

IN RE: Why Should His Attorney Care?

By: Carol P. Waldhauser

John Doe, Esquire is a lawyer who has been retained by the parents of a young college freshman. The young student decided to “tail gate” prior to and during a college football game. His choices of beverage throughout the day were too many beers followed quickly by too many shots. Immediately upon leaving the stadium parking lot, the student was pulled over and given a field sobriety test. Needless to say, the student failed and was charged with “Driving While Under the Influence” and “Possession”.

Unfortunately, this is not the first time that John Doe has represented the young man. Approximately a year ago, then a high-school senior, the teenager was arrested, charged and found guilty of “Leaving the Scene of an Accident” and “Drunk Driving”. The former charge was dropped and for the latter he was given “Probation Before Verdict”.

Today as John interviews his client, he wonders if this young individual is merely a careless college student or is something more going on in his life and with his health. Subsequently as the attorney, John knows too that he is in a unique position to represent the individual and perhaps become a powerful positive force for change in a young person’s life. Some might ask: “As a lawyer, why should John care?”

There are several reasons why a lawyer should care. First, clearly individuals beset with abuse, dependence and/or other compulsive behavior generally suffer from a disease and often have legal problems. The classic case that raises questions of alcohol abuse/dependence and/or other compulsive behavior is the traffic-related offense. Other examples may include, but not be limited to: personal/business financial problems, shoplifting, assault, and other theft.

Needless to say not all such cases are a direct result of an addiction or compulsive behavior. On the other hand, the knowledgeable attorney will not ignore the possibility that alcohol/chemical abuse, dependence and/or other compulsive behaviors may be a mitigating factor in a significant number of these situations. Therefore, the most important thing that you can do is to recognize that there may be a potential problem in your client.

Second, the lawyer is free to ask the client many personal and detailed questions. This is critical when representing a client because legal solutions are often complex. Indeed, the lawyer is remiss if he/she does not inquire into the client’s background and personal habits in addition to the facts and circumstances surrounding the case at hand.

Normally, the client will answer these questions freely and openly because he/she wants his/her case resolved satisfactorily. Because the relationship between the lawyer and the client is private and confidential, the client often confides facts and circumstances to the lawyer that a relative, best friend or even a spouse may never hear. These facts can give additional insight into possible chemical abuse/dependence and/or other compulsive behaviors.

At that time, the lawyer can discuss with the client the possibility that the chemical abuse/dependence and/or compulsive behavior are mitigating factor in his/her case. By virtue of the special status the lawyer holds in the attorney-client relationship, everything you say is of heightened importance to the client. This gives you an enormous amount of control to help the client identify his/her addiction and to facilitate treatment for it. Equally, you can further motivate your client by detailing the painful consequences that might result should he/she fail to remedy his/her particular abusive/dependent/compulsive behavior.

Of course, it is the role of the clinician to diagnose and treat the problem. However, an attorney can play a significant role in the primary identification and subsequent treatment of the individual by becoming familiar with the signs and symptoms of the disease.

BASIC FACTS:

Clearly, substance use disorders and compulsive behavior can have an enormous impact on young adults and college students, making it difficult for them to relate to their peers and have successful academic careers.

Approximately 8.8 percent of people aged 12-17 (or 2.2 million) and 21.2 percent of people aged 18 to 25 (or 6.8 million) suffer from substance dependence or abuse. (1)

Overall, as many as 74 percent of Americans in general say that addiction to alcohol has had some impact on them at some point in their lives, whether it was their own personal addiction, that of a friend or family member, or any other experience with addiction. (2)

The fastest-growing ranks of gamblers today are teenagers. Teenagers are becoming addicted to gambling at alarming rates. This compulsive behavior is creating a crisis in our schools and neighborhoods where cards, dice playing and other games of chance on the internet are not uncommon.

GOING THE EXTRA MILE...

According to the Office of National Drug Control Policy, The National Youth Anti-Drug Media Campaign and the American Bar Association's published pamphlet, Lawyers and Teen Substance Abuse, lawyers can help by:

- (1) Recognizing that there may be a potential problem. Remember, addiction is a process, not an event. It begins with use and proceeds to abuse before the addiction "switch" is flipped in the brain.
- (2) Learn what to say to both the teen/young adult and his/her parents. The best approach is a direct one. The issue of substance abuse or addiction may not necessarily be part of the legal problem. However, there is an ethical consideration for not pointing out a possible need for help for a substance abuse problem.
- (3) Familiarize yourself with the resources in your community where you can get assistance.

Albeit although judges have the power to force someone into a rehabilitation program, a lawyer can have an awesome effect on a client, young adult or even a peer. By skillfully applying one's knowledge about the causes, signs, and consequences of substance use disorders and other compulsive behavior, a lawyer can serve as the change-agent in an individual's life. Combining the legal tool of justice with human compassion, an astute lawyer can help an individual take the first steps on the road to recovery.

Meanwhile, our attorney John learned that after his client grew up as a fairly "normal" kid, then at some point his focus shifted from school, family, sports and church to going to parties and getting drunk. Realizing that alcohol and other chemical abuse were mitigating circumstances, John inquired about treatment programs for young adults. Thanks to John's input and this young man's acceptance and commitment - he has been completely clean and sober since their initial conference.

To learn more about how to recognize substance abuse and compulsive behavior problems, or to request free brochures with reference to the above, call The Delaware Lawyers Assistance Program (DE-LAP) or e-mail your request to cwaldhauser@de-lap.org and visit the DE-LAP website: www.de-lap.org. Remember too, the astute attorney should care because they have a unique opportunity to build a stronger, healthier community.

References:

- (1) Overview of Findings from the 2004 National Survey on Drug Use and Health, DHHS Publication No. (SMA) 05-4061, Rockville, MD: U.S. Department of Health and Human Services, Substance Abuse and Mental Health, September 2005, p7.
- (2) Grant, B.F. "Estimates of US children exposed to alcohol abuse and dependence in the family." American Journal of Public Health, 90(1), 2000, pp112-115.
- (3) Teen Gambling, www.PROnline.net