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KATHLEEN A. SULLIVAN: A TRUE TEACHER'S TEACHER

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INTRODUCTION

In 1993, Yale Law School established a clinical teaching fellowship bearing Robert M. Cover's¹ name.² The fellowship was named after Professor Cover as a tribute to his lifelong commitment to social justice, as well as his belief that law schools should provide opportunities for students to explore careers in public interest law.³ Since its inception, The Robert M. Cover Clinical Teaching Fellowship has provided lawyers making the transition from practice to teaching the opportunity to learn about clinical teaching while doing it (sound familiar?). We each spent time in Yale's clinical program as a Cover Fellow⁴, and had the pure pleasure of teaching with, and mostly learning from, Kathleen A. Sullivan, a true teacher's teacher.

As Cover Fellows, we each knew Kathleen in a context slightly different from those of you who knew her as colleague, teacher or friend. We each met Kathleen as unformed, inexperienced clinicians-to-be. Each of us was lucky enough to teach with her, and to be in the right office (across from hers) with the right title. That title – Clinical Teaching Fellow – seemed to impose upon Kathleen a duty, or a debt, to help us grow professionally and personally. This was a debt she cheerfully made good on every day.

When the three of us first spoke about this essay, we thought about what Kathleen would have wanted us to do. Initially, we wondered whether Kathleen would forgive us for even writing at all. This

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¹ Robert M. Cover taught at Yale Law School from 1972 until his death in 1986. In 1982, he was named Chancellor Kent Professor of Law and Legal History at Yale. See Guido Calabresi et al., *Tributes to Robert M. Cover*, 96 YALE L.J. 1699, 1699 (1987).

² See Stephen Wizner, *Repairing the World Through Law: A Reflection on Robert Cover's Social Activism*, 8 CARDOZO STUDIES IN LAW & LIT. 1, 13 (1996).

³ See generally *id.*

⁴ Respectively, we were Cover Fellows from 1993-1996, 1996-1998, and 1998-2000. Kathleen began teaching at Yale Law School in 1993. Together, our three terms as Cover Fellows encompassed the vast majority of Kathleen's tenure at Yale.

is because Kathleen despised being the center of attention. So while we're still not satisfied that she would forgive us, we figure that if we use this essay to share some of her teachings and lessons with others, so that her lessons can be carried forth to future students, clients and clinicians, we increase our chances at absolution for writing about her. The next challenge was to reduce the professional lessons we took from Kathleen to just a few pages. Those who knew Kathleen, as a colleague, student, friend, or even acquaintance, knew that she was one of a kind and irreducible to any page limitation.

In this essay, we address three of the many themes Kathleen cared deeply about, and which we proudly admit to have stolen from her and imported to our new law schools, with varying degrees of success: thinking critically about confidentiality, privacy and autonomy; incorporating issues of difference into our teaching and our practices; and encouraging people (students, clients and colleagues) to find and assert their own voices, even — and especially — when those voices are different than ours.

Before discussing these themes, we must note that this is the point in the essay where we would have told a story about Kathleen to introduce and illustrate these themes. Indeed, many stories exist. However, we felt conflicted about doing so because Kathleen was extremely protective of other people's stories and would not tell those stories without permission. So, not having her permission to tell one of her stories, our story to you is, in large part, about the absence of one.

THINKING CRITICALLY ABOUT CONFIDENTIALITY, PRIVACY AND AUTONOMY

What clinical teacher doesn't teach about confidentiality, privacy, or autonomy? These certainly are not new themes. However, Kathleen's commitment to these principles was unique. Never satisfied with the professional rules or norms of confidentiality, privacy and autonomy, Kathleen pushed herself, and everyone she worked with, to do better, particularly because, as Kathleen often noted, our clients are not accustomed to having their confidentiality, privacy and autonomy valued.

To Kathleen, autonomy and confidentiality were married principles in lawyering: every client should have the opportunity to figure out what she wants out of the representation and then either have the world hear it or keep it completely to herself. The lawyer should be prepared and duty-bound to make either of those possibilities happen. If a client preferred not to testify, despite the understanding that her testimony was crucial to winning the case, Kathleen would comforta-

bly be the outlier and redefine the meaning and terms of success. She would turn quickly to the task of finding another way to win, one that valued the client's autonomous decision to keep her private story to herself.⁵

Valuing confidentiality, privacy and autonomy was an explicit theme in Kathleen's teaching.⁶ She challenged students to take on the work of valuing these principles for their clients, even when it was difficult or inconvenient. Specifically, for example, Kathleen never ran a case rounds class show-and-tell style; if there was nothing the client could gain from having her case discussed in class, it simply wasn't discussed. Those students who presented cases did so in a limited way by posing a pressing question directly related to the representation. Through this method, the clients whose cases were discussed gained some benefit in return. Not surprisingly, the students gained more out of these discussions.⁷

All of this was not an act for students or for clients. Her clinical colleagues will tell you that Kathleen carried her commitment to valuing confidentiality, privacy and autonomy into all of her work. Four years ago, Kathleen proposed that the clinic rewrite its retainer agreement to include a paragraph explaining to clients that their cases, and therefore the private details of their lives, would occasionally be discussed in class, and that while one purpose of those discussions would be to advance the client's case, there was a parallel educational purpose, which benefited only the students and teachers, not the clients. Kathleen, in her quiet, self-critical and non-threatening way, convinced her colleagues to revise the retainer accordingly. As a result, the Yale clinic now proudly uses a unique and more meaningful retainer.

As fellows, we gained tremendously from Kathleen's commitment to confidentiality, privacy and autonomy. As students of clinical teaching trying to get so much right and knowing very little, having a colleague and teacher who adhered to these principles was invaluable.

⁵ Kathleen wasn't satisfied by simply being a strong advocate for her client's confidentiality, privacy and autonomy vis-à-vis others. She was diligent about evaluating her own respect level when dealing with her clients. For example, she simply would not show up at a client's home without an invitation. In instances when it was impossible to reach a particular client, Kathleen would say, "Maybe I'm not able to reach her because she doesn't want to be reached by me."

⁶ Law students, accustomed to finding the often-hidden ball, must have appreciated this as much as we did. Kathleen would introduce these themes at the first class, and sometimes in her syllabus.

⁷ Of course, students generally learned more by talking through a pressing issue than by simply hearing a report of the status of a case, but students also learned something about confidentiality and privacy, as well as what lawyers can and should do with their clients' private stories.

Kathleen gave us a private dress rehearsal for our ideas and then gave us great feedback to incorporate before the real show. Even better, when the dress rehearsal revealed that the show should never ever go on, she kept our secrets.⁸

TEACHING DIFFERENCE

Another theme in Kathleen's teaching, and another critical lesson she imparted to us, centered on issues of difference between our students, our clients and ourselves. She vigilantly encouraged her students to assess and re-assess their privileges, presumptions and stereotypes so that they could gain a richer and deeper understanding of their clients' backgrounds, stories and predicaments. She explored these issues in class, supervision meetings, and more informal meetings with individual students. While she recognized that the students could never *completely* contextualize their clients' experiences – after all, her students often came from, and/or were in, very different places than their clients – she firmly believed that students should strive to become educated about, and understanding of, their clients perspectives and situations. For only then can students represent their clients effectively.

Ever the teacher, learner and thinker, Kathleen explored these themes through her presentations at various clinical conferences. Indeed, at the last clinical conference she attended in May, 2000, Kathleen co-led a concurrent session titled "Teaching Middle and Upper Class Students to Connect with Clients from Differing Backgrounds." The session explored how issues of economic and socioeconomic difference are manifested in the student-attorney/client relationship.

⁸ Last year, while Kathleen was in and out of the hospital, we (Bridget and Kathleen) were working together on an article about mandatory reporting of child abuse and neglect. The massive expansion of mandatory reporting statutes over the last thirty years, both in terms of who must report and what must be reported, has resulted in vast unsubstantiated reports, especially of people of color, and has had the affect of cracking fragile families and scaring others away from services they desperately need for fear of being reported. Folks seeking medical or mental health help have no assurance of confidentiality or privacy, and the result is often devastating to the families who most need it. Kathleen had been thinking, talking, reading and writing about the issue for years. I listened and it all sounded right to me, but until this past January, when my then eighteen month old son jumped out of his crib, cracked his skull and hurled me into the child protective system, I didn't worry too much about the issue. But the lack of autonomy I experienced as a parent engulfed in Michigan's child protective system (not to mention the lack of confidentiality and privacy going through it in my university's hospital in my university's town) changed me. Kathleen was my first call when things settled down. She reacted in exactly the way I needed her to. When my anger didn't pass quickly and I wanted to do something productive with it she suggested the research project, which we started working on right away, and continued working on until she died. And I am quite sure that while I have decided not to keep the story to myself, believing others can benefit from hearing it, Kathleen told nobody.

Kathleen then led the group in brainstorming various possible ways to teach our students to bridge these walls of difference so that they would be better able to relate to, collaborate effectively with, and zealously represent their clients.⁹

Kathleen believed that in order to teach about issues of difference effectively, we teachers should do some homework. And, as with every other lesson we took from her, she started with herself. She read about these issues voraciously, shared with us the books¹⁰ and articles¹¹ she came across, and explored with us how these readings, as well as the lessons drawn from them, could be incorporated into our teachings.

Perhaps most importantly, however, Kathleen taught us that before we can effectively raise and teach issues of difference with our students, we must first become conscious of and sensitive to *our* differences with both our clients *and* students. She challenged us to start with ourselves – to first recognize, understand and confront the stereotypes and biases *we* harbor, before asking students to be conscious of and sensitive to their own. She challenged us in this way by example only. Kathleen was always self-critical of her assumptions and beliefs and was constantly engaged in processes of reflection and re-examination.¹² By that example, we became better teachers, lawyers and, perhaps most meaningfully, better people.

⁹ Among the ideas generated from this brainstorming session were: Arranging court tours before first meeting clients, working with community groups to help us think through these issues and reflecting with the client on all issues related to the representation.

¹⁰ Among the books Kathleen recommended we read were ROSEMARY L. BRAY, *UNAFRAID OF THE DARK: A MEMOIR* (1999); LEON DASH, *ROSA LEE: A MOTHER AND HER FAMILY IN URBAN AMERICA* (1997); KATHRYN EDIN & LAURA LEIN, *MAKING ENDS MEET: HOW SINGLE MOTHERS SURVIVE WELFARE AND LOW-WAGE WORK* (1997); ANNE FADIMAN, *THE SPIRIT CATCHES YOU AND YOU FALL DOWN: A Hmong CHILD, HER AMERICAN DOCTORS, AND THE COLLISION OF TWO CULTURES* (1997); GERALD P. LÓPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE* (1992); DAVID ZUCCHINO, *MYTH OF THE WELFARE QUEEN: A PULITZER PRIZE-WINNING JOURNALIST'S PORTRAIT OF WOMEN ON THE LINE* (1997).

¹¹ Among the numerous articles Kathleen recommended we read were Regina Austin, "A Nation of Thieves": *Securing Black People's Right to Shop and to Sell in White America*, 1994 UTAH L. REV. 147 (1994); Bill Ong Hing, *Raising Personal Identification Issues of Class, Race, Ethnicity, Gender, Sexual Orientation, Physical Disability and Age in Lawyering Courses*, 45 STAN. L. REV. 1807 (1993); Michelle S. Jacobs, *People from the Footnotes: The Missing Element in Client-Centered Counseling*, 27 GOLDEN GATE U. L. REV. 345 (1997).

¹² As an example of her constant re-examination, Kathleen took the Implicit Association Test, formulated by Drs. Mahzarin R. Banaji and Anthony G. Greenwald in 2000, and openly shared and reflected upon her results. This self-administered test measures the taker's implicit attitudes about age, race and gender, and can be accessed at <http://www.yale.edu/implicit>.

FOSTERING, DEVELOPING AND ENHANCING OUR
TEACHING AND LAWYERING SKILLS

Kathleen was a master at one of the most amorphous, important and difficult goals we work toward as clinical teachers – the development and enhancement of students and colleagues. She patiently understood that each “student” has different strengths and weaknesses. Kathleen was able to explore each student’s strengths and weaknesses and help them cultivate their own voice. Kathleen’s ability for cultivating great lawyers and (we’re hoping) teachers seemed to come naturally. In fact, Kathleen’s abilities were so refined that one was often unaware of her influence until the result crept up – subtly yet with great impact. An indispensable part of her recipe was to combine her teaching with her sincere desire to learn from those she taught. In being both “teacher” and “student” she demonstrated that teaching and lawyering are ever-evolving processes requiring self-reflection and constructive feedback.

One of the first things that Kathleen would undertake with new students was to learn each student’s needs, expectations and goals for the semester while at the same time imparting her philosophy that each unique individual would bring a different set of skills and abilities to the work. Kathleen worked with students to foster a sense of trust, which allowed her to honestly explore each student’s unique skills and abilities. Her success was due in part to her own willingness to be self-critical in front of her students. Kathleen was not afraid of announcing her own perceived weaknesses. By focusing on a student’s unique skills and strengths, rather than the student’s (inevitable) imperfections, Kathleen fostered great talent and her students excelled.

As fellows, Kathleen gave us unedited access to her own supervision and teaching. Kathleen willingly exposed herself through critical self-reflection so that we, and she, could learn. Even though, as fellows, we were new to clinical teaching, Kathleen challenged us to convince her and ourselves that our ideas were worth pursuing. As a result, Kathleen allowed us to develop broad and vivid images of where we could go and gave us confidence in our ability to get there. New clinicians thrived in this environment; excited by the possibility that we might be exceptional and comforted by the support when we were less than that. With Kathleen’s pushing and support, each of us developed our own style as a clinical teacher and lawyer.

In addition to her more obvious impact on students and fellows, Kathleen was invaluable to the colleagues she worked with on a daily basis and those in the larger clinical community. Kathleen recognized and appreciated the skills of each of her colleagues and drew out and

complemented their styles when she taught with them. She was a supportive and challenging colleague who asked hard questions and improved even the most seasoned clinicians with her resolve that we each continue to grow and improve.

CONCLUSION

Remembering Kathleen's fierce protection of other people's stories, her concern about issues of difference, her remarkable generosity in allowing those around her to flourish, and her willingness to reveal and expose herself unconditionally *is* a powerful and unforgettable combination. We are truly fortunate for knowing that combination and for knowing Kathleen A. Sullivan, as we did.