and this shortage is likely to exist for several years to come. Minority lawyers with such qualifications are not likely to leave more attractive practice opportunities for law school teaching.
2. To increase the still small number of minority-group teachers, those concerned about this problem must: a) urge the law schools to broaden their traditional criteria for predicting teaching ability; b) gather and share lists of minority lawyers with law teaching potential; c) inform minority students with teaching potential of the advantages of law school teaching, and then urge them to write, consider graduate school, etc.
3. Visiting and part-time appointments can serve to introduce the minority lawyer to teaching, but such short appointments often fail to provide the time necessary to develop teaching skills.
4. The new teacher should obtain a clear, written understanding of what is expected of him or her regarding, teaching, writing, etc. Assistance from senior faculty members should be obtained to ease the adjustment to teaching and scholarly writing.

II. THE MINORITY LAW TEACHER IN THE CLASSROOM

1. While white teachers carry a presumption of competence into their classrooms, the Black teacher, particularly in the first-year required courses, is presumed by many students to be an incompetent "token" teacher, and must prove the contrary.
2. Minority teachers in courses like Constitutional Law or Criminal Law that contain large components of public policy may expect more difficulty from students (particularly those with more conservative viewpoints) than those teaching more structured courses like Contracts or more technical courses like Commercial Transactions or Federal Income Tax.
3. Teachers who express liberal views in their classrooms should expect that conservative students will react to such views with hostility or feelings of intimidation. Such students may retaliate with poor student evaluations of the teacher.
4. Minority students are not uniform in their approach to minority teachers. Some are supportive, others aloof, and others expect preferential treatment on assignments, grades, etc.
5. In gathering evidence for advancement or tenure of minority teachers, white faculty may give greater weight to adverse student opinion than they do in the case of white teachers.
6. Minority teachers can expect difficulties from many white students who have never had a non-white peer, much less a non-white in a position of authority over them.

III. PROBLEMS OF MINORITY ADMINISTRATORS

1. The minority lawyer hired in an administrative role is expected to perform a number of diverse functions well. In addition to the standard functions of admissions, recruitment, financial aid, and counseling, he or she may be expected to raise funds for minority programs, defend them against attack from minority students who see them as inadequate, and from faculty and alumni who see them as unwise and possibly illegal.
2. Even while successfully balancing several tasks, the minority administrator has a problem of legitimacy. The role is usually seen as a non-professional one, even though, and perhaps because, the administrator is handling so many different assignments.
3. Minority administrators, despite their best efforts, are witnessing a slow but steady erosion in minority admission programs. Funds are also a growing problem. On the other hand, minority students are more able to rely on one another, and their increased numbers makes it less necessary that they rely on the minority administrator. They are better able to handle their own problems.

IV. THE MINORITY LAW TEACHER AND PSYCHIATRIC REALITIES

1. While all minority law teachers and administrators work under heavy pressures that are fairly similar in nature, the response to those pressures is likely to vary from individual to individual because of personality differences. These differences are the results of a myriad of factors going back to childhood. They influence how the individual responds to an emergency, to stress, to anxiety, to depression, etc.
2. Some responses to stress can be positive and enable effective functioning. But some responses can be quite negative. For example, anxiety can become unmanageable, depression can sap energy and motivation. Stress can also bring about psycho-psychological responses, including hyper-tension, ulcers, and heart attacks.
3. The minority faculty member should view him or herself as an asset who must take specific protective steps to guard against the pressures of his job. Specifics include:
 - a). Recognize your limitations. You cannot be everything to everyone. Determine what you can do, and reject everything else.
 - b). To the extent possible, determine in advance how you will relate to people in your job, and how you expect them to relate to you. Work to maintain these standards.
 - c). Be aware of unconscious pressures that white students and colleagues may impose through demands for unusual amounts of time, repeated questioning as to "How are you doing?", etc.
 - d). Be aware of sexual approaches where students or faculty

colleagues approach you as a male or female rather than as a professional.

e). Recognize the value of assistance in dealing with the pressures of the job. This may take the form of self-examination, discussions with a friend, group discussions with persons similarly involved, or professional help.

V. LEGAL PUBLICATIONS

1. Teachers who must write to obtain advancement and tenure should obtain a clear outline of what quality and quantity of written work is required.

2. Minority teachers should not sacrifice their integrity *re* choice of subject matter and viewpoint to meet faculty writing standards, but should recognize and try to follow the formal, technical style faculty evaluators are looking for. In general, legal writing for serious consideration should contain an in depth, analytical approach of a fairly traditional nature that is characterized by the expression of new theories and approaches, and full documentation.

3. The new teacher should plan more than one serious article that meets the standards set forth above, and supplement this with a number of shorter writings that may be intended for law reviews, or more general publications.

4. All but the best known law reviews welcome articles. Survey a series of articles in a publication you are aiming for to get a sense of the style, length, and subject matter of that publication. Senior faculty colleagues can also provide assistance with first drafts, outlines, etc.

5. Writing in the area of a teacher's subjects will generally enhance classroom performance and deepen understanding of the subject matter.

6. Many law school teachers who subscribe to traditional standards have written little or nothing themselves for many years. Nevertheless, it is important to understand what they consider excellence in writing, even though you have no intention to write for their approval.

VI. TEACHING AND ACTIVISM

1. The handling of social reform litigation can prove a satisfying and worthwhile supplement to law school duties. If the litigation is in the area of the teacher's courses, it can provide additional insight into the area.

2. Too much involvement in litigation during the first few years of teaching may require time that should be devoted to gaining teaching skill, and may upset other faculty members.

3. Litigation is more effective if there is organizational support to provide research, investigative, and fundraising assistance.

SESSION I—EMPLOYMENT OF MINORITY-GROUP LAW TEACHERS

SUMMARY OF COMMENTS BY PROF. HARRY EDWARDS

The universe of potential minority-group teachers is quite small. Today, only about 120 of more than 5,000 law teachers are Black.

Why we need more minority teachers:

1. to extend job opportunities for Black lawyers;
2. to provide role models for Black and white students, particularly the latter who live with the same stereotypes about Black intellectual inferiority, and inflated notions of their own intellectual ability, which both need to be corrected;
3. to destroy the prevailing myth in academia that Blacks have no role there because of inferior intellectuality;
4. to place non-whites in positions of influence that so many law school teachers enjoy obtaining access to persons in government and political power, etc.

The minority teaching force is stuck at about 1 1/2% for the following reasons:

1. There is a very small pool of Blacks and other minorities with traditional qualifications, i.e. high grades, prestigious law school diploma, law review, Supreme Court clerkship, association with a large law firm, etc.
2. The minority-group pool is small also because the present levels of recruitment have only been in effect for three to four years. And, as a result of that recruitment, perhaps 200-300 minority-group students are graduating each year from the country's 10 or 15 best-known law schools. No more than 10 to 15 of these graduates each year meet traditional criteria for law teachers, and if the estimates are accurate, no more than 30-60 such students have graduated in the last half dozen years or so. Even the 30 to 60 guesstimate figure may be inflated because of disadvantages in prior education, law school pressures, outside jobs and other interests, all of which serve to lower grade point averages.
3. Law schools are very reluctant to alter traditional hiring criteria for Blacks, women, etc. Adherence to the traditional criteria will mean virtually no minority-group hiring in the short term, and very little even in the long run.
4. Information about the few graduates with traditional criteria is not well known. In addition, minority lawyers with teaching potential gained in practice are not known.
5. There is no current incentive for white law schools to seek additional Black faculty. The few minority-group token teachers have relieved the pressure and faculties are not now beating the bushes for additional minority teachers. Appointment committees remain committed to traditional standards. They defend their inaction on the general belief that there are no good Blacks around, and therefore they need not look for them.

6. The good Black practitioners are not available. They like the work they are doing, they are making money, and they simply don't want to be hassled in order to get into a teaching position. That is, they don't wish to go through the usual interview process.

7. Teaching is not appealing to many good Black students who are anxious to get away from the law school and see very little advantage to coming back. They are not convinced by watching three years of the Socratic method that law school is where the action is. Minority-group students are usually in heavy debt after seven years of college education, and the money attractions of practice are very appealing.

Possible solutions:

1. Minority teachers must assume the responsibility of identifying teaching candidates.

2. We must gather and share lists of students with good potential and good grades. We must do the same thing regarding practitioners who have been out a while. In addition, we must be aware of teachers who might want to move. We should not be reluctant to play "musical chairs" since the loss of a teacher may motivate a school to crank up a meaningful recruitment program.

3. We need to provide more counseling for minority-group students regarding the importance of writing, graduate work, and other activities that will serve as a preparation for teaching.

4. We have to provide more information to the law schools' appointments committees about available lawyers with teaching potential.

5. Summer visits for practitioners are a valuable means by which the practitioners can become exposed to law school teaching, and the schools can get to see the practitioners in a teaching role.

Advancement and tenure need not be significant issues, but it is critical that all such matters be discussed and set forth in writing at the time the individual is hired. All matters concerning salary, advancement, course assignments, when you are going to teach, what you need to write, what your other responsibilities will be, etc., should all be contained in a letter or other written document before the job is accepted.

SUMMARY OF COMMENTS BY DEAN ALBERT SACKS

The points made by Harry Edwards are well taken, particularly those regarding the application by most law schools of traditional hiring criteria, the result of which is that they are coming up with very few minority candidates. Schools are then asking the hard question, "What are broader qualifications that can be applied?" Many are willing to balance grades with post-graduate writing and practice, although it is harder to convince appointments committees of qualifications in this way. There are other methods, but most schools are not sure how to proceed regarding these alternatives.

Harvard is not content with one tenured, Black professor. But the effort to apply very broad standards results in difficulty with the faculty who are

unable or unwilling to understand what these broad standards are. This gets particularly difficult with faculty appointments because faculty consider every appointment as a potential long-term appointment, and are reluctant to take a risk with broader standards that they don't understand.

In the long run, the minority pool should grow because the performance of minority-group students is improving steadily. Most of these students are not yet in the teaching market place, particularly for a school like Harvard that usually hires persons out of school three to four years. But Harvard doesn't want to wait for the current crop of better graduates to mature, and has taken steps including having a special member of the appointments committee to work on recruitment, screening, and stimulating consideration of Black and other minority-group candidates. There have been no results yet, but efforts are being made. The major problem is what qualifications can be substituted for traditional criteria and how do we identify them? To fail in this, is to fail to achieve some of the goals Harry Edwards listed as a need for increased minority law teachers, particularly the role model goal.

DISCUSSION OF RECRUITMENT, ET AL. WITH DEAN SACKS AND PROF. EDWARDS

In the discussion on recruitment problems, it was suggested that there is a "reverse dynamic" at work regarding recruitment processes. Minority-group prospects don't have traditional qualifications, but when recommendations are made based on post-graduation performance, the results are often poor. Individuals whose names are suggested either are not contacted by those who solicited them, or they have been called in and later found wanting because of the application of traditional qualifications.

Dean Sacks was asked whether the law schools' lack of sincerity isn't reflected in the very small number of Blacks who have been invited to visit at other schools. Sacks agreed that the visiting professor method is a good means of getting to see other teachers. He said that it also might provide a means for bringing individuals back from practice for a year to take a look at them in the teaching setting and give them an opportunity to try out teaching. Edwards suggested that there is sufficient challenge in trying to improve the situation at the home school, and that visits would waste valuable time.

Concern was expressed that often practitioners have a horrible time adjusting to teaching, and a bad first year might be disastrous, particularly at a school where no minority faculty had previously been hired. Sacks responded that it is unlikely that the visitor from practice will want to change careers. Others suggested part-time teachers might be given a visiting post for a year of full-time experience.

A charge was made that many teachers with the traditional criteria were not very good in the classroom, indicating that a distinction in hiring criteria should be made between scholarship and teaching. Since traditional standards are valid only to the extent that they accurately predict teaching success, minorities must force the issue regarding the value of traditional standards, not simply for Blacks alone, but for all teachers.

Another participant added that a re-evaluation has taken place regarding standards for admission of law school students, and that bar leaders are

now reconsidering standards for admission to practice. These actions might well serve for a precedent for reviewing qualifications for law school teaching, if there were any pressures on law schools to re-evaluate their teaching qualifications. Prof. Edwards added that the growth of clinical programs may be one route for setting new teaching standards.

Dean Sacks disagrees with the charge that all or most faculty are poor teachers. In any event, it can't be proved. He agrees with the clinical teaching as providing an alternative qualification route, but reiterates that most schools continue putting emphasis on scholarly performance and simply claiming that the teaching is lousy does not persuade anyone to change. In fact, most schools are probably placing greater emphasis on scholarly ability and potential than they have during the last several years.

Regarding the discussion over whether scholarship or teaching should be emphasized, a young teacher recalled that his best teachers in law school were also very good scholars and feels that the two go hand in hand. But, he added that the judgment to hire is not a decision to give tenure and that minority faculty members should be given a chance with the clear understanding that they must measure up or else. Dean Sacks responds that risks can be and are taken with students, graduate students, and even teaching fellows. But he feels hiring professors is different. At some schools, persons are hired with the idea of keeping permanently no more than 1 out of 10. He cited some of the departments in the Arts and Sciences School as examples of this. But the Harvard Law School practice is that there is a presumption when the job is given that it will lead to tenure. In fact, only three or four persons have not received tenure in the 22 years of his faculty experience.

Even so, participants felt that while the standards should not be lowered, Blacks should be given an equal chance to be disasters. A Harvard graduate recalled that exceptions had been made in which whites had been brought on with full tenure, and turned out to be disasters. She felt Blacks should have the same chance. She said unless some risks are taken, Harvard will never have anyone other than Derrick Bell on the faculty.

Sacks responds that you can't get good people unless there is a presumption that if hired, they can go all the way to tenure. You must remember that persons who are qualified are likely doing well in practice where they are enjoying their work and making far more money than they can in teaching. He cites his own example. He said that he doubts he would have left practice if Harvard only gave him a crack of one out of five, or one out of ten to make it in teaching.

Prof. Edwards wondered whether there isn't an intermediate model, that is, where there is a margin of error and the faculty agrees to take a risk. Sacks responds that Harvard does take risks but a dissenter suggested that in fact what happens is that whites can be hired if they have potential, but Blacks must have a track record. He says that this is an attitude that can't be measured, but is observable across the law school field. Blacks need a proven track record. In the past, the motivation to take risks for Blacks came from the fear that Black students would take over the Dean's office. Faculty do not any longer face this problem. Indeed, the movement in the universities is now away from minorities and toward women. There are many more

pressure groups who are pushing the recruitment and hiring of women and the momentum has gone from race to sex as increasingly limited resources are applied under the "squeaking wheel" theory to those who are exerting the greatest pressures. Moreover, women meet the same criteria as white men, they look the same, etc.

A participant reiterated that it takes time to become a good teacher particularly when no one tells you how to prepare classes, what to write, how to organize your material, and so on. Also there is the counseling, committees, and the problems of working with students including Black students who will kill you unless you are on your toes.

There was general agreement that all minority teachers need to work to compile a list of graduates and practitioners with teaching potential. This list should be updated from time to time and circulated to all teachers. However, the view was also expressed that there simply isn't the will to hire minority teachers today and the time compiling a list might better be spent in organizing and initiating litigation. The Supreme Court's decision in *Griggs v. The Duke Power Company* was urged as sufficient authority for such a suit, but doubt was expressed that even under the broad standards of *Duke Power*, a law school could be held to sufficiently objective standards to enable a finding that a particular minority applicant had been turned down because of race rather than any of the whole range of criteria, often quite subjective, that faculties apply in the hiring process. Finally, it was suggested that minority-group teachers should seek appointment to faculty hiring committees. Failing this, they should maintain contact with such committees, supplying them with names, and insuring that appropriate follow-up on potential candidates is made.

SESSION II—"THE MINORITY LAW TEACHER IN THE CLASSROOM

EDITED COMMENTS OF PROF. PATRICIA KING

First, my experience is somewhat unique because I am Black and female. I have found that all of my problems are not due to the fact that I'm Black, all of them are not due to the fact that I'm female. The combination is deadly, or can be deadly. I catch it from both sides. I've talked to other Black females who have taught and we all have had this experience.

Second, I think class size makes a difference, whether you are teaching a small class or a large class. And, third, I think subject matter makes a difference. And, by subject matter I'm talking about not the difference in teaching a first or third year, but the difference in what I call a hard subject or a soft subject. I'm going to call my business courses hard subjects, and a soft subject is my constitutional law course. I mean soft in the sense of more policy, more room for open discussion.

I think Blacks who enter the classroom suffer from an initial handicap. It's the one Harry Edwards referred to earlier. Our colleagues think we're deficient mentally; so do most of our students. It's an impression you have to overcome. I have found that being a woman as well as Black is a double barrier. I start with both. To some extent I can't do anything right. My

students believe I am incompetent, and that I have no business in the classroom because I am Black, wasn't on law review, and because I didn't work in a large law firm. I'm sure this experience is common to many of you. My students also reflect the attitudes of white teachers. If they fail to display a certain amount of respect or acceptance, the students notice immediately and reflect definite hostility.

Some have the attitude that I can be intimidated because I am female and I have to exert a great deal more authority in the classroom. As one student expressed it, "I do not know how to deal with you. I don't know how to respond in class." And, when I asked why, I was told, "I have never in my life had a Black professor, I have never in my life had a female professor and the combination I just can't deal with." I didn't laugh. I thought that it was an amazingly honest and forth right student who was really trying to overcome his difficulty and deal with a Black in a position of authority.

While white students start with the idea that you are mentally deficient, Black students are a mixed bag. Some reflect their white class mates, they think you are mentally deficient, too. That you were probably hired because of the affirmative action program at the university. Others are very happy to see you there. They are protective, they don't allow students to say things about you, and they identify with you as a role model.

I want to talk about the role of expectations. We have a written, computerized system of student evaluations for each professor. In our tenure process, student evaluations play an enormous role. You will not get tenure if the evaluations of your students are fairly low, even if your colleagues have observed your classes and come away with a fairly decent impression. I stress this because I always thought student evaluations, or the chance for a student to evaluate a professor provided a more objective way of determining whether or not you were a good teacher. But for *minority* professors, it is deadly because the evaluations reflect the student expectations and how well you live up to them. They start with the idea that you aren't as good and it's very difficult to overcome that.

I have taught Corporations, Commercial Law, and Business Associations and Accounting Systems using the same techniques that I used to teach Constitutional Law, but my evaluations were off by 2 points. That's a big difference. I was averaging 2.0 in Constitutional Law and averaging 4.0 roughly, in the business courses. My difficulty in Constitutional Law stems from the fact that I'm teaching my students to consider an area in which they think I have a vested interest. I was teaching civil rights legislation; I was teaching sex discrimination. It was indeed true that I did have a vested interest. But, my students felt, and this was reflected in the evaluations, that I was spending too much time in a constitutional law class that dealt with individual rights and liberties, the problems of liberties, and the problems of women and the problems of minorities, even though that was considered a normal part of a Constitutional Law curriculum. Indeed, you have to overcome an initial barrier and it's easier to overcome in an area which the students view as "technically oriented."

As a minority and as a woman, I have a great deal of trouble with student evaluation programs as the major measure of classroom performance.

For those of you in schools that are leaning toward that system, I want to caution you or if you are in a school that already has that system, then caution you about how well it may or may not work.

Another possible problem is that some schools still have a policy of permitting Black students to play a role in the evaluation process. This could enable hostile Black students to retaliate against you, but I have found that Black students are usually supportive, and are not easily alienated.

The most serious problem with Black students is the expectation of some of them that we have to be easier on them than we are on white students. That issue is a real problem. If I treat Black students fairly, in terms of calling on them, grading them, . . . I find that that's not satisfying. I have been told that if a Black student happens to flunk an exam, I ought to pass him anyway, because I am Black and I should have some sympathy for the kind of problems that we've all had in reaching a certain point. That's a very serious problem. Not because I'm not likely to flunk somebody if they deserve to flunk, but it's a very serious problem in terms of expectations, and the attitudes of Black students who are in law school, and what their expectations are—why they are here, what they are going to do when they get out. I have discovered 1) that in my years at Georgetown, I guess it's true for most of you, my success is going to depend on how well I do in the classroom in addition to how well I write. 2) That the only solution in the classroom is not to be a white professor, nor a Black professor, but to be Pat King. That's to be a little authoritarian, strict—on Black students and white students—and hope that as a result of that there are gains to be expected for all of us . . . and it's not easy.

EDITED COMMENTS OF PROF. HENRY MCGEE

One of the advantages of private practice over teaching is that you do not put yourself at the mercy of whites. You have a license and you can open a business for yourself. In the law school, I am more at the mercy of white people than I've ever been at any time in my life. And I say that very advisedly.

In 1968, after several years of practice in Chicago, I taught a summer course at Ohio State. I was a teaching fellow for a year at Columbia, I taught at N.Y.U., and I've been at U.C.L.A. for five years. The climate in the law schools was, in terms of students at least, much more liberal in those days than it is now.

I was somewhat shocked to hear what Pat King said about Georgetown. In Southern California the explanation for hostile white students is that many come from superconservative areas, the San Fernando Valley, Santa Anna, Disneyland, etc.

My experience with student evaluations has not been good. A student newspaper called "The Hostile Witness" runs a poll every year. It was designed to try to make teachers more accountable. One year they voted on the worst teacher. The poll named a person who was the only woman then on the faculty, a woman with all the traditional criteria. The second worst was the other black teacher, who is now in fairly good graces with the student body. I was in third place.

Some of my student evaluations said "go back to Cook County." "He can't spell." "He tries to use big words and he doesn't know how to employ them." Because of such comments, when I went up for tenure, the faculty did something that had never been done in the history of the school. They appointed a faculty commission to interview at random 20 students. They polled the class list and interviewed on a random basis. Two of our most distinguished faculty members conducted the interviews which was a horrible imposition on them. It must have been an agonizing thing.

Some of the stories were unbelievable. One woman, a left wing student who had been in the civil rights movement, reported that I had come to represent everything evil that she had ever crystallized in her mind, and that this had nothing to do with the quality of my teaching. I gather they heard a series of very nightmarish stories of how the psychological interaction between the whites and a Black teacher had become perfectly horrible.

The faculty commission ignored all of this, and I was voted tenure. Of course, other evaluations had been very good. Otherwise they would have never appointed the commission.

Most of my difficulty was caused by a first-year class. I had taught Conflicts of Law, Legal Process, Criminal Law and Procedure, but first-year courses are quite difficult, as I shall describe. By the way, last year I was voted the most racist in the entire school. A woman teacher, again with excellent credentials, was voted the most sexist. What these evaluations and polls do is provoke a violent response. They give those who are having problems the opportunity to get in a sneak punch with no risk to themselves.

I teach Criminal Law and Procedure in the first year, and I teach housing and urban development in the upper years. I find the first-year courses are the worst. First, you are breaking in new students. Criminal Law and Procedure is a policy course and there is great conflict in the law. You cannot make it appear logical and clear, but the students presume any lack of clarity in the course is due to my intellectual inferiority and not to law itself. So I had a lot of trouble in this course.

Another factor is that many of my students have never been in class with a Black teacher, or with a Black student. The first Black person many of these students have ever seen is me. They come into the law school setting which is a terribly anxious situation for them, and then find a Black man has some authority over them, and can affect their lives. This is antithetical to everything they have been brought up to believe. They experience an enormous psychological conflict. And, if you get a Black teacher who is the least acid in his disposition or irritating, and I put myself in that category, frankly, you are in trouble.

As Walter Leonard would say, you have to play the "Afro-Saxon" if you are going to cut it in first-year classes where many of these students are dealing in a high anxiety situation with a Black professor. In addition, I get into trouble by venting personal positions and taking political positions which I have felt all along responsible and obligated as a Black person to do. I use the class as a forum to attack the Nixon Court, etc. And, this can have a tremendous affect.

In the second and third-year courses, I've had good success. There are two theories for this. I've been advised that perhaps I don't do as well in the first-year courses because they are highly conceptual and require a high degree of teaching skill, while the upper-year courses are practice courses. I don't accept this, obviously. I teach Criminal Procedure on the practice level and therefore my experience as a lawyer counts for a tremendous amount, and naturally students tend to defer to that experience. Also, it has been pointed out, that I am teaching against the cream of our crop in the first year, which is true. Our very best teachers are in the first year. Some of them are nationally famous men and you don't have that problem in the more specialized courses. The third reason, and I think this is probably true, white students that like you, take your courses, and for some of them, you can do no wrong. The ones that don't like you, and more often than not they are the law review students, the really cracker-jack types won't take your courses. They are aiming for Wall Street and feel that, white or Black, you are wasting their time if you aren't talking about making money.

I brought my evaluation sheets along to prove the point I'm making. One is Criminal Procedure on the freshman level, that's your Fourth, Fifth and Sixth Amendment course. The other is Advanced Criminal Procedure that covers everything from indictment to appeal. To give a little background, I was a prosecutor in Chicago for four years. I've handled all of this material. In fact I've handled more of the freshman material than I have the trial material which I teach in the upper-division course.

We have a ranking sheet which is: low 1-3, medium 4-6, and high 7-9. In the freshman course (and this is one of my better freshman course responses) on the question, "Class presentations made the subject understandable," 43% of the students found that I didn't explain, that I was low in my ability to explain the Fourth Amendment. Forty-four percent said I was medium, and only 14% found that I was high in my ability to make the subject understandable. In the senior course, only 18% marked me low, 57% of the people said I was average, and 24% marked me high.

To show "Implications and applications of the subject," no one in the upperclass course marked me low. I got 0% which is very rare. Thirty-six percent marked me medium, and 63% of the people marked me high. But in the freshman course, 14% of the people said I never showed them occasions of how the subject was applied, even though I'd been a prosecutor, even though I'd come to the course as a trial lawyer, 36% marked me medium as opposed to 33%. There's some correlation there. And, about half said that I applied the course quite well.

On the issue, "Students free to disagree or express ideas," again in the senior course, no one said I didn't let them agree or disagree. But 18% of the freshman students, something like a fifth of the class, said that I was very low in my ability to let them say what they wanted to say. There were 31% of the freshmen in the medium range and only 15% of the upperclassmen. In other words, twice as many freshmen as seniors thought I was only mediocre in letting them disagree as opposed to 15% in the senior course.

On the question "Was your intellectual curiosity stimulated?," 9% of

the seniors found I was low in terms of stimulating them. Twice that number of freshmen rated me poorly.

"What is your overall rating of the instructor?" This is, I think, meaningful. Twelve percent of the seniors found me to be low, 1-3. Medium, about 36% of them marked me 4-6 on a scale of 9. And over half or 51% marked me high, 7-9. In the freshman course, my overall rating was, and this was a fairly good one, although my dean doesn't think so, 27% (that's twice the senior rate) found me low. Thirty-four percent in the middle, and 32% rated me high. So, what you have here is a clear polarization in the class.

One of the questions that comes out in this evaluation, as one of the faculty people put it, "Are they rating the same person?"

Let me just make four more points and throw this open to the floor. You've got a problem of models. Are you going to be a Walter Gellhorn with a Black skin? In other words, are you going to try to play it very straight and be a white teacher, or do you have a more unique style? I think ultimately you're going to have to be yourself. If you try to play any kind of role, you're going to alienate one side or the other. It's clear though that the extent that you do not come off as an Afro-Saxon, you're going to have trouble. To the extent that you do not behave in class, or try to show a little soul, you are going to alienate some white students.

I think it's a question of personality. The other Black teacher at U.C.L.A. never provoked the people to the extent that I have provoked them. Students start off marking him as terribly boring, but eventually he has gotten more and more acceptance. I've continued to have a high rate of disaffection and alienation because now and then I will come out of a street bag, if I feel it is necessary to make a point. Once you do that, you attract the specter of Nat Turner. And, I do not consider myself to be militant. I know you all look at me and you know right away that I am not Nat Turner. But I might use Black vernacular in a classroom once in a while because that's my mood, or I think it makes a point. That can be a fatal mistake. You'll just have to decide what your forensic style is going to be.

I want to suggest that perhaps Black teachers should emphasize research and writing rather than teaching. Who's your audience going to be? If you write articles you can only have so much time. If you write a lot of articles you build up your reputation in the profession, but this may be at the cost of classroom preparation or classroom effectiveness. I think, frankly, it's a psychological fact that many Black people try to prove themselves with the white people that they're dealing with right before their eyes. Looking back, I've poured a lot of time into teaching because I didn't distinguish between the white boy sitting in the classroom and the white boys that really made a difference, who are the faculty and people at other law schools. I really wonder, on reflection, although it's a pride thing, you're Black, you're in the ball park, you're at the plate, you want to knock it over the fence, so everytime you go into the classroom, you drain yourself, you try to do the best kind of teaching job you can do. I'm beginning to wonder whether, given the changing climate in the country, it's possible for Black teachers in white schools to do more than a certain kind of a teaching job, unless they are

brilliant. You might be well advised to try to put more time in on research, more time in on your writing, because I do think that people will evaluate that fairly. Your colleagues, people in other universities, will validate that kind of effort. And you are just going to have to sacrifice whatever pride that's involved in being known as a fair to middling teacher.

This may be the best tactic, but I do think that effective teaching is important. You have a responsibility to the students, white and Black, despite the fact that the situation is less than perfect for us. I would continue to support the concept of student evaluations, even if one of the prizes is the kind of thing we talked about today. They are very important for promotion at U.C.L.A. for Blacks and whites. You've got to be evaluated, and they have to be in your favor. Then of course, there's self-satisfaction. You want to do a good job. So, good teaching is important and I think we should work on it, but I think we need to be in touch with each other, and I think somebody needs to do a more thorough study of classroom reactions to Black teachers.

DISCUSSION ON "THE MINORITY LAW TEACHER IN THE CLASSROOM" SESSION

A first-year Contracts teacher reported that he had done better with his first-year students than with upperclassmen. It was suggested that the more technical nature of Contracts might reduce the tendency of students to be critical of minority group teachers and to fear they are trying to teach a propagandistic-racial line. Opinion was not uniform on this, but many participants agreed that minority teachers have less difficulty with technical and/or business oriented courses than with courses like Civil Rights, Poverty Law, and even Constitutional Law where policy considerations play a heavy role.

The discussion also brought out that the expectations of Black students cannot be easily defined. Some expect Black teachers to be easier on them, but others would be horrified at this. Some refuse, almost on principle, to take courses taught by Black teachers, while others will take every course the Black teacher offers.

In a further discussion of technical versus policy subjects, a tax teacher reported that he had experienced little difficulty with students questioning his competence until this past summer when he decided to teach a state and local tax course from a policy rather than a statutory viewpoint. He then had some of the same problems reviewed by both Pat King and Henry McGee.

There was further discussion of the subject of student evaluation. One view expressed was that faculty take student evaluations far more seriously when Black teachers are being evaluated than when white teachers are being evaluated. The feeling was that this phenomenon was simply another manifestation of the willingness to give more credence to views expressed by whites than those coming from Blacks.

The most dramatic illustration of this was given by Edgar and Jean Cahn, Co-Deans at Antioch. They indicated that they had noticed that Edgar (who is white) received far less argument and disagreement to his opinions and directions than did his wife Jean (who is Black). They have experimented, and on several occasions, Jean has given a set of instructions to which there is usually disagreement or debate. Edgar then, using almost the same

words and intonation of voice, gives the same instructions, and again and again, students and staff have accepted them without question.

Both Cahns are convinced that identical teaching styles will be characterized by students in different ways when presented by Black and by white teachers. At this stage in their careers, Edgar Cahn said that it is the automatic assumption by many people with whom they have contact that he has the experience in teaching and in practice that has led them to their present professional level, and that Jean has just come along for the ride. In fact, he said, it is Jean who has practiced independently and with a large firm, and who has had several years of teaching experience.

The Cahns also described the clinical nature of much of Antioch's curriculum and indicated that they have very liberal students. Nevertheless, the students tend to be very hard on the Black male faculty, and even wanted them all fired after the first year. On the other hand, students are attracted to all teachers who are white, male, and radical, and this happens regardless of the teacher's intellect or ability. Edgar warned that racial considerations do figure in student and faculty evaluation of minority-group teachers, and that definite steps must be taken by all concerned to prevent this from happening. He suggested that minority teachers should not be put in "no-win" situations, i.e. that is placed in classes to teach subjects at times that would be extremely difficult for any teacher. Where possible, new teachers (black or white) should be broken in slowly with small seminars, team teaching, and large classes broken into smaller sections. They pointed out that it is more time consuming, but a new teacher can gain three years teaching experience in one year by dividing a 100 student class into three sections of 30 odd students each.

Concern was expressed by one participant about the implications of self-doubt in this discussion. It was suggested that if you are Black, you can't be thinkskinned, and if you are a teacher, you can't be thin-skinned. That Blacks should not be surprised that white teachers react to them as they do. The group was reminded that Black students are often infuriated by what white faculty and students say and do. It was suggested that minority teachers need a certain arrogance, and can't let white attitudes and behavior get them down.

But, another participant reminded the group, negative responses particularly as expressed in student and faculty evaluations, determine tenure, salary raises, etc. It would be worthwhile to ignore these evaluations, but it can't be done. This poses a difficult hurdle in that it is clear that the expression of a view opposed to that upheld by the students is intimidating, and that this intimidation is likely to reflect itself in poor student evaluations, particularly on questions such as "Does the teacher let you express your views?" and "Is the teacher intimidating in the classroom?" It was suggested that the nature of the evaluation form are sometimes part of the problem, and that often students are involved in the designing of questions which are unnecessarily subjective.

It was pointed out that unofficial "corridor conversations" between students and faculty can be as devastating as the student evaluations. The mention by a student, particularly if he is on the law review, that a particular minority-group teacher is not good, can have great weight, and if widely

repeated, can pose a barrier for the teacher's upgrading and even his survival that no amount of effort on his part can overcome.

This is a particularly difficult problem for beginning teachers who want to improve their skills, who see the evaluations may not be objective, but reflect racial hang-ups of the evaluator. It is clear that one can't base his career on the ability to win over a whole classroom of white students. Using whites to validate worth is a very difficult process. Perhaps, one teacher suggested, Henry McGee is right, it is wiser to spend more time on research and writing, and just assume that your teaching will never win universal approval from predominantly white classes. To some extent, you simply can't care about what students think. One new teacher who confessed he had a devastating first term, said he tried to analyze the situation, recalled that he was competent when he came to teaching, and determined that he would simply do as well as he could, and if that did not suffice, "f--- it." The group agreed that this is good advice even though it is difficult not to want the approval of those you are working with every day.

The Cahns indicated that they felt the clinical method would be the perfect educational institution for Black students who traditionally have done less well under the Socratic method. But as it turns out, the Black students want the traditional business-oriented courses, and don't want policy courses, poverty law, etc. They don't want to go back and work with the Black community because, for many of them, it is from there that they came. They want success measured in the traditional ways which is to say by white standards. It is somewhat disappointing, but not surprising.

In terms of student approval, it was pointed out that the cards are stacked against minority teachers because the Socratic method simply won't work unless students want the teacher's approval so badly that they will expose themselves to the ridiculous statements, and positions that they are forced to take under the method. When they don't want your approval, and don't play the game, the class simply doesn't work, and you look like an inadequate teacher.

SESSION III—MINORITY ADMINISTRATORS: "IN THE MIDDLE"

SUMMARY OF COMMENTS BY DEAN JAMES THOMAS

[Mr. Thomas is both Assistant Dean and Dean of Students.]

He has contact with both minority and white students and increasingly has been providing counseling services to white as well as Black students. Minority administrators, like teachers, have a serious problem of legitimization. When hired he was seen as an emergency worker who would fill in whenever trouble occurred. Initially, others did not see his job as a professional position, but there is less difficulty with that now. He recognizes the role model responsibility he has both for students and faculty.

Minority administrators can be very helpful in developing lists of Blacks and other minorities who are teaching candidates. While they don't see students from a classroom perspective, they do keep the records, and often have to write recommendations based on those records.

With regard to the "man in the middle" aspect of the job, he recognizes at least four different pressures: 1) from the students, including interest groups, and individuals; 2) from the faculty; 3) from alumni pressures—minority administrators are the fall guys for the minority programs and bear much of the brunt of criticism from those who are suspicious and hostile regarding such programs; 4) the university administration exerts pressures that require defending minority programs.

SUMMARY OF COMMENTS BY DEAN THELTON HENDERSON

He agrees that administrators are in the middle, and has been better able to face the pressures he receives by keeping in mind why he is there. He was hired on a part-time basis after registering a complaint with the school in 1968 regarding the paucity of minority students. The first Black graduated from Stanford in 1968. After taking the job, he became the "all-purpose Black." He served many purposes, but failed to get a detailed job description. He obtained more structure in his job, plus more money, after he decided to resign to accept a job in private practice. Now he does recruiting, travels a good deal, handles some administrative duties, teaches a course, and finds his job somewhat easier now that the school has hired a Black faculty member.

His problem of legitimization is characterized by an experience that would repeat itself at least once each week for the first few years. Someone would knock on the door on which the words "Dean Henderson" were lettered. He would say "Come in," and a white face would enter, look all around his very small room and then ask impatiently, "Where is the Dean?"

His basic problem was how to increase minority admissions in a relatively conservative institution. He says that now approximately 20% of the students are minority members, but that he didn't help effect this improvement through a radical image. Rather, he worked along in a very objective fashion, getting faculty and others to depend on his suggestions and not be threatened by him. This was fine for the administration, but the students wanted a more militant person in the job, and it was difficult to convince them that he was serious about their needs (he had to keep reminding them of his civil rights background) and still not upset the administration. He said he had the example of two white faculty members who are known radicals, but have no power to effect anything at the school. To avoid this, he acted in a very conservative way regarding the minority admissions program until the school decided that he was not a mad man, turned the program over to him, and then he became a mad man.

Now, Black students are able to rely on themselves, and he does not feel the pressure to assume a militant image that would not be good for the program, and would not be natural for him. He feels the program is doing well, but is afraid to leave because a new person will have to start all over again with all the hidden arrangements and understandings that enable the program to function. Funds are becoming increasingly hard to get, and in short, the program is far from being institutionalized.

SUMMARY OF COMMENTS BY DEAN ROBERT WILLIAMS

Harvard graduated its first black student in 1869, and around the first of the century apparently decided that they would admit approximately one student per year. In the late 1960's, they began a minority admissions program. The program increased the number of minority students each year so that now there are more than 200 in the law school. A major and continuing problem has been determining what admissions standards to use for minority students who seldom present traditional qualifications as high as their white counterparts. Harvard is now the third largest minority law educator, after Howard and Texas Southern. The failure rate is about 1%.

The problem he experiences is minority students who have always done very well academically who come here and do less well. They seek counseling complaining that racism is the cause for their academic fall. In addition, there are problems from faculty members, including some who were originally strong minority admissions supporters, but who now are very concerned that the program is resulting in a diminution of academic standards. It is clear that some minority students who are risks don't do well, but he resists agreeing to "minimum standards" since often grades and LSAT scores do not accurately predict the performance potential of some minority students.

As the number of minority students increases, they are better able to reinforce one another, and the counseling role diminishes. Nevertheless, it is sometimes necessary to explain to students that racism can be a crutch, and that not every failure or poor grade is due to racial prejudice. He feels the overall situation in this regard will improve when a few Black students make the law review. This will tend to legitimate the academic performance for all minority students. As of now, though, the grade curve begins at the B level and bottoms out at the D level. The curves for white students, on the other hand, begins at A+ with the great bulk of grades being in the B+ area, and tapering off down at a low C. This data prompts many faculty members to demand a higher minimum admissions standard, and it is difficult to resist these pressures. To date however, each applicant is examined on his or her merits.

In addition to admissions work, other duties include recruitment, financial aid, clinical programs, etc. He has also done a substantial amount of work in placement. Moreover, there is concern about what happens to students after they take jobs. Are they getting through the bar exam, how are they being received at large law firms? Are there new job opportunities that graduates should be made aware of?, etc. One handicap of a job of this nature is that it provides no time for quiet reflection and writing.

DISCUSSION ON MINORITY ADMINISTRATORS SESSION

The minority administrators indicated that minority student grades have improved in the last few years, and this improvement has served to lessen pressures about "standards being lowered," "Don't we need a minimum cut off?", etc. But there is concern that minority programs may be cut back because of the money shortage. They concede that the relatively poor performance of minority students during the early years of the programs brought

about some of the current, adverse reaction. Moreover, at some schools, up to 80 percent of the school funds went to minority students. With the money crunch, this may pose a problem in the future.

The question was raised as to whether the general acceptance of the idea that minority teachers and administrators are role models is an indication or admission of inferiority. Wouldn't it be better if individuals simply went into the job and worked at it as an assistant dean, law professor, etc., without regard to race? The response was that whether you considered yourself a minority or not, those with whom you are working will not forget this, and they certainly will draw conclusions with racial implications, if you fail. Nevertheless, it is necessary that an individual work toward competence, but remain himself. One can't take on roles that are not natural.

The group was reminded that the discussion should not focus solely on the quality of students being attracted to Harvard, Yale, and Stanford. Rather, there should be something on the program for minority students going to the midwestern schools with 450 rather than 650 LSAT's and comparable grade point averages. Also, the faculty member in many of these situations has to serve as the administrator as well. The minority failure rate at many regional schools is much higher than at the national schools, not only because many of the students are less able, but also because teachers are more rigid about what constitutes an acceptable answer, and the schools are far more willing to flunk students than at the national schools where there is a stronger presumption that if you got in, you should be able to do the work.

SESSION IV—THE MINORITY LAW TEACHER AND PSYCHIATRIC REALITIES

EDITED COMMENTS BY DR. ORLANDO LIGHTFOOT

I want to talk about the minority law teacher in relation to his personality, and his multiple roles and circumstances. The most obvious factors are roles and circumstances. What gets least talked about are the personality variables. You are discussing the circumstances that bring us together. Working in a minority status in white institutions, working with Black and white students, having to relate to the larger white community, the larger Black community and all the circumstances created in these situations.

The multiple roles include that of the instructor versus the administrator versus the creative being—able to produce and write and publish—the role of the minority-group member in some category of groups that can and do shift your roles as scholars, teachers, advisers and consultants. We generally feel much more comfortable talking about these multiple roles and circumstances. As minority law teachers I think they will probably be the things you focus on most easily.

It is more difficult to talk about the role of personality and how it affects the multiple roles and circumstances. First, many of us are not very aware of all the things that go on in terms of a personality, and that scares us. If you can't see it, touch it, and feel it, you've got to watch out, for it may interfere in a way that you really aren't planning for.

Personality as I'm talking about it here—and I'm not trying to define it

in terms of a specific textbook definition—is that combination of ingredients: early childhood experiences, early mothering, fathering—family experiences, mixed with basic drives, including aggression, sexuality—and adding certain defenses against those expressions of sexuality, aggression. Most of these defenses are unconscious. We live with many more things that are not in our consciousness than we ever come to grips with. We use all kinds of mechanisms. We deny, we displace, we project, we sublimate, we isolate, we do a number of things to manage.

These normal phenomena are complicated by the multiple roles that you have to play and the multiple circumstances in which you find yourself. Of course, all of this is influenced by environmental factors: your race, your culture, your response to oppression, your differentiation of class, your educational background, the influence of your family and their particular vicissitudes. All of this blends into this notion called personality. The person that results from this combination develops a characteristic style of relating, of interacting, of responding from within and from without.

One of the things in this equation for each of you is your status as a minority law teacher. The multiple roles and circumstances in this situation can be extreme, as you know. Being the lone minority person on a faculty may or may not be a hostile experience. Other faculty and students may or may not be accepting of you depending on their history and internal dynamics. Why is it they find Black or something other than pure blue-eyed-white not acceptable? The influence of those reality circumstances many times keep us from recognizing what the influence and what is coming from within us, and how that complicated the situation. For instance, most of us have experienced a racial slur sometime in life. Your response is first of all based on circumstance. If somebody came up to you and said, "You so and so, so and so," it was a real circumstance. But how you respond and what it means to you is related in part to who you are, and how all of these things that are put together and become your personality make you.

For instance, how do you respond to stress? Stresses are here with us in all of our walks of life. The stress can be generated from without, such as a confrontation where somebody says, "You so and so," and you respond. But you respond how? Like a particular child, the child part of you that is in need of avoidance of all confrontation for fear that if I get involved in this confrontation something bad is going to happen. What's the something bad? I'm not sure. Maybe I'll kill or be killed. That kind of possibility, of stimulating something within you that then makes you either avoid the confrontation or set-up confrontation because you have a need to experience how to get out of these difficult situations.

What I'm suggesting is that the circumstance and the role that we all find ourselves in, and you as minority law teachers find yourselves in, are important. But, there is another ingredient, also. That is, what is the influence of the personal, idiosyncratic internal response. How you manage to put your early childhood upbringing, the influence of the culture, the influence of class, the influence of your education, into your response to a particular racial slur. Quite often we are most unaware of what we are reacting to. Sometimes a person hits you at your weakest point and you don't recognize it as your

weakest point. You do know that you are a little bit more unnerved than what you ordinarily are in those similar circumstances. Perhaps they touched upon something that has been for you a very difficult situation in terms of resolving conflict with someone in your family of the same age, the same height, the same weight, someone who wears glasses a certain way. But, somehow or another, you have not been able to be in touch with that particular core so that you aren't sure why you responded. You responded to the racial slur, yes. But, you are also responding to that which has been reactivated in you from a whole host of other experiences that make you as you appear on the scene.

Your responses to stress I think are very important because we see them all the time, in all of us. We see them in others. It is usually better and easier and less stressful to look at them in others. We look at ourselves and we watch other people function. Somehow or another it is much safer to think, "Well, there's a guy over there who's really off his gourd. He absolutely did not handle that situation correctly. Why did he handle it that way?"

There are many responses to stress. I'm going to run down five or six of them and I'm sure that all of you will be able to recognize some parts of yourself as you responded to some of these things.

First, there is anxiety. It's everywhere. It's with us. Normal. Anxiety can be useful. It helps motivate you to move to the next stage. You have a task to perform and if you're not anxious about it in a way that helps generate your interest to get into the task, then you can't really function. Anxiety can help you anticipate a certain situation—for instance, here in Boston right now as we sit here, school buses are moving over into South Boston, Hyde Park and Roslindale. Some of those kids are pretty anxious. And that kind of anticipatory anxiety is very helpful. They can then be prepared for unusual circumstances that may occur. Things that are out of the ordinary, that are unexpected. They have an extra ability at this moment to be ready to respond because they are anxious.

Anxiety can move beyond the point where it's helpful and beneficial and manageable. It can get to the point that it's unmanageable, and interferes with our daily activities. That's one of the things that in addition to the normal anxiety that we all feel, I think minority law teachers have to be aware that they also respond to anxiety in ways that are not very positive. It's a response to stress, but occasionally it has to be looked at and be dealt with.

Depression. Depression is everywhere. It's with us in all of our walks of life. It doesn't go away. There are circumstances that are structured to get us depressed. A death, a birth, a marriage, a good friend has an accident or a traumatic crisis occurs. There are a number of things that can get us to respond with sadness that saps energy and enthusiasm.

At such times, we need time to replenish ourselves, to figure out which direction we can take now. Depression is with us all the time. If you are never depressed, you're really not in the middle of life and living. If things don't touch you, something is wrong. If somebody has an accident, if this person is a very good friend of yours and you're not touched, you may have to wonder why you're not touched. Obviously, depression can also interfere. It can keep you from writing that paper that you planned to write and have been planning to write, and been planning to write. The guy

keeps writing you to say when are you going to write it. You continue to say I'm writing it. Each night you sit down to write it you find 500 things to do and you can't write it. It continues to compound itself. Now you have the secondary response, that you didn't write it the first time—how terrible you are—you should have written it. What are they going to think now that I haven't written it the first time? Will they ask me ever to write it again? You have compounded that. Depression can keep you from being able to get mobilized.

Perhaps as a minority person, you've been dying to have another minority person come on the staff. They come and you are not excited. Depression can keep you from responding in a way that suggests that you really have all of your psychic energy available to use in a productive way. But depression can be an interference; it can be also one of the responses to stress.

There are many psycho-physiological responses. Hypertension, for instance. High blood pressure. Negative responses to situations which we don't express, which we tend to keep in, go straight to our blood vessels. You don't put it out there when somebody gets you upset, you put it inside. Blood vessels close up a little bit, blood can't get through at the same rate, and pressure rises.

High blood pressure is often found in people who have great difficulty in expressing anger or rage in an unreasonable circumstance. For example, there are the people who we might characterize as beasts of burden. "Will you take charge of this particular operation?" "No, I don't want to take it." "Will you please take it?" "Well, all right." Just one more thing to put on your agenda. So you put it in that little box, and you put 500 more in that little box and your blood pressure goes up incrementally.

Ulcers. They are rampant. Sometimes you don't put it into your vascular system. Sometimes you put it into you G.I. system, your gastro-intestinal system—nausea and vomiting—or you got a pain in your belly and you're taking Maalox. That often happens to people who have trouble recognizing that they aren't the people who always have to be in charge. Somehow the image of themselves is that they must maintain an image of themselves that they are always in charge, always active, always on top of things. They never say, "You know, I can't take another thing, I really can't. I can't write the paper. I've just written 15, but the 16th is just driving me into the ground." Somehow or another this will make them appear less capable. That person quite often is a candidate for ulcers or an early heart attack.

The heart attack types are somewhat like the ulcer person, but they are much more hard driving. They only have 500 organizations that they are president of. Every day they have accumulated another presidency and that requires organizing 15 more committees, and then they have to reorganize 17 other units of subcommittees. Pretty soon, not only are they the leader of that group, they are the leader of the next group. That person is setting himself up for and is very likely to have a heart attack.

Now there are a lot of other psycho-physiological responses to stress that minority law teachers need to be aware of. You are all candidates. It happens with women and men. You are a high risk group. There are other responses to stress which are reinforcements of the basic defenses that we all have. You

have to defend against a lot of things. Denial is a normal defense, but if you start using denial too frequently, in an extreme circumstance, you may not even recognize you are in danger. You've got your blinkers and blinders on and everything else. It's all set-up because you are functioning so in terms of denying that there is no danger here. You just go right on in. Your reality testing is gone.

Projection is another of those basic defenses that gets reinforced sometimes in stress. Sometimes you project it out there. It's not me that's got the problem. It's all those folks. Another response to stress which we all feel is the lessening of creative potential. I mention that in terms of legal writing. There are lots of things you'd like to tell. We like to talk about our experiences; we like to say what we've done, what we haven't done. We like to be able to put it down. Well, if you aren't able to somehow bring those parts of you that are inside to the point that you can sit down with a piece of paper and a desk and then sort of put those ideas on a paper, there might be a block. It may not be a defense necessarily. You simply may be inhibited. "What's it going to mean if I put that down on paper?" One of the biggest problems we all have with putting anything on paper is that once you put it on paper, you've declared yourself. You can talk forever. Someone will say, "Well, I heard you say . . ." Then you can say, "Well I think you misunderstood. See, what I was actually saying . . ." But, when you put it down, "Today is September 20th," it's down there and you are committed.

We have trouble putting ourselves on the line. What do you do when you put yourself on the line? Who's going to do what to you? That's when all those early childhood experiences come back. Who did what to me very early? Who am I anticipating? Who are the responsible people in my life? If I respond with putting myself on the line by writing this paper that I've been planning to write and that they said they want to publish, will they publish it? That kind of thing has to be looked at and has to be understood so that you can get unbound from the shackle of responding to that kind of trained, learned response so that you have some creative energy available to produce when the situation calls for it.

Another response to stress is excessive activity. You see some people who are just busy, busy, busy, busy. You wonder how in the world did he make all of the conferences last year? How is it that he's writing 9,000 papers? That is another sign of stress and a response to stress. The activity is just so excessive that it is unusual. The very unusual is a response to stress.

Of course, there are other kinds of response to stress and I'll just stop with the ones that I've mentioned already, to suggest that they are important.

I see the minority law teacher essentially as an asset, as a person who has to be nurtured, protected, informed, who has to be able to recognize that there is something going on with him or her from within, that intersects with all of these impossible situations from without. The impossible roles, the multiple roles, circumstances of relating to too many people in too many ways, and trying to be all things to all people are really impossible circumstances.

It's necessary for minority law teachers to think about themselves as a resource that has to be protected and developed. The development of your

assets, the internal assets that you have require that you free yourself from all the constrictions, fears and responses to stress that inhibit you. There are several ways to do this. There are a few people who are insightful enough that they can sit alone and figure it all out. For instance, the two basic concepts that Freud came up with many years ago: the fact that there is an issue of psychic determinism and there is a dynamic unconscious. Two principles that are very basic. One I've been alluding to here is that there is something inside of my head that determines what happens with me. And a lot of that—this is the second one—is not part of my awareness. Freud came up with these concepts alone in isolation. Now that was a piece of brilliance that has not been duplicated in a long time. But it's always possible that you as a person can analyse the ingredients of your personality and somehow sort it all out.

There are other ways to do it including being involved with other people who understand that these circumstances occur. Friends, supportive people in your environment who think and who are aware of things that happen internally and how that may be confused and multiplied and made more complex by the various roles outside. In some ways relating back and forth along these issues. A group support. A group of people, like the one here, who come together to share and think through common issues, common ways of approaching them, ways that they can begin to discuss strategies and interventions. That's an important way of dealing with some of these things.

And always, and not the least of all, is professional assistance. Someone else, who is trained, to just sit and listen and think and interact around the kinds of stresses that interfere with your life. The kind of responses to stresses that you find uncomfortable that you are not quite pleased with, that you haven't been able to get under control with all your intellect, with all your thinking about it, you haven't quite been able to get into control. So professional assistance I think is important to anyone. I think it is an investment itself. I think in many cases it's probably the most useful way of dealing with the kind of stresses that drain minority law teachers of their personalities in multiple roles and in multiple circumstances.

SUMMARY OF THE DISCUSSION FOLLOWING DR. ORLANDO LIGHTFOOT'S EDITED COMMENTS

Law Teacher as Counselor:

During the discussion that followed Dr. Lightfoot's talk, participants expressed concern that minority teachers are sought out for counsel on personal problems by a large number of students, Black and white. He recognized that teachers are not trained as counselors, but that they may help students with their problems by assisting them in separating fact from fiction. For example, if a student charges that he is the victim of rampant racism in the school, the teacher can focus on a kernel of truth or reality in the situation and emphasize and reenforce that, while not encouraging those aspects of the problem that don't seem to comport with reality.

He said though that teachers must face up to their limits. Others may design a myriad of roles for you, but you must know your limits and recognize that you can't be all things to all people. Regarding counseling, it

might be well to obtain a list of health and other service facilities to which students with various problems can be referred. He indicated in addition that the factor of race may be of importance for both the counselor and the counseled. Some students can't be effectively counselled by other than a minority person. Others don't have this problem. Efforts should be made to satisfy this need, without which real engagement with the problem may be impossible.

Alienation of Minority Teachers:

It was pointed out that law faculties tend to be made up of "loners." There is little communal reinforcement or team work as occurs in a law firm. In addition, faculty members are often a group of high anxiety people, who are fiercely competitive. Other participants added that the difficulties of life in such a setting are intensified by a concern that the schools now deem Black law teachers of no special value, and consider them the leftovers or backwash from the revolt of the late 1960's.

Dr. Lightfoot cautioned that while minority status is unique, its effect on an individual varies a great deal and is simply one factor together with class, home background, etc. So that there is likely a large range of reactions of minority teachers to work in a predominantly white law school community. This, he said, is natural.

The Problem of Interrelationships:

Assistance was sought as to how minority teachers can communicate their personhood to those who have unreasonable expectations for them. The faculty who expects you to do miracles with Black students, the Black community, etc., and are disappointed when you tell them you can't perform all these functions, and say, in effect, "What good are you?" Dr. Lightfoot responded that it is a hard problem with no easy formulas. When pressures become too great, some people withdraw. Others stay in the situation too long for their own good. He advised looking on the job as a process, one that has to be worked at all the time; but, always keeping in mind if conditions get too tough, changes must be made.

One participant indicated that while he had a good relationship with most white students, his response from Black students was poor. Some of them, he reported won't speak, won't take his courses, and so on. Others indicated that this participant's experience was not unique, but that expectations of Black students are quite varied. Some expect the Black teacher to be identical to his white colleagues; others expect a "super-militant" stance. The group generally agreed that the individual must be himself even though this is frustrating. In defining a role regarding Black students, most concurred that it is valuable to draw lines, set limits, and be perfectly clear that you recognize that you cannot serve all needs and all interests. Indicate that you will be accessible, but that not all needs can be filled or all expectations met.

One participant felt that he was spending too much time counseling white students, a situation that drew resentment from Blacks. Dr. Lightfoot again advised setting limits, reemphasizing that not all expectations can be

fulfilled. It is very difficult to take on every possible role and that you must tolerate anger, disappointment, etc., when you don't meet their expectations. If you can't tolerate their reactions, you need to figure out why. He suggested an article by Dr. Chester Pierce that appeared in the book *The Black 70's*, edited by Frank Barbour (1970) and published by Porter-Sargent. In the article, Dr. Pierce speaks of the "offensive mechanism" by which whites often deal with blacks. It is the situation of always being in your face, totally occupying your time, and preventing your effective functioning in a myriad of behavior patterns he referred to as "micro-aggressive." Over time, these patterns can be very burdensome. Pierce, for example, refuses to let students occupy his time at the end of a lecture. He dismisses their questions with, "I'll see you at the next class."

A woman participant raised the problem of sexuality in the classroom, i.e., male students refusing to deal with her intellect, and approaching her in a "male-female" way. For example, "You sure look good today in that dress." Dr. Lightfoot responded that it is a serious problem and it likely occurs with both faculty and students. Individuals should not be encouraged in this approach, and should be directed back to the intellectual issues discussed in the class. One must review the situation and try to manipulate it, that is look at the problem, see what's needed, and try to insert the needed ingredients to bring about a more normal situation. Determine your goals in the job. How they can be reached? Who can help? Who will oppose you? Can you bear the pressures?

As an example of this kind of functioning, one teacher noted that white faculty members were always checking on him, approaching him with questions such as, "What are you doing? What are you working on?" He reported that at first he responded in a straight-forward fashion. Then he realized that they were taxing him as a Black, keeping tags on him. He reviewed the situation, and began responding to such questions by reversing them and saying "Not a damn thing, what are you doing?"

A woman teacher reported that to avoid difficult interpersonal contacts with male faculty, she stays in her office except when she is in class. Dr. Lightfoot said this is not necessarily unhealthy isolation. Rather, it may be an effective way of regulating contacts with students and other faculty. One can feel more comfortable and exercise more control over the situation while on one's own "turf." The office may be a good place for this.

SESSION V—LEGAL PUBLICATIONS

SUMMARY OF COMMENTS BY PROF. KELLIS PARKER

Four conference participants have or are preparing to publish books (Harry Edwards, *Public Labor Law*; Leroy Clark, *Grand Juries*; Derrick Bell, a civil rights casebook; and Kellis Parker, a casebook on remedies). The nature of an individual's writing may depend on his location, environment, and interests. Teachers may be interested in writing for general publications, rather than the law reviews. Many popular publications accept short, contemporary pieces, it is important to identify and write for the audience served by the publication. This is equally true in determining to which law reviews a

particular article should be submitted. In addition, it is worthwhile to estimate the time cost of a given article.

When aiming for a particular publication, whether law review or general, it is worthwhile to read a number of articles that have appeared in that publication in order to get some idea of the standards and style that is acceptable to them.

Book reviews provide an opportunity to get published with relatively low cost in time and effort, but enables you to exhibit a high degree of scholarship.

In writing, it may be worthwhile to communicate your ideas, perhaps with a short outline, with some of your faculty colleagues and ask them for their comments. This should provide some helpful information about your ideas, and may raise the level of your relationship with the faculty.

Finally, teachers should set their writing standards without regard to the tenure-seniority process. Concentrate on what you want to say and not whether or not a given faculty individual or individuals are going to conclude that yours is the best piece written in the last ten years.

SUMMARY COMMENTS BY PROF. HARRY EDWARDS

Writing requirements vary widely from one institution to another, so that general statements are quite difficult. It is important to write for yourself, and not simply try to turn out something that will get you through the tenure process. Legal writing is difficult, takes tremendous amounts of time, but writing and research does enhance classroom performance. It may not guarantee outstanding classroom teaching, but it will serve as an aid.

With regard to publishing, it is important to note that a great deal of faculty writing is not that good. This is another reason for reading the writing of others. It will both provide you with ideas for your own writing, and generally reassure you because much legal writing is not that great. Moreover, it is important to keep in mind that with the exception of the major schools, law reviews are hungry for articles. So, chances for being turned down are not great. Most need more writing, are ready to receive it, and if you put time and effort into an article, there should be no difficulty getting it published.

On the subject of casebooks, they are a special *genre*. One needs an idea, and the willingness to put in a lot of work, and then the final problem is finding a publisher. This can be a hassle, but it is clear that it is valuable to have a big name as a co-author. Thus, seeking to obtain the interest of a major publisher before you have an established name may prove difficult.

DISCUSSION OF LEGAL PUBLICATIONS SESSION

The Black Law Journal, published at U.C.L.A., but with special issues prepared at other schools, is anxious to obtain articles by minority-group faculty members.

A question was raised as to whether it is better to prepare one major work to meet tenure requirements, or a number of shorter pieces. It was suggested that a major article risks too much because it may "bomb" and

there are certainly going to be people who don't like it. On the other hand, publishing a number of articles may subject you to criticism that the pieces aren't of high quality. But it was suggested such criticisms may be raised by persons who are not familiar with the field or who have not even read the articles, but simply presume that a lot of writing, particularly by a Black teacher, must be of inferior quality.

Harry Edwards suggested that teachers should determine their quality articles, and submit these for tenure. Other shorter writings that are comments, short summaries or recent developments, etc., should not be intended for serious consideration. But the question remained: what strategy choices should a person make who has three or four years to a tenure decision? Edwards feels that it is probably worthwhile to be working along on one relatively short, quality piece. He thinks that the work itself will be helpful in classroom performance, developing an overall approach and viewpoint toward the subject matter.

Kellis Parker agreed and recalls that his first year was spent adjusting to teaching. By his second year, faculty members were reminding him that he would be up for tenure the following year and should be producing some writing. He started writing small pieces, and then wrote a long, theoretical legal article on the origin of equity. It was filled with new theories and footnotes and it served to get him tenure at Davis, and a job at Columbia. He hasn't published it yet because he really doesn't think it's any good. He again emphasized that new teachers should be working on a major piece, and that major writing should be in a subject that the teacher is teaching. An exception might be at a school where no one is producing major pieces, and only short writings. In that case, short writings should be sufficient for the new teacher.

Concern was expressed that there may be a major difference in viewpoint as to what is serious writing between the minority teacher and faculty evaluators. The major problem for minority teachers is that too many haven't written anything, and much of the available writing tends to be journalistic in character rather than a detailed analysis of a major legal issue, such as Kellis Parker's equity article. Faculty evaluators are probably looking for the in depth analytical piece rather than the more pragmatic statement.

Traditional evaluation looks on a good article as one that does more than simply comment on a recent decision or review a line of cases. The writer should examine underlying principles, suggest new theories, fundamental error that has been made in the area, and propose new, innovative approaches that seem more reasonable, will bring more harmony in structure and perhaps greater fairness to the law. All of this should be carefully researched, written, and footnoted. It is this kind of piece that evaluators consider serious. Faculty who make tenure decisions tend to be less interested in the problems of poverty, crime, civil rights, than those in more traditional subject areas, etc., and if you choose such a subject, take care that your effort is more than a political or rhetorical statement. It is worthwhile to write pieces of this character (otherwise no one else will), but in looking toward tenure, new teachers must keep in mind that the writing must convince legal scholars, not the local Black caucus. It doesn't make any difference that the

faculty evaluators haven't written very good material themselves, or perhaps haven't written anything at all for years, they believe they can judge quality in legal writing.

Harry Edwards reiterated that the majority of the elite group is simply not producing work of the quality that they claim they want. Moreover, there is never unanimity on the quality of a particular article. In some fields, such as labor law, it is impossible to write an article that meets the standards set forth above. Outstanding pieces can be written on a very contemporary problem (Professor Archibald Cox's writing was cited as an example of this).

There is a real danger in "freezing-up" because you are concerned that unless you write something that is profound, you shouldn't write anything at all. This can be a trap, and teachers should not fall into it. It is important to write from your own experience and handle subjects with which you feel comfortable. In this regard, Professor Alan Stone's article in the Harvard Law Review was cited concerning the paucity of serious communication between legal scholars that Stone suggests is due to the reluctance of legal academicians to submit themselves to the serious and cutting criticism of their work. In other words, the fear is that legal scholars don't read for information or the communication of ideas, but rather to find a basis for criticism of anything that is written.

Kellis Parker cautioned that compilations of materials and even casebooks are not necessarily good tenure devices. An exception would be a casebook that contains in depth notes concerning the cases and other materials that it included. He also discussed his difficulty in getting a publisher and the self-serving criticism that some publisher's reviewers may be expected to give. He also cautioned about co-authors because of differences of personality, approach, and persons who are willing to add their names, but then don't do any work. There was general agreement that to crack the publishers, there is need for both a quality manuscript, and entree through a big name or some connection with the publisher.

A question was raised as to whether there were any Black teachers on the editorial committees of the major law book publishers. The sense is that there are none. It was suggested that Title VI and other civil rights laws might be used to gain minority admission on all white, male advisory boards of law book publishers.

Following the conference, Prof. Clark looked into the problem of minority representation on the editorial boards of law book publishers. He concluded that the absence is apparently due to the relative newness of minority teachers in the law school world, and the absence of the published scholarship by those few Blacks who have been around for ten or fifteen years. A check of the editorial and advisory boards at the West Publishing House, Little, Brown and Company, and Foundation Press, indicated that all 28 persons were white males. Eight of the 28 are deans of their law schools, and only six or seven schools are represented (Harvard, Yale, Chicago, Columbia, Michigan, Pennsylvania and Texas). The average years on a law faculty for editorial board members is 15 (this does not take into account any pre-teaching legal experience), and eight of the 28 hold chairs at their law schools. Some are almost without peer in their particular subject matter, at

least with respect to "name." Prof. Clark believes that it would be appropriate to raise the question at some time in the future, but does not think it makes any sense for basically a new group of minority law teachers to make a crusade out of this issue.

A final caution was made to the speaker's suggestion that book reviews were a relatively easy method to get published. The contrary view was that book reviews, if done well, demand a tremendous amount of time and don't really win very many writing "brownie points." They are helpful to the book author, and reviews of casebooks are the single best method of advertising such books, but writing reviews may be more work than it is worth for the new teacher with tenure writing obligations.

SESSION VI—TEACHING AND ACTIVISM

SUMMARY OF COMMENTS BY PROF. LEROY CLARK

Prof. Clark expressed regret that activism in the form of participation in the Attica trials, prevented his co-chairman, Prof. Haywood Burns, of the Buffalo Law School, from being present. Clark reported that he usually handles cases that are related to his courses, and worked on a major Black Panther case a few years ago. He indicated though that he had not handled any litigation during his first two and a half years of law school. His first year of teaching he found very difficult, and he feels that faculty might interpret activity and litigation adversely for the very new teacher. The advantages of handling cases is that they provide a change of pace, and can be stimulating and rewarding, and can enhance your teaching if you handle litigation in the area of your teaching expertise. The adverse factors are that there is usually no compensation and you badly need outside organizational support, particularly on major cases. The situation may differ from school to school depending on each institution's outlook on faculty handling public interest cases. Another factor is that work on outside cases takes a tremendous amount of time, and much of this time is not manageable. Events occur and you must respond notwithstanding other academic responsibilities.

With regard to organizational support, an example would be a faculty person who is general counsel for a group like the ACLU. They screen the cases, handle much of the research and bring in the teacher at a time when his expertise can be most used, but you should be careful that the organization is at least able to pay expenses of the litigation, even if they can't provide you with a fee.

A final list of pluses includes alleviating a sense of sterile, academic isolation from the real problems of the world and providing an opportunity to be of service to the Black community or individuals in it. Finally, it enables the minority teacher to utilize some of the law school's resources and use them to assist Black people who need this help.

DISCUSSION OF LEGAL TEACHING AND ACTIVISM SESSION

It was suggested that public service including handling of litigation may be an activity that counts toward tenure at some schools. But comments indicate that many schools are very ambivalent on this subject, particularly

with regard to full-time teachers. Even if the law school approves such work, often the university officials will question a faculty member's activity, particularly if he is involved in a highly publicized controversial case.

There is an inherent conflict between active participation in litigation and regular class attendance. Schools with major commitments to clinical education have experienced serious difficulty because of this problem. Antioch reports that they have worked out the difficulty by having teachers teach in the same area in which they practice. A caution even here is that you don't know which subject label a case will fit into until you actually get into the litigation. A tort case may turn into a property case, and vice-versa.

A further problem may occur with the school's accreditation because the ABA is quite critical of part-time faculty occupying full-time positions. Even one day out of school a week may endanger the accreditation of the school.

Notwithstanding all of these problems, it was suggested that pressures to increase teaching income may drive more and more teachers to outside work. A final suggestion is that an appellate brief, particularly a major brief in the Supreme Court, may count as credit toward a tenure writing requirement. Again, this would vary from school to school.

MISCELLANEOUS CONFERENCE ACTIVITIES

In introductory remarks, Walter Leonard described the recent history of the Association of American Law Schools (AALS) activities in minority admissions. In his view, the Association had been quite active and effective during the period from the late 1960's to the early 1970's. In the last few years, however, they have been much less so, and he warned that constant pressure and vigilance will be required to insure the Association support for minority concerns, and to prevent those within the Association who oppose minority admissions, etc., from controlling policies. Leonard is chairman of the Association's Section on Minority Affairs, and reviewed situations in which that section had received much less support and cooperation from Association officers than he believes is the case for other standing committees.

On Friday, September 20th, the Harvard Black Law Students Association co-sponsored a luncheon for the conference participants. At the luncheon, officers of the organization, including the Harvard Law School Chairman, Larry Patrick, the chairman of the Boston region group of Black American Law School Assoc. (BALSAs) chapters, Joseph Feaster, and the national chairman of BALSAs, Richard Taylor.

Each of the students stressed the value of organization both at the student and at the faculty level in order to insure continued attention by the law schools on those matters that most concern minority groups.

During the conference, the participants signed a letter of recognition and appreciation to Prof. Charles Quick, University of Illinois Law School. Prof. Quick, who was unable to attend the conference because of illness, has more teaching experience at predominantly white schools than any other minority teacher in the country. In part, the letter said, "Most of us have been teaching for less than five years, and are gathered here seeking answers to the many

problems we face both in and outside of the classroom. We marvel at one who has successfully endured these burdens for more than sixteen years. We respect your accomplishments and appreciate the standard of academic excellence you have set for us all.”

Behind the scene, but integral to our conference’s success, were generous contributions toward our expenses and costs. Appreciation and thanks on behalf of the conference participants has been expressed to: the Irwin-Sweeny-Miller Foundation for their contribution of \$1,500.00; the Harvard University President’s Office for about \$350.00; the Black Law Students Association for about \$100.00; and the Harvard Law School for donating the use of their facilities.