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A father's ordeal to reclaim his child
reveals a family court system that places
kids back in the hands of alleged abusers

BY ALASTAIR BLAND

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A father’s ordeal to reclaim his child reveals a family court system that places kids back in the hands of alleged abusers

The toddler could barely walk, but already he was lost.

In 1992, his mother, a woman named Josie Cohen, reported to Sacramento area authorities that she suspected her estranged husband was sexually abusing the 2-year-old.

According to investigative records documenting the case, obtained by SN&R, the boy told a Child Protective Services investigator in 1993 that his father regularly sodomized him. A medical exam proved inconclusive. But in April 1994, the case was heard in Sacramento County’s family court, where multiple witnesses testified that the child had described being abused or raped. His attorney even relayed a CPS social worker’s conclusion that the father was masturbating “and ejaculating in front of” the toddler.

But Judge Peter McBrien—still with the court today—was convinced the boy had been coached by his mother to concoct the allegations and handed him over to his father for primary custody. The reports of abuse continued. In July 1995, the child called the police himself, asking for protection from his dad.

According to a report by the responding police officer, obtained by SN&R, the boy graphically described being sodomized. The 5-year-old told the same story to a CPS social worker and even drew an image of his father raping him before a camera on a tripod. In the crude drawing, the dad’s face is smiling while the child cries.

The boy spent some time in foster care but was eventually court-ordered back to his dad. His mother died of cancer in 1998, and his story was orphaned to obscurity.

Connie Valentine founded the California Protective Parents Association in Sacramento in 1999 in direct response to the case. Almost 20 years later, she’s still trying to reform what she says is a corrupt branch of the court system that destroys lives.

Valentine is far from the only detractor.

According to interviews with attorneys, former judges, past litigants and others who have worked in or analyzed family courts across California, judges disproportionately award custody to parents accused of abuse, due to a variety of factors—particularly institutional sexism that dismisses the concerns of female litigants and conflicting financial interests of attorneys and judges.

These factors and more have eroded the family court system into a grotesque caricature that favors litigants with the money to hire private attorneys while penalizing the mothers who say their children are being mistreated, says Barbara Kauffman, a family law attorney based in Mount Shasta.

“[Parents] are thrust into this court situation where they are expected to prosecute a person who has been abusing them and, if they fail to prove they’ve been abused, they are accused of making a false allegation of abuse,” Kauffman explained.

There’s research to back this up.

If a parent claims in court that their spouse or partner has been abusive, their odds of losing custody skyrocket, according to a nationwide analysis from California State University, San Bernardino.

In a written statement to SN&R, Supervising Family Law Judge Jim Mize, a magistrate of many years’ experience in the Sacramento Superior Court, dismissed as “absurd” the idea that judges knowingly funnel children into abusive homes.

Still, activists are adamant that the system effectively gambles with children’s lives—and they want a system overhaul.

An East Bay group called Court Reform LLC is lobbying for several procedural changes that could benefit family court litigants unable to afford attorneys. And the Socioeconomic Justice Institute, a newly founded organization based in the Silicon Valley, is preparing to launch a class-action lawsuit against California court administrators and several judges, including Mize and McBrien.

“An entire branch of government is operating in the dark, like the Catholic Church,” said Kathleen Russell, executive director of the Center for Judicial Excellence, a Marin County organization that aims to protect litigants’ basic courtroom rights. “This has become an unregulated cottage industry that is completely unaccountable to anyone.”

ONE FAMILY’S STRUGGLE

DeWayne Robinson wants his little brother back.

The two used to live together in Elk Grove. They were born to different fathers. “But he’s my brother,” said Robinson, 21, an information technology student at Los Medanos Community College in Pittsburg.

But Robinson’s brother, who is 7, has been taken away from his biological family by Sacramento County’s family court system and placed in the custody of an unrelated man named Timothy Dwyer, with whom the boy’s mother, Gloria Bauzon, had a short relationship several years ago. According to court records, the child was initially handed over to Dwyer after he submitted a standard court form two years ago called a “petition to establish parental relationship.” Dwyer claimed in the petition that he was the boy’s father—which genetic testing had already shown wasn’t the case.

Dwyer also claimed that Bauzon was coming up short on parental duties, such as helping her son with homework and taking him to school, and that Robinson, then 19, was physically bullying the kindergartener—what Robinson told SN&R was simple brotherly tussling.

Still, Dwyer's handwritten form, submitted in February 2015, proved convincing enough for the court. That October, Judge Tami Bogert granted Dwyer primary custody in an unusual ruling that established an unrelated man as the father of his ex-girlfriend's child. Fifteen months later, the boy's biological family has lost contact with him, according to Israel Brown, the child's biological father. Brown only learned in 2015 that he had a son and has been struggling for more than a year to help Bauzon retrieve him.

Bauzon, who retains custody of a 13-year-old daughter—Brown is her father—contested the court's judgment in an interview.

"All I do is work and take care of my kids, every day, and they take my kid away from me?" said Bauzon, who was born in the Philippines. "Why? Because I don't speak the language so good, because I don't have a lawyer?"

She might have answered her own question. While Dwyer has an attorney, Bauzon does not. James Brosnahan, a family law attorney in San Francisco, says fighting to maintain custody of one's child without legal representation is a very difficult task. "When you don't have a lawyer in a custody fight, usually you lose," Brosnahan told SN&R. "It's a very serious problem. It's a blot on the justice system in California."

It also may be illegal. Brosnahan has argued in court that taking people's children while they are unrepresented by attorneys—something that happens routinely—is a violation of their constitutional rights.

While California's Family Code section 2030 states that "the court shall ensure that each party has access to legal representation," sources disagree as to whether this language requires or merely allows family court judges to level the playing field between litigants.

Kauffman, the Mount Shasta attorney, says judges routinely skirt around this legal clause via a sort of Catch-22.

She explains there is a considerable mess of paperwork that a litigant must fill out to demonstrate financial hardship and the inability to pay for their own attorney. But the process of accurately filling out the paperwork, Kauffman says, is complex enough that one essentially needs an attorney to guide them through it.

According to a 2004 estimate by the Judicial Council of California, at least one party in more than 70 percent of divorce cases is without an attorney. By the time of judgment, 80 percent are self-represented—apparently unable or unwilling to continue paying fees.

By comparison, nobody goes to trial without a lawyer in the criminal justice system unless they choose to.

"If you're accused of a misdemeanor and you can't afford an attorney, you have a right to a public defender," said Joseph Sweeney, Court Reform LLC's founder. "But you don't have those same rights in a family law case even though you risk losing something arguably even more valuable—your children."

Bauzon's case also resembles other custody disputes in the way that the system has responded to accusations of child abuse. According to a report filed October 20, 2016, by a Sacramento County family court custody counselor named Priscilla Coil, Bauzon and Brown have repeatedly called Dwyer a "pedophile." Brown told SN&R he even filed a report with the Contra Costa County Sheriff's Department on December 8, 2015, alleging Dwyer may have been abusing his son.



A restraining order issued in Sacramento Superior Court in October 2016 prevents Israel Brown from seeing his biological son at all. "I said to [his mother] the other day, 'We're going to lose him.'"

PHOTO BY GEORGE BAKER JR.

Citing the involvement of a minor, the sheriff's department declined to discuss the case or even acknowledge whether it had received such a report.

Dwyer spoke briefly by phone with SN&R. He declined to offer any comment. His attorney, Timothy Zeff, did not return emails from SN&R.

If anything, Bauzon's allegations of abuse have worked against her. Bauzon's visitation time of nine days a month with her son was reduced to four supervised hours and two phone calls per week in October, largely because of the pedophile claims, according to Coil's report.

In her report, Coil—who repeatedly misspelled the child's name—noted that Bauzon had requested that her son be allowed to sleep in his own bed while at Dwyer's home. Coil, who interviewed the child and the opposing litigants, ultimately recommended to the court Bauzon's current custody arrangement. Coil couldn't be reached for comment prior to print deadline.

Several days later, Mize admonished Bauzon at a court hearing for using the word "pedophile" in front of her son.

"Do you have any sense of how sad you're making your child by having such a negative attitude?" Mize said.

That day, he ordered Coil's custody recommendation. According to Brown, none of the child's relatives have seen or spoken to him since.

"The judge took my son away from everyone related to him," Brown told SN&R.

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A PATTERN OF RULINGS

It's hardly the first time the Sacramento court has left a family in shambles.

There was the Cohen case, which received little media attention. Valentine closely followed it, however, and says the child is now a stable, if emotionally troubled, adult who lives off of his maternal inheritance in Sacramento.

More recently, in two separate cases, Judge Sharon Luera allegedly ignored evidence that she was granting child custody to dangerous parents, rulings that preceded the hatchet murder of a 9-year-old boy by his father and the poisoning death of an infant girl by her mother.

Similar events occur nationwide. Russell has analyzed 530 cases since 2008 in which children were murdered by their parents. Her findings, posted on her organization's website, revealed that 58 children were killed after being court-ordered into the custody of the parent reported to

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be abusive or threatening, even when a nonthreatening parent was also fighting for custody.

This pattern showcases what Russell calls “judicial child trafficking.”

“The court system is systematically trafficking children who are abused by a parent away from their safe parent who is trying to protect them and into contact with the parent they say is harming them,” Russell said. “It happens almost every time like clockwork. If you raise an allegation of abuse, the system starts turning against you, even if you have legitimate medical evidence that the kid has been raped or beaten, or there is testimony from the emergency room doctors saying they see evidence of abuse.”

Linda Barnard, a licensed marriage therapist in Sacramento who regularly testifies in court as a domestic violence expert witness, describes the same recurring outcomes in cases where a woman reports abuse.

“The more frantic the mother becomes, the more they think she’s crazy, and pretty soon the abusive parent ends up with the kid,” she said. “Many times people are actually afraid now to disclose abuse because they’re afraid they’ll lose their kids.”

A 2015 analysis by a professor at CSU San Bernardino showed how frequently this seems to occur. Geraldine Stahly reviewed 163 California custody disputes. In 82 percent, mothers initially had primary custody. Even though 88 percent of the mothers reported being abused by their exes, only 12 percent of the time did the mothers end up with primary custody.

“Allegations of physical and sexual child abuse arose in nearly all cases,” the report stated. “In 75% of cases, children positively identified fathers as perpetrators.” Stahly’s report noted that “98% of the fathers were represented by an attorney while the mother had no attorney.”

The Leadership Council on Child Abuse and Interpersonal Violence, a Baltimore welfare advocacy group, has collected similar data and has estimated that more than 58,000 children across America are court-ordered into abusive environments every year.

Money, Russell says, ultimately has much to do with these rulings.

“They’ve figured out if you put the child with the abuser, they’ll make a lot more money, because the parents who go in trying to protect their children often end up losing their livelihood,” Russell said.

In other words, keeping families mired in toxic custody disputes is a cottage industry.

For example, Ulf Carlsson—whose saga SN&R has closely covered—estimates he has spent a million dollars in legal fees trying to carry out a divorce in the Sacramento court.

According to the 2014 family court corruption documentary *Divorce Corp*, divorce and custody cases wring \$50 billion a year from litigants in the United States. Attorneys, custody evaluators and mediators, custody supervisors and psychologists rake in most of this money.

“These [litigants] get bled dry,” Barnard said.

In theory, judges would stamp out systemic corruption that turned family court squabbles into money-making schemes—but they don’t, at least not always, according to DeAnn Salcido, a former family court judge in San Diego County.

In fact, Salcido says judges may actually cash in on the system by becoming private custody mediators after they retire, a service for which they can pocket \$500 an hour. Since lawyers are the ones who recommend these mediators, it behooves a judge to curry favor with established family law attorneys during their time on the bench, Salcido explains.

On the other hand, “judges who piss attorneys off won’t be recommended,” explained Salcido, now a family law attorney herself. This system, she says, fosters cronyism between judges and attorneys and leads to biased rulings in the family courts.

Moreover, Salcido says, the mediation service itself is a scam. She says mediators often fail to fact-check what one parent tells them, leading to badly flawed custody recommendations—which, she notes, judges follow most of the time.

“They’re basically delegating their decision-making to the mediator,” she said.

That’s how Emily Gallup says it worked in the Nevada County family court, too, where she served as a court-employed mediator for several years until 2010. Her job involved interviewing parents and their children and making a custody recommendation for the judge, who she says ordered her recommendations roughly nine out of 10 times. The big problem, Gallup says, is she was pressured by her superiors to complete one such report per hour—a task she says was “absolutely not” possible to do fairly.

Gallup says her employers encouraged her “to be skeptical of domestic violence allegations” while discouraging her from reviewing parents’ criminal records and even the case files.

“They basically told me to make my best guess,” she said.

Mize firmly contests allegations of systemic corruption. He says there are too many employees within the Sacramento Superior Court system, and too many family law attorneys who represent local cases, for conflicting friendships and cronyism to routinely develop.

And Mize adamantly denies the system trades kids for cash.

“[T]o imply that a competent and honest judge, hearing clear evidence of sexual abuse, would then, without secure protection to the child, award unsupervised visitation to an alleged perpetrator is absurd,” Mize wrote.



PHOTO BY KEVIN CORTOPASSI

Emily Gallup, a former Nevada County family court mediator, says she was pressured to make speedy custody recommendations that judges heavily rely on.

But one source after another insisted it does happen, and with regularity.

“It’s dumbfounding,” Salcido said. “Only in family court can a child who has claimed to be abused by a person be then forced to be in that person’s company.”

Nancy Lemon, a lecturer at UC Berkeley’s School of Law and the legal director at the Family Violence Appellate Project, said “a general history of sexism where women aren’t believed as much as men are” has created the environment in which abusive men often gain primary custody of their children against a woman’s protective efforts.

Of course, some parents lie and falsely tell the court that someone else is abusing them or their child, but research has shown this to be rare. For example, a 2003 Canadian study found that of all child abuse allegations researched, only 4 percent were intentionally fabricated. This figure was higher—about 14 percent—in cases where custody was in dispute. A 1987 study in the *Journal of Interpersonal Violence* found a similarly small rate of false abuse allegations.

Salcido eventually resigned from the judicial bench of San Diego County in 2010, frustrated with a system she feels is overtly misogynist and “favors the politically connected over public safety.”

That same year, Gallup was fired for questioning what she felt was a negligent system. She won a wrongful



Linda Barnard, a licensed marriage therapist in Sacramento who testifies as a domestic violence expert, says mothers who allege child abuse are often dismissed as “crazy.”

PHOTO BY KEVIN CORTOPASSI

termination suit against the Nevada Superior Court that awarded her \$313,000 in compensation, but the ruling was overturned on a technicality. Gallup now runs a private marriage and family therapy practice in Grass Valley, but she remains troubled by what she saw as a mediator.

“It upsets me,” she said, “to know that children are paying the price for poor work being done in the court.”

AN ABSENT WATCHDOG

Like so many unhappy court litigants, Brown turned to higher officials for help.

In June, he filed a complaint with the Commission on Judicial Performance accusing Bogert of racism (Brown is black) and pre-established bias in her ruling to bar him from joining Bauzon’s fight. He claims she disregarded the results of the genetic tests showing Brown was the boy’s father.

“She talked to me like I was a thief in there trying to steal someone’s kid, instead of the other way around,” said Brown, who has had no attorney throughout the ordeal.

Bogert was unable to comment because the case is still pending, according to Kim Pedersen, a spokeswoman for the Sacramento Superior Court.

Several weeks later, the commission sent a brief acknowledgment of Brown’s complaint and the promise

to follow up later with more information. Almost eight months later, Brown is still waiting.

So are thousands of others. In fact, while the CJP receives more than 1,000 complaints every year, almost none result in public discipline, according to the commission’s annual reports. From 1990 through 2015, the commission received 29,969 complaints. Just 106 times, though, were judges publicly disciplined.

The activist camp claims this indicates a system failure.

“Judges don’t follow the laws, but then the CJP doesn’t do anything about it,” said Stephen James, the co-director of the Socioeconomic Justice Institute and an investigative reporter with years of experience studying California’s family courts.

Sweeney, at Court Reform LLC, was keen on learning more about the complaints—who filed them and why. He submitted a public records request with the commission last February to access this information,

and the agency promptly refused to hand it over.

Shortly thereafter, the state auditor, answering to public outcry, similarly demanded access to the CJP’s records. In its 56-year history, the commission has never been audited—and the secretive 11-member unit, which filed a lawsuit on October 20, 2015, to block the audit, is trying to keep it that way.

The CJP’s director did not return multiple calls from SN&R seeking comment.

But Mike Belote, a lobbyist for the California Judges Association, says grievances against the courts usually do not justify action. He explains that many, if not most, complaints filed with the commission address what are technically legal errors, not examples of judicial misconduct.

“And we have a court of appeal for legal error cases,” he said.

That’s sort of true. Litigants can appeal a court ruling—but generally only if there is a transcript of the proceedings. However, most counties have eliminated family court reporters to save money. Stahly, at CSU San Bernardino, found that more than half of family court hearings she analyzed “were held without a court reporter present, thus precluding an appeal.” Litigants may opt to have a reporter present, but in Sacramento they must pay \$478 a day for the service. One of Court Reform LLC’s primary goals is to require family courts

to produce transcripts of courtroom proceedings at no cost to litigants.

Eugene Hyman, a retired judge of the Santa Clara Superior Court, says the elimination of court reporters “could allow a judge to cut corners.”

Salcido, in San Diego County, says the absence of court reporters has created “a due process nightmare” from which “the integrity of the whole system is lost.”

Still, Belote insists it’s not judicial fouls that usually prompt outrage from litigants but, rather, the very nature of the family court.

“We are talking about the most sensitive issues in our court system—custody of one’s children,” Belote said. “In virtually every case, someone is going to be unhappy.”

The tide may be turning slowly in favor of families, parents and children. The state auditor has the Commission on Judicial Performance in the hot seat. Court Reform LLC’s Sweeney is even applying to serve as one of the CJP’s six public members.

“The court system is systematically trafficking children who are abused by a parent away from their safe parent.”

Kathleen Russell

executive director, Center for Judicial Excellence

James, at the Socioeconomic Justice Institute, is working closely with Carlsson and Susan Ferris—who went four years without seeing her daughter due to a series of Sacramento court actions that James insists were illegal—on the class action lawsuit against the state, which he expects to have filed within six months.

On January 3, the Ninth Circuit of the U.S. Court of Appeals ruled that CPS workers who place a child in an abusive home can be held accountable, whereas previously they have been protected by immunity.

James, a former SN&R contributor, says the decision, made in Pasadena, sets a groundbreaking precedent that could start the unraveling of immunity protections for employees of the family courts, where judges and attorneys, without transcripts to track their behavior, rarely face legal consequences for their actions.

“The pressure is going to start coming from the top down to the county level,” James said. “The family courts are going to start getting the message that they need to follow the law, stop with the cronyism and giving favorable rulings to their favorite attorneys, and stop the bias against the people who can’t afford attorneys.” □

Rachel Leibrock contributed to this report.