

Some court experts may not be experts

■ One court-approved psychologist is facing complaints from the American Psychological Association.

By KAREN WINNER
American News Service

A court-approved psychologist in a California custody case asked Jeannette, 14, whether she wanted to live with her father or her mother.

When Jeannette picked her father, her mother, Vivian Saenz, expressed alarm, telling the court psychologist that her former husband's drinking and physical abuse caused the family's breakup.

Despite Saenz' warning, the psychologist declared that Jeannette would be safe with her father. A week later, Jeannette's arm was twisted so severely that the girl's school reported her father to the state's child protective service agency, according to Lois Blair, a counselor at Monroe Middle School. The father told an investigator they were "playing rough," according to Blair. No charges were filed.

In this case, the court psychologist was also the father's private therapist, according to billing records obtained by The American News Service, and he now faces complaints filed with the American Psychological Association in this and previous cases.

"It is considered unethical to switch back and forth between an evaluative and psychotherapeutic role," consultant on the case David Stein, Ph.D., the chair of the Forensic Psychology Committee of the California Psychological Association, wrote in court papers.

Incompetent or unethical psychological experts in the courts are one of today's major scandals in the justice system, says Margaret Hagen, author of *Whores of the Court: The Fraud of Psychiatric Testimony and the Rape of American Justice*.

SEARCHING FOR SOLUTIONS

In the new book, Hagen reports that the paid opinions of psychology experts who give testimony in court cases have become a \$1 billion industry. Judges rely heavily on these mental health professionals, and while most operate in good faith, some may be unskilled on the issues in question or unprincipled, Hagen said.

"Very little gets challenged once the psychologist makes the recommendation," said Hagen, a professor of psychology at Boston University.

In looking for ways to guard against the opinions of questionable psychologists, some forensic experts are calling for the better education of judges so they can learn how to screen out unqualified mental health professionals.

There is a model for such education in a long-standing program at the National Judicial College in Reno, Nev., which teaches judges how to assess the credentials of mental health experts.

The college has provided training to 350 judges over the past decade. "We teach them to look at the mental health expert's expertise and credentials to make sure that they have specialty training in spouse or child abuse, depending on the type of case it is," said Robert Geffner, a clinical psychologist who runs the training workshops.

In addition to training of judges, other proposals for reform include: setting national standards for mental health professionals who make evaluations in custody cases, for example by requiring them to conduct face-to-face interviews as well as employing psychological tests in making assessments.

Some judges say they have learned the hard way that not all psychologists are experts in the specific fields in which they testi-

To learn more

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BACKGROUND:

■ U.S. DEPARTMENT OF JUSTICE, Violence Against Women Office, web site: <http://www.usdoj.gov/vawo>

fy, even if some present themselves as such. "They may be Ph.D.s or doctors, (but) they're not qualified for the relevant expertise in a particular case," said family court judge Howard Spitz of Yonkers, N.Y.

The psychological expert witness industry has expanded to cover many kinds of law, from criminal cases with insanity pleas, to sexual harassment lawsuits. In child custody disputes, mental health professionals have become the experts of choice.

The psychologist in San Jose, Calif., who evaluated Jeannette's parents actually played an unusual triple role that constituted a severe conflict of interest, according to the complaint filed by Saenz' attorney, Robin Yeamans.

At the same time that the father was seeing the psychologist for therapy, the same psychologist was evaluating both parents in the custody battle and also making judicial orders for the family in his court-approved role as "special master," according to multiple records, including court documents.

Charges against the psychologist, Michael Jones, are not limited to this case, according to Yeamans who says five women have filed complaints with the APA through Yeamans' office. In addition, sever-

al psychologists have complained about his practices in letters filed with the family court in Santa Clara County.

"I first saw a Dr. Jones report in 1992, and I immediately knew something was wrong," said Yeamans. "In that first case Dr. Jones claimed that the violence was either imagined or provoked by the woman. He declared her dangerous and ordered supervised visitation," Yeamans said.

"He (Michael Jones) minimizes and denies domestic violence and claims that it is primarily caused by the battered victim, not by the abuser," Yeamans said.

Reached by telephone at his office in San Jose, Jones said he is not bothered by the complaints. "People have their opinions and I respect them. That's all I can say," Jones said. "There's due process."

He declined to comment further when asked about his multiple roles in Jeannette's case and said he was unaware of the complaints filed with the APA, based in Washington. The APA ethics department treats all complaints as confidential and does not confirm or deny their existence, according to Doug Fizel, deputy director of

public affairs for the association, which represents 151,000 psychologists in the United States and Canada.

Violations of ethical conduct by court-appointed and court-approved psychologists are exposing a serious gap in the judicial system, according to Hagen and others who have investigated the problem.

There is no oversight of the network of therapists, social workers, psychologists and psychiatrists who serve as psychological experts in the courts, say observers. They point out that judges are not legally required to use licensed mental health professionals when they approve someone to testify in a case, and standards of practice vary widely.

"In almost every state a person can hang a shingle out and call themselves a therapist. That doesn't mean they have the training to do forensic evaluations for the courts," said Robert Kinscherff, a forensic psychologist and lawyer with the Children and the Law program at Massachusetts General Hospital in Boston.

Some forensic specialists, such as Kinscherff, are worried that the lack of oversight combined with the potential for lucrative fees is tempting unqualified mental health professionals into the field.

Kinscherff said that since managed care companies are putting profit constraints on therapists in private practice, some therapists are now looking for business from the courts to boost their incomes, even though these therapists often lack the proper training or expertise.

"This (situation) has resulted in uneven quality in the production of court-ordered reports with the result that the court may be misinformed or misled," said Kinscherff, who also serves as senior forensic psychologist at Boston Juvenile Court.

Jeannette and her mother say that in their case, the psychologist's decision had almost tragic conse-

arrangement set up by Dr. Jones was still in effect, Jeannette tried to kill herself, according to interviews with the two as well as with attorney Yeamans.

"I wasn't allowed to go to my mom's except over the weekends," Jeannette said in an interview. "The psychologist would leave the decision up to my dad, whether or not I could visit my mom."

Only after the girl was hospitalized for an attempted overdose of prescription medicine was she returned to her mother's care, according to their accounts and records in the family division of Santa Clara County Superior Court.

By that time, Jones had been shorn of his special powers in the case by mutual agreement of both parties in the custody dispute, according to court records. Giving judicial authority to "special master" nonjudges is a common and controversial practice in Santa Clara County and other California family courts.

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