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FITNESS TO STAND TRIAL. By Donald Paull. Springfield, IL: Charles C Thomas, 1993. 180 pp. \$49.75.

Reviewed by Robert B. Cahan,
M.A., M.D.

In this study of forensic competencies, Dr. Paull's purposes are to teach mental health professionals the legal context and to clarify for lawyers the mental health issues of forensic competency in the United States. To this task he brings his exemplary experience in the fields of psychology and the law, including private legal practice, serving as an assistant district attorney, and full qualifications in clinical psychology. The work's logical organization progresses from examination, to hearing, to dispositions and alternatives, and then to a detailed study of Dr. Paull's "career case," *People v. Lang*.¹ There are many valuable case citations and references.

Dr. Ralph Slovenko notes in the forward that for every hundred defendants found incompetent to stand trial only one defendant is declared N.G.R.I. Dr. Paull believes that more than two percent of all defendants are actually incompetent. Dr. Slovenko dates (English) common law on incompetency to the mid-1600s; while confirming that reference, Dr. Paull noted Judge John W.

Oliver's quote about Judge Warren Burger's reference pushing the concept back to the 16th century, ". . . and then established what I believe is a record by quoting a portion of the Talmud to the effect that mentally disordered persons were not to be held accountable for their crimes because with them only the act is of consequence, while the intention is of no consequence."^{1, p. 4}

In defining fitness to stand trial, or competency, Dr. Paull reviews the current legal basis arising from *Dusky v. United States*² and expanded in *Wieter v. Settle*.³ He presents some variations in the wording from different states and provides this development in detail moving from *Pate v. Robinson*⁴ to *Jackson v. Indiana*.⁵ The Supreme Court in *Pate* pointed to "bona fide doubt" from the evidence at trial as a reasonable cause to entertain the possibility of incompetency, but the author provides an extended list of cases where doubts were raised but not judged to be bona fide. There are also illustrations of how a defendant's history, behavior, psychiatric reports, and both counsels' complaints can initiate a competency examination and hearing, particularly if the counsel's complaints are raised early in the proceedings.

It would have been valuable for the author to apply his extensive experience to an analysis of the courts' reasons for ruling for or against the request for competency hearings. Were they influenced by public pressures against psychiatric evasions of justice or by judicial awareness of the tendency of attorneys to use the request as a delaying tactic? In his

listing of cases where the courts decided against hearings, the author seemed to imply but never stated that factors other than the merits of the case were given judicial consideration. If there were such instances, another Talmudic admonition is appropriate, "Woe to the judge who, knowing the unrighteousness of a decision, endeavors to make the witnesses responsible for the same. *From him will God require an account.*"

In describing the settings, disciplines, and techniques of the competency examination, Dr. Paull importantly illustrates the advantage to the psychiatric reader of discussing the common law privilege against self-incrimination in the informed consent. But he only touches on the issue of the defendant having counsel present. This reviewer believes that this part of the presentation would have benefited from more explicit depictions of how information for the competency examination can be selected, marshaled, presented, and even phrased. The words of art are crucial in facilitating the psychiatrist's ventures into the field of law. The reader would also benefit from references to specific instruments, like Barnard *et al.*'s CAD-COMP,⁶ Roesch's University of Toronto 1984 The Fitness Interview Test⁷ or to Grisso's 1986 manual on Evaluating Competencies.⁸

On the subject of hearings on fitness, psychiatrists would have benefited from a presentation of the range of preferred opinions as well as the mechanisms of presentation in cases briefly summarized by the author where hearings were not held although apparently warranted. Dr.

Paull does provide useful citations about the question of competence for pretrial motions as well as for the trial itself.

In his section on disposition of incompetent patients, Dr. Paull cites *Jackson v. Indiana*⁵ as the 1972 basis for lifting the permanent commitment from chronically incompetent defendants. One would welcome his comments on the possible sociological issue of whether defendants were being punished for seeking to avoid trial. With his succinct abstracts supported by six pages of notes and citations, the author details the dispositions accomplished "in a reasonable time" of up to several months. His review of the differing standards in different states extends to noting that chronic incompetence in Arkansas and Florida leads to findings of not guilty by reason of insanity.

The author explores several special issues dealing with incompetence. In the first, amnesia, the author divides into anterograde and retrograde, defining the former as ". . . a disruption in memory for the events immediately surrounding a traumatic experience and for a short time afterwards."^{3, p.66} Including the surround may confuse the common few seconds of retrograde amnesia with anterograde amnesia. In the second special issue, medication, Dr. Paull points out that competence caused by medicating defendants has been legalized in 17 states, and is not illegal in any. But in his discussion he cites a common minor misconception, that it was psychotropic medications that emptied the psychiatric beds. Actually, the decrease began at least five years before the introduction

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of the first neuroleptic, and has been attributed to a number of sociologic, political, economic factors and other psychiatric factors.

The author's discussion of the defendant's waiver of rights, competence to plead guilty, and competence to be sentenced are well defined and documented. Identifying "another source of concern (that) centers about the appeal from a conviction," the author asks "What is to be done if the defendant forbids his attorney from appealing his conviction (the defendant's, not the attorney's)?"², parentheses in original p. 78 It is both refreshing and reassuring to find that a professional as skilled in ideas, words, and the law as Dr. Paull can also find that personal pronouns and the law itself are not entirely free of ambiguity.

The author's "career case" reveals a tragic saga of frustration for a varied team of public defenders and practitioners trying to have the Illinois judicial system release from incarceration a deaf and partly blind man who was accused of murdering one prostitute in 1965 and another in 1971. The case illustrates the herculean involvement of many professionals, like Dr. Paull, and the need for careful and detailed diagnostic studies, as well as clarity in the presentation of those findings.

In a chapter labeled The Uncertain Future, the author states his expectation that the Task Force on Competency of the American Bar Association, under a McArthur Foundation project, will advance the study of competency to stand trial. I note that Drs. Ralph Slovenko and Henry Weinstein were the only

AAPL members among the almost dozen members of the task force, and Dr. Weinstein was the only psychiatrist.

In an appendix, Dr. Paull deliberately provides the reports, correspondence, and a trial transcript, all of limited effectiveness, from another case. It was disturbing to see the initial brief psychological and psychiatric reports consisting of conclusory statements, few quotations, and diagnoses made on the basis of presenting features only. There was no indication that any standardized competency instrument was used, and no psychological testing was described. The defendant was apparently the sole source of history, with no input from institution staff, defending counsel, or a "rap" sheet, although she told the psychologist she had ". . . a large, local, extended family . . . (and) provided the name and telephone number of a sister who *should be* contacted for a social history."⁵, emphasis added, p. 148

Dr. Paull does not specify the problems he is presenting, nor does he offer any specific remedies for his critically depicted, ". . . reports and transcripts reproduced (that) continue to show most of the warts commonly found in that kind of material." The exemplified lack of substantiating information may explain why some of the decisions against incompetency noted earlier in the volume contradicted the author's expectations. In both the reports and the testimony of the appended case, there was little offered in the way of supporting evidence that the defendant was fit or unfit. Courts must rely upon presented evidence and are not obligated to accept

the forensic practitioner's intentions or impressions.

Overall, the book makes valuable reading for any psychiatrist who is considering doing competency evaluations of defendants. It would have been of greater value to the practicing forensic psychiatrist if there had been more specifics about the examination process including the referral, techniques and protocols, and the presentation, phrasing, and cross-examination of the experts and their material.

References

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4. *Pate v. Robinson*, 383 U.S. 375 (1966)
5. *Jackson v. Indiana* 406 U.S. 715 (1972)
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7. Roesch R, Webster C, Eaves D, *et al.*: *Fitness interview test: a method for examining fitness to stand trial*. Toronto: Centre of Criminology, University of Toronto & Criminology Research Center, Simon Fraser University, 1984.
8. Grisso T: *Evaluating Competencies: Forensic Assessments and Instruments*. New York, Plenum Publishing, 1986

THE SHADOW OF DEATH: THE HUNT FOR A SERIAL KILLER. By Philip E. Ginsburg. New York: Charles Scribner's Sons, 1993. 397 pp. \$20.00.

Reviewed by Robert D. Miller,
M.D., Ph.D.

This is not yet another book about a serial killer; rather, it is about the effects of a serial killer (actually at least two killers) on the citizens and investigators of a small rural area along the Connecticut River in Vermont and New Hampshire. The book is divided into two sections: at the conclusion of the first part, a serial killer is caught, the cases of three murders of women are closed, and the residents of the area return to a more normal life. Then a new series of murders begins, but the killer is not found, and the tension continues to mount.

Ginsburg, a former reporter from Providence, Rhode Island, has a journalism degree from Columbia as well as a Ph.D. in political science. He has provided an account of the complex series of events from the perspective of the investigators that recreates the difficulties they faced because of lack of resources and political obstacles to cooperation across state lines. He resists the temptation to simplify or dramatize the facts, so that the reader increasingly identifies with the investigators and the self-taught forensic psychologist who becomes an integral part of the police teams with his profiles of the killers.

The detailed narrative, based on extensive interviews with the major police and state patrol investigators and the psychologist, brings the reader into the excitement and frustration experienced by the officers and task forces assigned to the various murders. The book underscores the day-to-day reality of the

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investigations by switching back and forth from one case to another, as new events occur and earlier ones are incorporated into the cases.

While little information is provided about the killer who is caught, we see the case through the eyes of the three or four major police in charge of the cases, and of the psychologist, John Philpin, who eventually has to withdraw from the cases temporarily because of exhaustion and overinvolvement with the cases. We look over his shoulder as he tries to get into the mind of both the killer and the victims. In the last case included in the book, the victim survived the attack, and Philpin worked with her therapeutically as well as investigatively, resulting in his experiencing the same nightmares from which the victim was suffering.

Books such as *Shadow of a Doubt* are a welcome antidote to the flashier, but misleading, books and movies such as *Silence of the Lambs*, which feature Academy-Award-winning performances by drooling cannibals, instead of the far more typical serial killers who tend to be drab individuals who blend into the woodwork. In many respects, it is much closer to Thomas Harris' earlier book *Red Dragon*, made into the movie *Manhunter*. The emotional involvement of the chief investigator in that work is quite close to the experience of Jon Philpin in this book.

Highly recommended.

INNOCENCE DESTROYED:
A STUDY OF CHILD SEXUAL

ABUSE. By Jean Renvoize. London and New York: Routledge, 1993. 181 p. \$15.95.

Reviewed by Malcolm Roberts, M.D.

In the recent several years there has been an explosion in the awareness and research into, and concern for, the issue of child sexual abuse. Prior to the 1960s the occurrence and prevalence of child sexual abuse was largely ignored due to the moral concerns of society and professional organizations at large. In her book *Innocence Destroyed*, Jean Renvoize, a research associate at Wolfson College, Oxford, studied child abuse for several years and traveled extensively in Britain, The United States, and Australia conducting conversations with professionals familiar with the prevalence and treatment of child sexual abuse. She also personally interviewed several survivors of sexual abuse for their perspective on the aftereffects of sexual abuse.

Ms. Renvoize begins her book by discussing the prevalence of child sexual abuse and discusses the fact that the actual prevalence of child sexual abuse greatly exceeds anything previously imagined by the lay public or professionals. She goes on to point out the paucity of reliable empirical data on the subject and the great difficulty in developing programs and policies for the treatment of victims. Her stated goals are to present an overview of the findings of other professionals in different areas of the

English-speaking world. In general, Ms. Renvoize succeeds.

I found the different case histories given from the victims to the author to be quite useful initially, especially as she gives pointers to the newcomer and useful outlines of typical case histories. Indeed, some case histories are quite moving, including a powerful poem written at the end of Chapter 1 (the story of Barbara). The book goes on to give a useful historical survey of incest in Chapter 2, including the role of religious involvement in the legal sanction of sexual abuse and a survey of law regarding child sexual abuse in English-speaking countries.

Other strong points in the book include pointing out the problems with obtaining a general workable definition of child sexual abuse for all professionals working with this population, a very useful outline in Chapter 4 concerning the incidence, prevalence, and recognition of victims as well as a superbly written section on the use of anatomically correct dolls in the treatment and evaluation of victims of child sexual abuse. I found it most helpful, both for the lay person and the professional, to have a review in the same chapter of John Yuille's protocol for the Statement Validity Analysis and the Step-Wise Interview. I think for professionals this is quite a useful outline and reference.

Unfortunately, there were several areas in Ms. Renvoize's overview that I felt to be difficult for the reader to follow, and problematic in her general technique of review. First, in almost all of the case studies and interviews, there

is a use of British slang that could confuse the American reader. Second, the author's general working definition of child sex abuse is quite long and cumbersome. Her involvement of the issues of consent and comprehension in her definition serves to cloud the commonly held view that children are legally "immature" in most English-speaking countries. Another area of difficulty stems from the author's interviews with Don Edgar, Director of the Australian Institute of Family Studies. Mr. Edgar's opinions (that seem to be adopted in several different places throughout the book) show a socialist dogma that child abuse is not a matter of a personal aberration or a crime of power, but is, "socially produced and maintained." I also take professional issue with Mr. Edgar's view that one of the major conditions that predispose families to violence is that the family is a private functional unit and as such has reduced accessibility from outside social agencies. Mr. Edgar also states, "It should be obvious that child abuse is socially produced" and that it is ironic that the very privacy of family life would be a major cause of family violence, child neglect, and abuse. The author goes on to editorialize that those from the upper socioeconomic classes are underreported in child sex abuse cases is mainly because they are "better off at keeping their problems to themselves."

The author also occasionally editorializes rather than presents a general outline. For instance, in Chapter 2 she feels that the change in attitudes toward sexuality has spread into the school play-

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ground and is due in part to "the influence of home videos and soft pornographic magazines." The author quotes no studies to back up her claim and, as such, can be misleading to the lay reader.

This overview runs into problems with its use of experts. Because of the absence of empirical research and publications (or at least the few cited publications that the author shows), it is difficult to understand their viewpoints without further interview and review of their data. In using these types of experts, the author is basically introducing hearsay forms of documentation to justify some of the conclusions and social programs she suggests in the rest of her book. There is no mention of other noted, and particularly American, experts (such as Christine Courtois, Alayne Yates, or Susanne Sgroi).

Lastly, at the end of Chapter 8, she promotes the theory that the presenting symptoms from a victim of child sexual abuse are proportional to the *form* of the abuse. She makes no mention of correlating the symptoms to *when* the abuse may have occurred relative to the development of defense mechanisms. While this may be a classically psychodynamic viewpoint toward the therapy of victims of child sexual abuse, numerous authors, including Courtois and Sgroi, have written on applying this theory for treatment toward these patients.

In summary, Ms. Renvoize's book, *Innocence Destroyed*, has many strong points but also lapses into periods of editorializing that may be too biased for the lay public reader. However, those familiar with the assessment and treat-

ment of victims of child abuse will enjoy her work, if for no other reason than it provides ample opportunity to challenge their own set beliefs with those of a more social political base viewpoint. In a time where there are decreasing dollars and increasing awareness of this problem, there is a need for more economical, practical, and effective therapy as a focus for future work rather than calling for more money to apply to greater social programs to address these issues.

MENTAL DISORDER IN THE CRIMINAL PROCESS: STAN STRESS AND THE VIET NAM SPORTS CONSPIRACY. By Grant H. Morris and Allen C. Snyder. Westport, CT: Greenwood Press, 1993. 305 pp. \$55.00.

Reviewed by Jamie K. Lilie, Ph.D.

The authors have chosen a fascinating case of a paranoid man who was initially charged with a federal crime for writing a threatening letter to the President of the United States (at that time, Ronald Reagan) but who subsequently murdered his wife with an ax. The format of the book is one in which a great deal of primary source material is presented and then the authors intercut commentary about the documents and about the unfolding legal process. I found the organization, layout, and use of this format to be a weak point of the book. This was because it was very difficult to follow the thread of the story while so much legal-

istic detail was interspersed. In my opinion, busy clinicians and scientists in the forensic field would be somewhat frustrated by the way the book was organized. It was also somewhat deficient in providing medical and psychiatric perspectives on Stan Stress' condition.

Despite these few shortcomings, I found the book to be an absolute gold mine of sound information about many aspects of mental health law. The authors displayed a remarkable breadth and depth of knowledge about such matters as competency determination, civil and criminal commitment proceedings, use and misuse of the insanity defense, and differences between the charges of voluntary and involuntary manslaughter, and first and second degree murder. The authors also very capably analyze the quality of evidence and the logic and coherence of the thinking of various players in such a complex trial. For example, they dissect psychiatric and psychological reports, they carefully examine the defendant's relationship to police officers, attorneys, and judges, and they give a full history of this man prior to his offenses. I think that this volume would be most useful to anyone working in the area of mental health law. It would be particularly recommended to psychiatrists and psychologists who are often asked to perform evaluations on mentally disordered offenders. The fine points of the law are well documented and the tone of the book conveys the importance of objectivity in preparing such evaluations for the court.

CRIME CONTROL AS INDUSTRY.
By Nils Christie. New York: Routledge,

Chapman, and Hall, Inc., 1993. 185 pp.
\$17.95.

Reviewed by Annette Hanson, M.D.

Crime Control As Industry provides an apocalyptic world view of criminal justice and correctional systems. The author, Norwegian criminologist Nils Christie, introduces his work with the premise that "crime is an endless natural resource" for an industry that provides employment while also controlling potentially unruly citizens. The view of the penal system presented in this work is almost entirely a negative one. While there is a brief introductory disclaimer recognizing the need for prisons, the emphasis is clearly placed upon the dangers of modernization and expansion.

The author reviews international prison population data and concludes that the number of incarcerated offenders is independent of the actual crime rate, the rate of population growth, or economic conditions. This discrepancy is partly due to regional variation in sentencing and parole violations; however, for the most part the discrepancy is taken as evidence to support the theory that those involved in crime control are acting to keep prisons filled. The entrepreneurial aspect of crime control is further illustrated by discussion of the rise of the private security industry and the privatization of prisons. The private manufacturers' interest is also vividly illustrated by descriptions of advertisements from the *Corrections Today* journal.

Modernization may result in en-

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hanced efficiency, but the unintended side effect is dehumanization of the offender and the creation of a "criminal class" in society. Sentencing guidelines may simplify decision-making, but there may be a greater loss to society when individual characteristics are not considered. Christie draws a historical parallel between current trends in crime control and conditions leading to the Holocaust, specifically bureaucratic expansion driven by industry. The misuse of scientific theory and medicine has been addressed in other historical works, but is also summarized in this volume.

The most uncomfortable aspect of this discussion occurred in the chapter entitled, "Brothers in Control: Penal Law and Psychiatry." Here the author states that: "As in penal law, they (psychiatrists) have a manual, in this case a manual for Decisions on Mental Disorders (sic)." While he draws parallels between the development of the DSM-III-R and sentencing guidelines, this hardly seems sufficient background for his conclusion: "With the usual cooperation be-

tween law and psychiatry, the totality of the control becomes perfect."

With the demise of communism there is a sense that this work has arrived after the fact. It attempts to present a Szaszian view that crime is a myth, and criminal law an excuse to control an oppressed minority. There is no surprise that laws are created for the purpose of regulating behavior. There is no question that these laws may be abused by those who create them. What is puzzling is why this work overlooks the parallel development of civil rights legislation and the substantial case law that expands the rights of the accused.

The ideas presented are often counter-intuitive and difficult to accept, but the book itself is easily read. The chapters are brief and written with a lively style, and the entire volume is only 185 pages long. Since it is translated from Norwegian there are occasional awkward passages, but these do not detract from the discussion. I would not recommend this book to those with limited exposure to forensic psychiatry or to work in a correctional setting.