

PSYCHOLOGICAL CONSIDERATIONS IN REPRESENTING THE AGED CLIENT

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Old people are not just people who have lived a long time. Old age may bring with it radical changes in a person's social and economic status, health, and psychology. The differences between the old and the young challenge the lawyer who represents the aged to adopt strategies and approaches which take into account the differences in clients. This Article examines some of the psychological changes in old age which a lawyer should be aware of in order to more effectively serve his aged clients. As such, it necessarily and lamentably deals in stereotypes. But the lawyer who considers adjusting to an aged client's physical disabilities and finds reinforcement for the preconceived stereotype that old people are infirm has committed the deadliest sin against the elderly, and the lawyer who reads about the need to heighten the aged client's feeling of usefulness and responsibility and adds that to the stereotype is in for a rude awakening if the client is such as George Meany, the 81-year old president of the AFL-CIO.

In breaking the bondage of stereotypes, it is necessary to distinguish between aging and growing older. The distinction is drawn by William Posner, the great social worker:

The process of getting older is as universal as any basic factor governing the life of a human being. It is a process which involves

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all persons, no matter under which circumstances or conditions they live. The whole concept of time seen from the point of view of a life-span is involved here. Getting older is as unavoidable as breathing is unavoidable for living. A distinction, however, must be made between getting older and "aging." The process of "aging" is not a universal one. This phase of life varies from human being to human being in all of its aspects. Commonly speaking, "aging" connotes gradual mental and physical disintegration. While each and every one of us, by virtue of living, is getting older, not each and every one of us is "aging." We bring this concept to the foreground because we feel this to be the core of our ability to individualize elderly people and to help them accordingly.¹

Aging, as distinct from growing older, occurs at different times in different social classes. Members of lower socio-economic classes begin to become aged around 45 years of age, while the middle class postpones aging until 55 and the wealthy until even later.² In addition, the group of people over 65 years of age encompasses easily two and probably three generations. These considerations alone should alert the reader to the hazards of stereotyping people on the basis of age and help him avoid this debilitating error.

With this combination caveat, apology, and disclaimer, this Article will examine some of the psychological characteristics which become more common with age. It must be emphasized that physical considerations also play an important role in the effectiveness of the attorney-client relationship.³ Thus, the attorney must consider the physical limitations of the client—such as hearing⁴ or sight impairments⁵—as well as

1. M. BUCKLEY, *THE AGED ARE PEOPLE TOO* 40-41 (1972).

2. R. KASTENBAUM, *NEW THOUGHTS ON OLD AGE* 75, 92 (1964).

3. An initial difficulty faced by the lawyer when working with an elderly client is that the client may have a disability which interferes with communication. Without fueling the stereotype that elderly people are generally infirm, it can be said that difficulties with perceptive functions become more common with advancing age. See Weiss, *Sensory Functions*, in *HANDBOOK OF AGING AND THE INDIVIDUAL* 503-05 (J. Birren ed. 1959). Both the falsity of the stereotype and the increase in occurrence of sensory loss in older people are well illustrated by a study which found that retired people are roughly six times more likely to be hearing impaired than the population as a whole. However, only one in five retired people was found to have impaired hearing. E. EAGLES, *THE PUBLIC HEALTH ASPECTS OF HEARING, LANGUAGE, AND SPEECH DISORDERS* 20 (1968). Visual limitations also become more common with age. One study discovered less than adequate vision in 9 percent of the subjects between 65 and 80 years of age and 20 percent in those over 80. Kornzweig, Feldstein & Schneider, *The Eye in Old Age*, 44 AM. J. OPHTHALMOLOGY 29, 32 (1957).

Simple sensitivity and consideration will go a long way toward easing the barriers to lawyer-client communication that sensory limitations can erect. Attorneys must learn to recognize and compensate for a client's physical limitations. Sensitivity to symptoms of a physical limitation is especially vital since an older client may be under considerable pressure to appear normal to the lawyer and hence may be unwilling to disclose any limitations. E. WASSER, *CREATIVE APPROACHES TO CASEWORK WITH THE AGING* 32 (1966).

4. The client with a hearing disability may manifest that disability in several ways. Perhaps the most obvious is the presence of a hearing aid. Less obviously, clients may tilt their heads, cup their ears or get a strained expression when listening. Inattentive-

the all important role which life expectancy⁶ may play in the strategy of handling the client's case. These considerations are generally obvious, however. This Article will limit its analysis to the psychological features of aging, emphasizing possible responses on the lawyer's part. Additionally, recognizing that the lawyer is at least half of the relationship, the impact of stereotyping on the ability of the lawyer to help aging clients will be aired, and some considerations will be offered to help develop a positive attitude toward such clients.

PSYCHOLOGICAL FACTORS—THE CLIENT

Many students of legal counseling have emphasized the importance of understanding the psychological pressures bearing on the client in the attorney-client relationship.⁷ Without attempting a comprehen-

ness and responses which show misapprehension of what the lawyer has said are other indicia of deafness. The basic strategy for mitigating the interference with communication caused by a hearing disorder is to speak so that the client hears as much as possible and to facilitate the client's reliance on other senses in communicating. Thus, the lawyer should speak clearly, but in a normal voice. Competing sounds, such as the clatter of typewriters and rustling papers, should be eliminated. Lawyers should position themselves so that the client can see their lips to facilitate lip reading. The use of alternative phrasings of a question and encouraging the client to restate the question will also facilitate communication with the hard of hearing. Finally, increased reliance on written communications—using an intake questionnaire or letting the client read a memorandum instead of explaining it orally—may be helpful.

5. Visual loss may be evidenced by an abnormal appearance of the eyes or unusual glasses. Other clues to limited vision are in the way the client moves among obstructions and has difficulties with balance. It is worth noting that some visual disorders restrict the field of vision without impairing visual acuity within a limited field, so the position of things to be seen becomes crucial. Sight impairment requires that communications which would ordinarily occur visually occur orally. An important part of what the client cannot see may be the lawyer's attitude. Thus, the lawyer should be especially aware of the tone of voice. After the client is made aware of the lawyer's presence, touching the client—shaking hands—may be reassuring. To optimize what the client with limited vision can see, lighting which produces glare should be avoided. The client should be handed documents which must be seen in order to position them to best advantage. Finally, the client can be spared the humiliation of stumbling over obstructions by the use of room arrangements which ease navigation.

6. One physical fact about old age cannot so easily be circumvented. That fact is that as one ages, one "uses up" life expectancy. A person aged 65 years has a remaining life expectancy of about 15 years, while the 40 year old can expect an additional 35 years. UNITED STATES BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES 59 (1974). Shortened life expectancy limits the goals that a lawyer can seek with his aged client in two related ways. First, a long term solution to the client's problem or long range expectations may not be justified in dealing with the elderly client. M. BUCKLEY, *supra* note 1, at 47. A position of deferring immediate satisfaction in favor of later but greater results may be unrealistic. Moreover, delay may lessen the client's motivation to participate in problem solving. In short, time is of the essence. Second, adverse parties are sensitive to the importance of time to the aged litigant. Thus, defendants may seek to delay proceedings on the theory that the chances for favorable settlement of a claim increase as the plaintiff's chances of living to enjoy a recovery decrease. Similarly, plaintiffs may seek to delay proceedings hoping that the aged defendant will die, since the estate may accede to a more generous settlement. In addition to the desire of an administrator or executor to settle the estate, death of the aged party favors the adverse party because it obviously renders the decedent unavailable to testify at the trial. Kraus, *The Legal Problems of the Elderly Poor*, 165 N.Y.L.J., May 6, 1971, at 1.

7. See, e.g., Appel & Van Atta, *The Attorney-Client Dyad: An Outsider's View*, 22 OKLA. L. REV. 243, 246 (1969); Redmount, *Humanistic Law Through Legal Counsel*

sive description of the psychology of aging, a few of its components may be identified as having immediate and practical significance for the lawyer who works with older clients. Primary among these are the reticence felt by the elderly in seeking help and confiding private matters, their need to take an active role in solving their legal problems, and their need for stability in their environment and relationships.

Reticence

As people age, they tend to withdraw from social contacts⁸ and become restrained⁹ and introverted.¹⁰ Thus, reticence about going to a lawyer for help is merely a part of a more general behavior pattern in old age. Older clients may be especially reluctant to seek the aid of a lawyer because of the fear of rejection common to clients of all ages.¹¹ This fear of rejection is particularly acute among aged clients, since they experience it in seeking employment, housing, and other services.¹² Moreover, the restraining effect of an increased fear of rejection may be compounded by a greater need for assurance of success before an older person is willing to attempt a new venture.¹³ Finally, unwillingness to discuss personal matters with a stranger may reflect a pattern of behavior developed over a lifetime.¹⁴ Since the habit of privacy is long established and older people are more entrenched in their habits,¹⁵ it may be more difficult for older clients to openly discuss their problem.

These characteristics of the psychology of aging call for several responses on the lawyer's part. First, any contact with an aged client should be used as an occasion to explore the client's legal posture beyond the difficulty which prompted the contact.¹⁶ Although some legal crisis has overcome the client's initial reluctance to seek help, he or she

ing, 2 CONN. L. REV. 98 (1969); Watson, *Professionalizing the Lawyer's Role as Counselor: Risk-Taking for Rewards*, 1969 L. & SOC. ORDER 17, 23.

8. Zborowski & Eyde, *Aging and Social Participation*, 17 J. GERONTOLOGY 424 (1962).

9. Bendig, *Age Differences in the Interscale Factor Structure of the Guilford-Zimmerman Temperament Survey*, 24 J. CONSULTING PSYCHOLOGY 134 (1960).

10. Swenson, *Structured Personality Testing in the Aged: An MMPI Study of the Gerontic Population*, 17 J. CLINICAL PSYCHOLOGY 302 (1961).

11. H. FREEMAN & H. WEIHOFEN, *CLINICAL LAW TRAINING, INTERVIEWING AND COUNSELING*, TEXT AND CASES 90 (1972); Watson, *supra* note 7, at 23.

12. Posner, *Basic Issues in Casework With Older People*, 42 SOC. CASEWORK 234 (1961).

13. Craik, *The Effects of Age and the Experimental Situation on Confidence Behavior*, 47 BULL. BRITISH PSYCHOLOGY SOC. 21 (1962) (abstract); Wallach & Kogan, *Aspects of Judgment and Decision Making: Interrelationships and Changes With Age*, 6 BEHAVIORAL SCIENCE 23 (1961).

14. M. BUCKLEY, *supra* note 1, at 47.

15. Chown, *A Factor Analysis of the Wesley Rigidity Inventory: Its Relationship to Age and Nonverbal Intelligence*, 61 J. ABNORMAL & SOC. PSYCHOLOGY 491, 492-93 (1960).

16. Cf. Wasser, *Family Casework Focus on the Older Person*, 47 SOC. CASEWORK 423, 427 (1966).

may not recognize or mention other difficulties which could be resolved with a lawyer's aid. Indeed, the fact that the client has come for help in one matter may heighten the need to show that nothing else is wrong.¹⁷

Second, the lawyer should be especially conscientious about giving reassurance of a willingness and ability to help the client. The most obvious component of providing reassurance is maintaining regular contact with the client throughout the relationship. Although clients, both young and old, are distressed by a lawyer's failure to keep them informed about the progress of their cases, this is particularly important with the aged client.¹⁸ Experience in social work with the aged reveals a high correlation between "client continuance . . . and . . . rapid follow-through on contacts."¹⁹ Failure to dispel an elderly client's fear of rejection by showing interest through regular communication may tend to confirm those fears.²⁰ On the other hand, a show of interest by a professional person can be very supportive for the elderly since they thus feel they can still command the assistance of "powerful friends."²¹

Assurance that the lawyer-client relationship will be fruitful for the client is also important. Of course, this reassurance must be realistic. False assurances which are not supported by the facts tend to cause depression and withdrawal. However, a truthful assessment that even limited gains can be realized may have a significant settling effect on the elderly client, for even small improvements may be important to the individual.²² In short, what helps the client is to know that the situation can be improved, even if not greatly.²³

Recognizing reticence and social disengagement as common parts of the psychological make-up of aged persons has special pertinence for legal services projects seeking to make their help more available to the aged. In order to increase the utilization of legal services by the elderly poor, such projects must go beyond mere willingness to take elderly clients and must provide encouragement and reassurance. A lack of such positive efforts has been identified as the cause of the

17. See H. FREEMAN & H. WEIHOFEN, *supra* note 11, at 96; Ford, *How to Approach a Geriatric Patient*, 17 *GERIATRICS* 110, 112 (1962); cf. E. WASSER, *supra* note 3, at 32.

18. Failure to keep the client informed was the third leading cause of client dissatisfaction in surveys conducted in Missouri, PRENTICE-HALL, INC., *LAWYERS PRACTICE MANUAL 55* (1964), and North Dakota. Thomason, *What the Public Thinks of Lawyers*, 46 N.Y.S.B.J. 151, 152 (1974). See also H. FREEMAN & H. WEIHOFEN, *supra* note 11, at 108.

19. E. WASSER, *supra* note 3, at 24.

20. Cf. *id.* at 31.

21. Goldfarb, *Patient-Doctor Relationship in Treatment of Aged Persons*, 19 *GERIATRICS* 18, 22-23 (1964).

22. See Soyer, *Reverie on Working With the Aged*, 50 *Soc. CASEWORK* 291, 292 (1969); Wasser, *The Sense of Commitment in Serving Older Persons*, 45 *Soc. CASEWORK* 443, 446 (1964).

23. E. WASSER, *supra* note 3, at 24.

limited use of social resources by the elderly,²⁴ and undoubtedly contributes to the difference between the proportion of aged clients in legal services projects as compared to the poor who seek legal assistance.²⁵

Aggressiveness in overcoming the reticence of older clients must, however, be tempered with respect for the client's privacy, abilities, and right to self-determination.²⁶ While reluctance to seek help is a result of the deprecatory attitude of society, a lack of respect for an aged client manifests such an attitude. Conversely, maximizing the client's role in working out a solution to the legal problem demonstrates to him or her that the lawyer appreciates the individual's personal worth and capacities.

The Need for Active Participation

Perhaps the most devastating fact about old age is that old people, in the main, have no function in society.²⁷ This lack of purpose contributes to the low prestige of the aged²⁸ and underlies the negative stereotypes held by many about the aged.²⁹ Furthermore, low prestige and negative stereotypes contribute to the anxiety with which old age is regarded by people in general and the aged in particular.³⁰ More specifically, the absence of a useful role in society and the societal attitude triggered by that absence reduce an old person's self-esteem, feeling of self-worth, and, not surprisingly, reduce any feelings of usefulness.³¹

Nor is it surprising, in this light, that old people strive to retain their participation and social status by taking an active role in affairs, particularly their own.³² In dealing with the elderly in a service-oriented setting, many of the problems encountered are in defining and assigning *client* tasks and responsibilities after the initial interview. The relative contributions of the lawyer and the client to framing a response to a legal problem admit of wide variation. The need of the elderly to assert their capacity by taking an active role in decisionmaking requires that client responsibility be defined broadly.³³

24. Wasser, *supra* note 22, at 447.

25. It has been estimated that less than 6 percent of the clients in OEO-funded Legal Services Programs have been 65 or older, although the elderly account for over 20 percent of the poor. Nathanson, *Justice for a Proud Minority*, 10 TRIAL, Mar.-Apr. 1974, at 12.

26. Cf. E. WASSER, *supra* note 3, at 32.

27. But cf. Parsons, *The Aging in American Society*, 27 LAW & CONTEMP. PROB. 22 (1962).

28. Slater, *Cultural Attitudes Toward the Aged*, 18 GERIATRICS 308, 310-11 (1963).

29. Tuckman & Lorge, *Attitudes Toward Old People*, 37 J. SOC. PSYCHOLOGY 249 (1953).

30. M. BUCKLEY, *supra* note 1, at 27-28.

31. *Id.* at 28.

32. See Ford, *supra* note 17, at 112.

33. Broad client participation in legal decisionmaking runs counter to the conventional practice of lawyers:

In order to assign the client a major role in working out the legal problem, the lawyer must act as a counselor.³⁴ This requires the lawyer to make a conscious decision on the range of choices to be offered to the client. To take an example from estate planning, the client may be desirous of retaining assets until death, while the lawyer may be concerned with avoiding estate taxes. If the program presented to the client is directed simply to saving taxes and the client is unaware of other options or too reticent to inquire about them, the individual is then deprived of the power to make an informed decision. On the other hand, if the attorney only responds to the client's expressed desires, the client may remain ignorant of the tax consequences of the decision. Again, the individual is deprived of a meaningful choice. In order to maximize participation in the legal process, the client must first be prepared for participation and then must be aided in making decisions.

Preparation for participation involves presenting clients with a full range of options—even if some are inapplicable to their expressed desires—in order to give them basis for a rational choice. Helping clients decide which of the several options to pursue is the essence of counseling. The lawyer's role is to serve as an alter ego, to understand and accept clients' decisional processes and values.³⁵ By getting inside clients' thought processes, the lawyer is in a position to help clients clarify their own desires and reach effective decisions with which they are satisfied.³⁶

This is not to say that lawyers should not inject their own insight and expertise into the counseling relationship. To the contrary, that is the very purpose for which the client sought legal advice. The attorney's input into the client's decision includes a detached and unemotional vantage point, knowledge of the parameters within which the law confines the client's decision, and, perhaps most importantly,

[T]he lawyer holds himself out as one who will attempt to advise the client, as explicitly as he can, which of the courses of action open to the client seems best in the circumstances. . . . Lawyers have learned to their dismay that being anything but resolute in their "desk-side manner" may lead to a perceptible loss of clientele. Whether due to felt or real inadequacy, or just sheer convenience, client preference often runs to "letting my attorney handle the matter."

...

Unlike the psychologist, social worker or minister, the lawyer does not attempt to aid the client in choosing among alternatives the valences of which are ultimately determinable by the client alone.

Cihlar, *Client Self-Determination: Intervention or Interference?*, 14 St. Louis U.L.J. 604, 608 (1970).

34. Dean Thomas Shaffer of Notre Dame University Law School defines legal counseling as "influencing or facilitating choices in the law office." T. Shaffer, *Counselors at Law* 1, 1973 (unpublished 2d draft).

35. E.g., H. FREEMAN & H. WEIHOFEN, *supra* note 11, at 90; T. Shaffer, *supra* note 34, at 7; Appel & Van Atta, *supra* note 7, at 246.

36. T. Shaffer, *supra* note 34, at 7.

an ethical sense.³⁷ Nevertheless, the effective counselor makes an input of knowledge and values into the environment in which the client makes an individualized decision, rather than displacing the client as decision-maker.³⁸

In addition to the therapeutic value of tangibly recognizing the client's capability by granting the individual a prominent role in solving the legal problem, involving the client in decisionmaking increases the likelihood of followthrough on the course selected. Thus, the willingness of the older client to participate in solving problems may be dependent on the opportunity for meaningful choice.³⁹ More importantly, active participation may help the adjustment to any changes in the client's situation brought about by the legal problems. For example, it is known that nursing home patients suffer a smaller increase in mortality after relocation if they are allowed to participate in the relocation decision.⁴⁰

The Need for Stability

The extreme example of nursing home patient mortality after transfer serves to illustrate another important factor in the psychology of aging. Old people are more vulnerable to the effects of an unstable environment. Thus, in one study, the death rate among nursing home patients increased threefold after a fire made it necessary to move patients to another facility.⁴¹ The ill effects of disruptive change are not limited to the institutionalized elderly. "Established patterns of activity and social relations serve a basic, psychologic function by helping the individual obtain a sense of his own identity and worth. Such patterns are, so to speak, the prop which supports the self."⁴² The importance of a stable physical and social environment in maintaining a sense of identity is related to the concept of "losses." "Throughout life the experience of loss, which appears to have its roots in the dread of abandonment, can have profound effects on a person and can evoke despair, lowered self-esteem, sometimes a sense of guilt, and attempts at restitution."⁴³ Thus, an important element in the psychology of aging is the

37. Patterson & Cheatham, *The Lawyer and the Private Legal Process*, 24 VAND. L. REV. 295, 304-05 (1971).

38. See, e.g., H. FREEMAN & H. WEIHOFEN, *supra* note 11, at 93; T. Shaffer, *supra* note 34, at 390; Redmount, *supra* note 8, at 106.

39. Lokshin, *Critical Issues in Serving an Aging Population*, 42 SOC. CASEWORK 21, 25 (1961).

40. Farrar, Ryder & Blenkner, *Social Work Responsibility in Nursing Home Care*, 45 SOC. CASEWORK 527, 531 (1964).

41. *Id.* at 528-29.

42. Lenzer, *Sociocultural Influences on Adjustment to Aging*, 16 GERIATRICS 631, 636 (1961).

43. E. WASSER, *supra* note 3, at 18.

possibly simultaneous loss of relatives, friends, physical and mental health, social relationships, occupation, role status, and income.⁴⁴

Two immediate responses from the lawyer are indicated by an understanding of the importance of stability to the older client. Most obviously, the need for stability is a factor which should be taken into account when counseling the clients and helping choose among alternative responses to a legal problem. Thus, a less disruptive course might be preferable even though it is less productive in strictly economic terms.⁴⁵ Second, as already discussed, the need to involve clients in decisionmaking is heightened when some significant change in their situation may occur as a result of their legal problems.⁴⁶

PSYCHOLOGICAL FACTORS—THE LAWYER

The other determinant of the quality of the lawyer-client relationship is the lawyer's psychological make-up. Because of expertise and status, the lawyer is often the dominant figure in the interaction with his clients.⁴⁷ Accordingly, it is perhaps more important that the lawyer develop a positive attitude toward clients than that the attorney be positively regarded by them.⁴⁸ Yet, commonly held negative stereotypes about old people can erect major barriers to the positive regard which is a *sine qua non* of effective interaction between the lawyer and the aged client.

Several studies have examined the nature and distribution of stereotypes about the aged. Old people are seen as garrulous, rigid in behavior and resistant to change, physically and mentally unhealthy, lonely, and dependent.⁴⁹ Moreover, these stereotypes are widely held. One pioneering survey concluded that there is "substantial acceptance of the misconceptions and stereotypes about old people."⁵⁰ More troublesome is the finding that these attitudes are prevalent not only among the population at large, but also among people who have self-selected themselves as potential workers with the aged.⁵¹ This fact cautions against complacency about one's own attitudes merely because one has chosen to work with old people.

44. *Id.* at 18-19.

45. See H. FREEMAN & H. WEIHOFEN, *supra* note 11, at 465.

46. See text accompanying notes 27-40 *supra*.

47. See Appel & Van Atta, *supra* note 7, at 246-47; Cihlar, *supra* note 33, at 622-23.

48. See, e.g., T. Shaffer, *supra* note 34, at 2; Appel & Van Atta, *supra* note 7, at 250; Watson, *supra* note 7, at 22.

49. E.g., Arnhoff & Lorge, *Stereotypes About Aging and the Aged*, 88 SCHOOL & SOC'Y 70 (1960); Coe, *Professional Perspectives on the Aged*, 7 THE GERONTOLOGIST 114, 116-17 (No. 2, pt. I, 1967); Tuckman & Lorge, *supra* note 29, at 249.

50. Tuckman & Lorge, *supra* note 29, at 259.

51. Arnhoff & Lorge, *supra* note 49.

The prevailing stereotypes about the aged are incompatible with a productive relationship with older clients. First, experience in public opinion surveying shows that a negative attitude toward the aged will hinder the lawyer in obtaining information from the client. It has been shown that interviewers with a positive attitude toward elderly subjects elicit significantly more information than interviewers with a negative bias against old people.⁵² Second, and more importantly, these deprecatory stereotypes may make it difficult for the younger person to accurately view the elderly, since recognizing the humanity of the aged requires a tacit admission that the negative image of the aged which one holds will eventually apply to oneself.⁵³ Holding this negative image perverts the approach taken to problem solving. An attorney who holds these stereotypes would incline toward palliative solutions to the aged client's problems—solutions which do not solve but rather conceal, disguise, or excuse the problem.⁵⁴

Even if the attorney has avoided stereotyping old people, the prevalence of these attitudes may create other problems. Working with the aged may relegate the lawyer to lower professional status. Evidently, identification with one's clients, together with the low regard with which old people are held, produces this reduction in status.⁵⁵ This may in part account for neglect of the aged by legal services offices. "Legal services attorneys tend to instinctively favor the more vocal, organized client, a picture that the timid, quiet, physically secluded and politically unorganized elderly person does not present."⁵⁶ The vocal, organized, and aggressive poor person is clearly the high status client in legal services offices.

The trouble with stereotypes of old people is that they contain just enough truth to be plausible but they obliterate individual differences and are negatively charged. Few people would assent to conceptions of middle-aged adults which emphasize their common characteristics to the exclusion of individual traits. Yet, adults commonly slip into this fallacy in their thinking about the aged.⁵⁷ Research shows that individual differences do not decrease with age, indeed, if anything, they increase.⁵⁸ Thus, merely because deafness or blindness are more preva-

52. Freitag & Barry, *Interaction and Interviewer Bias in a Survey of the Aged*, 34 PSYCHOLOGICAL REP. 771, 773 (1974).

53. See Murphy, Book Review, 17 ARIZ. L. REV. 546, 549 (1975).

54. See Arnhoff & Lorge, *supra* note 49, at 71; Coe, *supra* note 49, at 118.

55. Cf. Wasser, *supra* note 22, at 446. See also E. WÄSSER, *supra* note 3, at 31.

56. Kraus, *supra* note 6.

57. See Maddox, *Growing Old: Getting Beyond the Stereotypes*, in FOUNDATIONS OF PRACTICAL GERONTOLOGY 8 (2d ed. R. Boyd & C. Oakes eds. 1973).

58. Maddox & Douglass, *Aging and Individual Differences: A Longitudinal Study of Social, Psychological and Physiological Indicators*, 29 J. GERONTOLOGY 555, 562-63 (1974).

lent among the aged, it does not follow that any particular old person is deaf or blind. Similarly, although nursing homes are institutions for the aged, it would be an error to place one's composite old person in a nursing home, for fewer than one out of 20 is in an institution.⁵⁹ Thus, the lawyer must constantly guard against fallacious stereotypes. Effective legal representation requires a breaking down of these stereotypes and a recognition—and in fact an emphasis—of the individual client and his problems.

The other side of the stereotype problem—the adverse effects of one's own anxiety about aging—is more difficult to deal with. People are likely to view a greater danger of ill health or reduced mobility negatively and hence are naturally anxious about old age.⁶⁰ Moreover, as has already been noted, the lack of a social role for old people in a society committed to speed and efficiency contributes to the negative image carried by old age.⁶¹ The lack of a social role, however, does not necessarily reflect poorly on the elderly. To the contrary, Talcott Parsons, the great American sociologist, has offered an analysis which suggests that if a negative implication is to be drawn from the absence of a function for old people, the culprit is the primitive state of our society rather than some lacking in the aged.⁶² The psychological consequences of these considerations are a function of our culture and are not likely to be altered in the near future. However, an awareness of their existence and adverse consequences is essential for the lawyer who desires to provide effective legal assistance to America's elderly.

CONCLUSION

Working with the elderly client is a challenging and demanding task. It does not involve the "glamour" which accompanies representation of many poor or minority clients, nor does it involve popular social causes. Additionally, the attorney must strive to overcome his biases and must compensate for many of the psychological factors common in dealing with the elderly. Nevertheless, working with the aged client is an inherently rewarding experience and provides an essential service for America's growing aged population.

59. UNITED STATES BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES 6, 81 (1974).

60. See generally Wasser, *supra* note 22, at 445.

61. See text accompanying notes 27-29 *supra*.

62. Parsons, *supra* note 27, at 29-30.