

EDITORIAL

The Role of the Child Psychiatrist in Court Cases Involving Child Victims of Sexual Assault

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In this issue of the *Journal*, Edward Weiss and Regina Berg (1982) have drawn upon their vast clinical experience at the Child Sexual Abuse Victim Assistance Project to articulate the way the child "made psychologically vulnerable by sexual assault" encounters problems in coping with the legal system: a system that at times causes more anxiety in the child than the actual assault and acts in ways that are essentially insensitive to the child's psychological state. My own experience, though not approaching the 700 cases with which the authors have been involved, supports their clinical observations.

In a recent case, I was asked to testify on behalf of an adolescent girl who had reported her stepfather to Child Protective Services after he committed incest at least four times. Interestingly, the support system that allowed this girl to report him were her teenage colleagues at school who had heard a radio advertisement which announced a "hotline" for victims of sexual abuse. Her friends, to whom she had reported her plight, urged her to use the hotline and actually stood next to her as she called. Her friends also supported her at the time her stepfather was charged and during the pre-trial investigation. She was removed from the home and placed in a foster care family who also supported her decision.

I was asked to evaluate this young woman because the prosecutor had been advised that there would be medical testimony from a "renowned pediatrician." The focus of his testimony would be that this girl, a juvenile diabetic, was out of control with respect to her diabetes and had hallucinated the four alleged incidents of incest. Although this adolescent had an extensive network of support, in the evaluation process it became clear that no one had prepared her for taking the witness stand and answering specific questions about the incidents and about her stepfather. She might also be cross-examined about her diabetes and her self-care skills. The prosecutor could have

been more active in such preparation, particularly as the time for trial drew near. Although foster parents and friends provided this young woman with an unusually good support system, I was convinced that it would be appropriate for a forensic child psychiatrist to spend time adequately preparing her in a very concrete and educational way for the ordeal she faced, and I undertook such a role.

As Dr. Weiss and Ms. Berg point out, feelings of guilt, isolation, and depression abound in the child who brings what is a family problem to the attention of the social authorities and in turn becomes a witness for the prosecution. In the particular case described above, in addition to her own internalized complex feelings, the girl faced blame, anger, denial, and accusations of "lying" from her mother, her father, a "renowned pediatrician," and the defense attorney. It took great courage and strength to make an accusation of her stepfather to Child Abuse and Protective Services, the police, and the prosecuting attorney, and to confront and accuse her stepfather in open court.

The role of the child psychiatrist in cases of this sort is multidimensional. It begins with evaluating the child. It often includes attempting to evaluate the "truth" of the child's accusations. It may be possible to report beyond a reasonable doubt that a particular child is clearly justified in his or her accusations of sexual abuse by a parent or friend. Similarly, the child psychiatrist may at times suggest some reason to question the veracity of the child's allegations. For example, in custody cases, I have, on occasion, seen young children who have accused the custodial or noncustodial parent of incest. Sometimes the language of the young child has been too adult in nature and, coupled with other indications, has been suggestive of the child having been prompted and rehearsed by the other parent to make this complaint.

After the evaluation, as these authors note, the child psychiatrist can assist the child and family in its preparations for going to court. Assistance can include visiting the courtroom with the child, discussions about what might happen in court, even mock sessions with role play. Experiential learning through role play may entail the cooperation of a sensitive attorney or other clinical colleagues. While this kind of experience is desensitizing, the anxiety and ambivalence about

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actually testifying is never totally erased. The child psychiatrist can go to court with the child or can encourage and train other members of the clinical team to attend the actual court proceeding. The child psychiatrist can also consult with the attorney, helping counsel to speak in language the child understands.

As Dr. Weiss and Ms. Berg note, only rarely does the legal system allow closed-hearings at the present time. Thus, more often than not, the child has to testify in an open courtroom with the public and even the press present. While the rights of the accused must, of course, be protected, is it overly optimistic to assume that a way to accomplish this that is less traumatic for the youthful victim of sexual assault can be found?

Child psychiatrists can also educate judges and juries about such clinical issues as developmental age, intellectual level, and testimonial capacity as a fact witness. This expert testimony can be directed not toward impeaching the child as a witness, but rather toward making the child a more credible witness and, at the same time, easing the process of testifying.

I wholeheartedly agree with the authors that an appropriate role for the child psychiatrist is to facilitate the interaction between the criminal justice system and the mental health system. I think, however, that as we encourage the legal profession to become more familiar with the operations of the mental health system, it is important that we, as consultants, become familiar with their system. Although we may think we know better ways to deal with children as witnesses and better ways to spare them the traumas of the procedures surrounding the criminal justice system, we must always remember that our role is that of consultant. We cannot and should not set the rules for the operation of the legal system. We can only suggest for consideration ways in which that system might ease the burden of a child who is already heavily burdened and troubled; the child victim of sexual assault.

Reference

- WEISS, E. H. & BERG, R. F. (1982), Child victims of sexual assault; impact of court procedures. *This Journal*, 21:513-518.