

The Need for a New Mind-Set in Legal Proceedings Dealing With Student Behavior

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The over-arching objective of education in the USA is to prepare *responsible* citizens in our democracy who are able to live meaningful and fulfilling lives and who are capable of making valuable contributions to their communities through their careers and volunteer services.

Perhaps the key word in the previous paragraph is *responsible*. Everybody wants to be free. In societies where the authorities dictate and control behavior, the consequences of unacceptable behavior would, in most instances, be forth-coming with a wide spectrum of punishments ranging from the more lenient to the severely harsh. In a functioning democracy, the people's *responsible* behavior (that is, the way they *think* and the way they *act*) is *expected* to be within certain *frameworks*. These frameworks may be religious, moral, ethical, personal, family, social, cultural, traditional, or legal standards that -- while they *seem* to put a limit to free, loose, or irresponsible behavior -- can, nevertheless, set patterns of behavior that are expected to lead to a more wholesome, peaceful, and cooperative milieu for people to live and work within. On this basis, citizens in a democracy can be free to make their choices in a way that will yield benefits to themselves and harmony in society.

Here I would like to present two experiences of mine in the Commonwealth of Virginia that have led me to suggest a new mind-set in handling student behavior in courts of law. The first case involves an older adult (not a student), but it does illustrate a point about responsibility.

Some years ago, as I was driving to my Alexandria home after my evening class in Arlington, I went through Crystal City. I am certain that the members of the Municipality of Crystal City are very proud of the cleanliness and landscaping they have in their city, which has lovely residential communities and is set up for tourists who have businesses to attend to in the Washington DC Metropolitan area.

In the center of Crystal City, the driver of the car in front of me stretched out his hand and emptied a plastic bag that contained, among other things, egg shells, banana peels, orange peels, and crumpled paper napkins. That shocked me, and three thoughts went through my mind. In order of least importance, they were:

1. What in the world was he saving the plastic bag for? If he had dropped the whole bag with its contents inside (which he should not have done in the first place), the street cleaners the next day would pick up a whole bag rather than several messy items.
2. I wished I was a policeman to give him a \$100.00 littering ticket!
3. This man, I thought, had not *earned* the right to live in a democracy. He seemed to need someone to control every bit of his behavior. One can raise questions about his home upbringing, his schooling, and his life experiences that would make him behave in such an irresponsible way.

Such an incident, at least by comparison with more serious devious behaviors, seems to be simple, causing little or no real harm. Newspaper articles and television reports abound in cases about behaviors, even of people in high and responsible positions, causing serious problems to others. Reports about thievery, dishonesty, abuse of all kinds, and different criminal activities are staggering. The thoughts behind these actions and the actions themselves indicate gross irresponsible behavior.

The second case involved a student. In a conference I attended some years ago that dealt with educational issues and legal concerns, a defense lawyer took the stand and presented the case of a high school student he defended in court who had been accused of injuring a classmate of his with a sharp object. The lawyer explained that he could argue in court against the accusation by indicating that his client had not intended or planned to hurt his colleague. The prosecutor could not match the defense lawyer's arguments, and the accused student was acquitted.

In the discussion that followed, I raised my hand and said, “I have no question to ask, but I’d like to make a few remarks.” When I was given the floor, I said,

“Congratulations on winning the court case. You seemed to have forceful arguments in the case. However, looking at the case from the point of view of the community, I doubt if people in general are interested in who wins court cases. The primary objective of the law is fairness and justice, and that’s what the community will be looking for. The accused student had done something wrong.

The least that would be expected is to have him apologize to the classmate he had hurt (in public if the incident had been witnessed) and to be warned that a repeat performance would have serious consequences. This would constitute a lesson for the accused student and act as a deterrent to others. By winning the case in court, you implicitly announced to students that, because you are a clever defense lawyer, you can get them out scot-free whatever misdeed they have performed.” (The complimentary remarks I got from some teachers and parents were quite encouraging!) The crucial question is: “What can be done with young folks in school to drastically reduce the incidences of irresponsibility, or eliminate them, in their later adult lives whatever careers they have?” Naturally, one would expect great input from the homes, schools, religious organizations, etc. to help and guide students to behave thoughtfully, respectfully, and responsibly in their daily lives and affairs.

Additionally, I would suggest a *new mind-set* in court when cases are raised involving wrong, hurtful, or illegal actions by students. Rather than have a clash of arguments between defense lawyers and prosecutors for the purpose of winning cases, I think a fresh and innovative (out of the box) approach might have a much better effect on wrong doers and a much greater contribution to fairness and justice and peaceful living in the community if both defense lawyers and prosecutors (as well as parents in some cases) would huddle together and jointly come up with a legal solution for everybody’s benefit.

The courts in this way, through the cooperation of defense lawyers and prosecutors (and perhaps parents) will be fulfilling their supreme objective of a the legal system by arriving at a just and fair solution, which may, in some cases, entail some form of reprimand or punishment for the wrong doer, and which, even more importantly, will involve all concerned (students, parents, the school, and the community) in a process that ultimately results in more responsible behavior and a more functional democracy.