

Approved February 17, 1988
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m./p.m. on February 15, 19 88 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Steineger, and Talkington.

Committee staff present:

Gordon Self, Office of Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Robert C. Barnum, SRS Youth Services
Elisa Cosgrove, PRO-VOCAL, Kansas City, Missouri
James R. Fetters, Smith Center County Attorney
Ron Smith, Kansas Bar Association
Janet Davenport, SRS Youth Services
James Robertson, Department of Social and Rehabilitation Services

Senate Bill 547 - Crime to knowingly make false allegation of child abuse and neglect.

Robert C. Barnum, SRS Youth Services, appeared in support of the bill. He testified there is growing concern by social workers and supervisors in the area SRS offices that false allegations increasingly divert their time and services from legitimate child protection activities. A copy of his statement is attached (See Attachment I).

Elisa Cosgrove, PRO-VOCAL, Kansas City, Missouri, testified in support of the bill. She stated children in the state of Kansas are not safe in their own homes until we get laws changed. We need a legal process to stop this situation. Hundreds of people have had to go through investigations that are unnecessary. Whole families have been destroyed and a community has been hurt. This is a form of child abuse to allow these people to go free. She said the children are totally victimized by the present system. She had been accused of child abuse while going through a divorce, and her children were placed in a foster home. She was acquitted of the charge. Copies of her handouts are attached (See Attachments II).

James R. Fetters, Smith Center County Attorney, appeared in opposition to the bill. He testified he was surprised SRS sponsored the bill. He said having prosecuted many of these crimes over these years, he has never prosecuted an innocent man. It is surprising to me a class B misdemeanor not to report child abuse. He asked the committee to consider what affect this legislation will have on the people listed in the bill who are asked to report the matter. The one thousand dollar fine will not stop these people reporting these incidents. He said it is going to be a tough statute to prove. You have to prove much more than probable cause when you are going to file a case. You have bestowed a civil immunity of a reporter under Kansas law at this time. Incidents of child abuse are particular cases that cross all socio economic lines. Mr. Setter stated there is also a perjury statute that is in affect right now which could be brought against the reporter. There are more than enough safeguards now to protect against abuse. He said I think the problem is always going to be with us, but I don't think this bill will solve the problem.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 15, 1988.

Senate Bill 547 - continued

Ron Smith, Kansas Bar Association, explained the ^{*}handouts he passed out to the committee are copies of comments from some of their members concerning the bill. He said the Kansas Bar Association does not have a particular position on the bill.

Committee discussion was held with Mr. Setter.

Janet Davenport, SRS Youth Services, stated I do not feel in my 16 years of experience of child protection, the majority of reports are false reports. Most false reports are intentional by an ex-spouse or an ex-mother-in-law or neighbor. She suggested adding the word "intentional" to the bill.

Senate Bill 566 - Children, support and determination of parentage.

James Robertson, Department of Social and Rehabilitation Services, appeared to explain the bill to the committee. A copy of his explanation is attached (See Attachment III).

A copy of a statement from Winston Barton, SRS, concerning the bill is attached (See Attachment IV). RE: SB 547

Following the hearing on the bill, the chairman appointed a subcommittee to study the bill. The members of the committee are Senator Steineger, chairman, Senator Parrish, Senator Langworthy, and Senator Frey.

The meeting adjourned.

A copy of the guest list is attached (See Attachment V).

* Copies of handouts from Ron Smith concerning Senate Bill 547 & 566 are attached (See Attachment VI).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-15-88

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Cindy Lutz	Topeka	KASB
Elisa Cosgrove	K.C. Mo.	Pro - UOCAL
James R. Fellers	Smith Center, Ks.	Personal - Object
Alli McGress	Lawrence, Ks	Universitydailykansan
Jim Robertson	Topeka	SRS
Kay Billman	Topek	OSHA - Ks Supreme Court
Chip Wheeler	Topeka	Ks Medical Soc
KETH R LANDIS	"	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
S. Stiff	Topeka	AP
Bob Barum	"	YOUTH SVU
Jane Davenport	Topeka	Yark Services
M. Hawer	"	day-junt
Jim M-Burke	Topeka	observer
L Tracy Lyne	KC	Times

att: VI

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Testimony in Support of S.B. 547

Mr. Chairman, Members of the Committee, I am appearing today in support of this bill which amends K.S.A. 38-1522. This amendment will make it a Class B misdemeanor to knowingly make a false allegation of child abuse or neglect.

The Department of Social and Rehabilitation Services is designated by The Kansas Code for the Care of Children as having the primary responsibility for investigating reports of child abuse and neglect. There is growing concern by social workers and supervisors in the area SRS offices that false allegations increasingly divert their time and services from legitimate child protection activities.

In FY-1987 the Department investigated 27, 814 reports of suspected child abuse, neglect and sexual abuse. Upon completion of the investigation, nine thousand and ninety eight (9098), or one-third of the reports, were determined to be unfounded. This means, that there was no evidence to support that abuse, neglect or sexual abuse occurred nor was there a reason to believe that the child was at risk of future harm. Preliminary data for the first half of FY-1988, indicates that the percentage of investigations that result in an unfounded determination has risen to over 50%. If even five percent of these unfounded reports were made maliciously or with knowledge they were false it represents over 450 unnecessary intrusions into family life. In addition to the discomfort and stress caused to families by needless investigations, it consumes staff time that is needed to respond to children who are in dangerous

Att. F

situations. The investigation of a false report takes as much or more staff time as a legitimate report.

At present, there is no prohibition against the making of a malicious or harassing report, no consequence for having done so, and thus there is no deterrent. Social Workers and law enforcement officers can give anecdotal stories of persons in their community who not only have given knowingly false reports, but who have done so repeatedly. Yet each report triggers another investigation because the agency cannot discount the possibility that this time the report might be true. The answer to the dilemma is not to place the burden wholly on the investigating agency to screen bogus reports but to place some of the responsibility on the reporter by making it costly to make a malicious false report. The Department recognizes that the passage of this bill will not, in itself, halt malicious reporting. It will, however, reduce the incidence of such reports in the following ways:

(1) Educational efforts with the public about how, when and where to make reports of suspected child abuse, neglect and sexual abuse would include information on the responsibility to report legitimate concerns and the penalty for not doing so as well as the penalty for knowingly making an untrue report.

(2) Persons who repeat unfounded reports can be given notice that their actions may constitute an illegal act for which there are penalties upon conviction. This may cause the offender to place controls on their own behavior without the necessity of formal charges, and can be particularly useful in divorce custody cases in which one estranged spouse accuses the other of child abuse in order to inflict revenge or to use as a weapon in gaining custody.

(3) The prosecution of demonstrably malicious and/or repetitive reports should serve as a brake on the behavior of the defendant and upon others who learn that false reporting has tangible consequences.

We recommend passage of S.B. 547 and ask that it be given a favorable recommendation by this committee. We thank you for your time and careful consideration of this bill.

Abuse in the Name of Protecting Children

Don't touch that child. Don't work with children. Never be alone with a child. You have to look at every child who comes through the door as a potential threat.

WORDS SUCH as these come from victims of current child abuse laws in the U.S. — parents, foster parents, teachers, physicians, members of the clergy, and others who have been falsely accused of mistreating children.

Many Americans applauded when laws were enacted to protect children from physical, emotional, and sexual abuse. I was one of them, having worked with emotionally disturbed children, many of whom had been victims of such abuse. Clearly, the intent of these laws was good.

Just as clearly, however, the consequences have been disastrous. The laws and the enforcement procedures related to child abuse too often deny human and constitutional rights to both the accused and the alleged victim. Indeed, observers have likened the climate created by these laws to that of Salem during the witch hunts, to that of Nazi Germany in 1939, or to that of the McCarthy era in the 1950s.

In the U.S. in 1985, reported cases of suspected child abuse totaled 1.7 million.¹ Of the reports involving sexual abuse, 80% were later determined to have been unfounded — up from 40% just five years earlier.² Half of the substantiated cases of child abuse involved neglect, not other types of abuse; only 7% of the substantiated cases involved

The laws and the enforcement procedures related to child abuse too often deny human and constitutional rights to both the accused and the alleged victim, says Mr. Emans. Our child protection system needs close public scrutiny.

BY ROBERT L. EMANS

sexual abuse.³ Accusations of child abuse bring suffering and distress to everyone involved. It has been estimated, for example, that as many as 80% of those who are falsely accused of child abuse lose their jobs or suffer other employment problems.⁴ Hundreds of people have had to undergo traumatic investigations to establish their innocence; others have had to take part in corrective activities for things they did not do. Individuals falsely accused of child abuse have been psychologically scarred, and their reputations have been severely tarnished. Whole families have been destroyed.

Even when cleared of such charges, parents may lose custody of their offspring, and individuals who work with children may be permanently listed in police records as possible child abusers. Meanwhile, the alleged victims themselves may be stripped, searched, or otherwise subjected to intensive physical and psychological examinations. During an interview on the television news program, "Nightline," for example, a pediatrician employed by a county protection service said, "I actually put my finger in a little girl's vagina, and I asked her, 'Is this what they did to you, and do you think it went in that far, and did it bleed?'"⁵

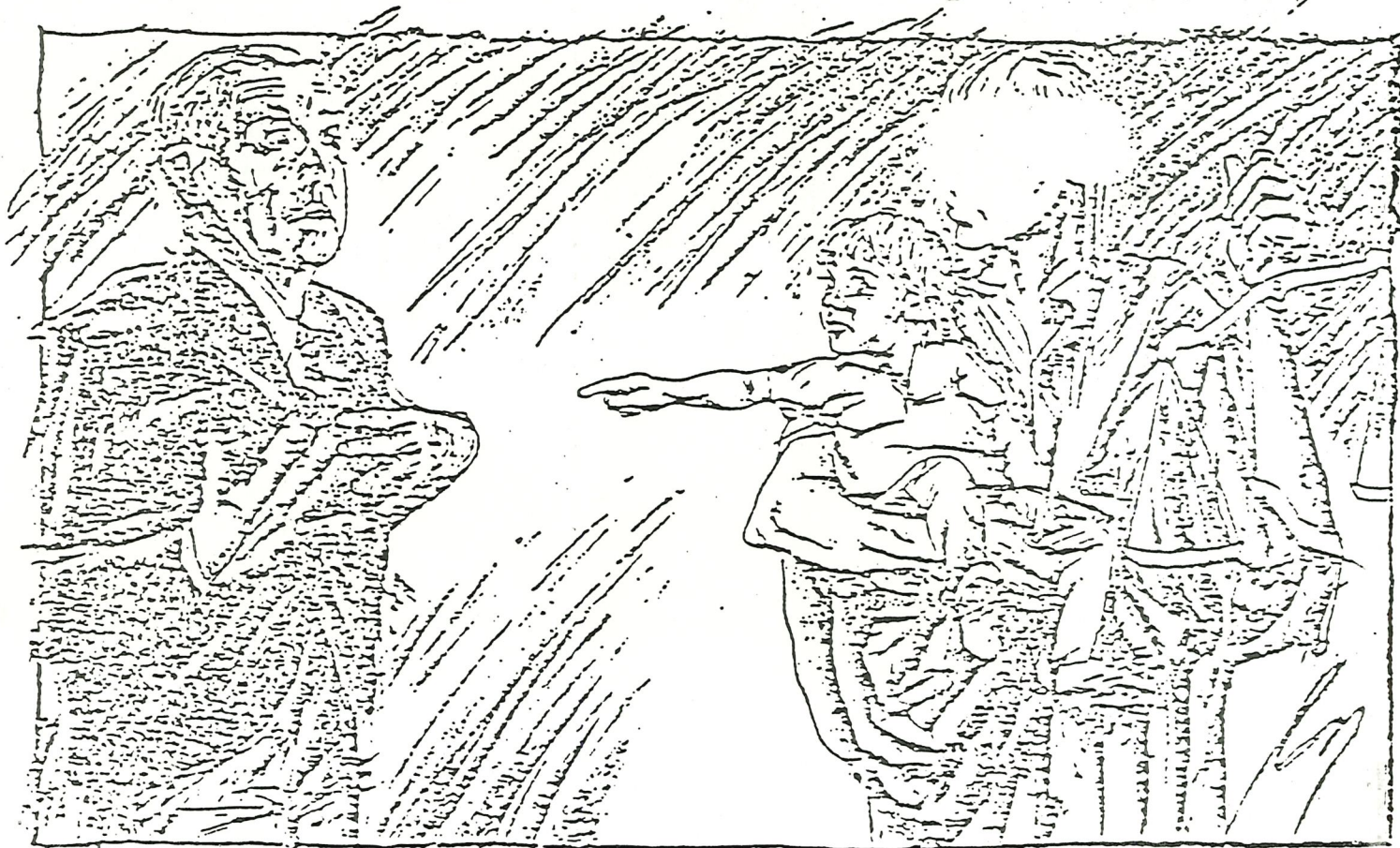
The problem is that laws governing due process are too often misunderstood or ignored. Accusers enjoy complete anonymity and full legal protection. Standard rules of evidence are frequently disregarded. Often, individuals accused of child abuse are presumed to be guilty until they can establish their innocence. Many officials would argue, however, that saving just one child from abuse justifies the wholesale denial of human and civil rights to those who are accused.

Anyone — even someone who is emotionally disturbed — can accuse another individual of child abuse at any time. Indeed, it can be a crime not to report a suspected case of child abuse, and social workers and law enforcement officers can be sued for failing to investigate such reports.

Consequently, people have been accused of child abuse as a result of reporting a missing child; hugging or kissing a child; having a child who is reluctant to participate in sports; speaking out in defense of a neighbor or a relative falsely accused of child abuse; complaining about a social worker; declining to submit to counseling; changing a diaper; or having a child who knows the names of bodily parts. Similarly, a drama director who failed to cast a certain child in a particular play, a teacher who gave lo-

ROBERT L. EMANS (University of South Dakota Chapter) is dean of the School of Education, University of South Dakota, Vermillion.

Att. II



grades, a father who photographed his child in the shower, and physicians and dentists who provided normal examinations and treatments have faced such accusations.

The officials who investigate cases of suspected child abuse often have limited knowledge of children. Moreover, the procedures these officials use frequently lack reliability or validity.

The use of anatomically correct dolls to investigate cases involving the sexual abuse of children is a case in point. No study has ever demonstrated that such dolls produce reliable and valid evidence. Indeed, conducting such a study would be virtually impossible, since the subjects would have to include children who had never been sexually abused — and subjecting children to such research may itself constitute sexual abuse.⁶ Moreover, the use of anatomically correct dolls as investigatory tools has never been shown to meet the basic procedural requirements established by psychological science.⁷ Dr. Ronald Gabriel, a professor of psychiatry at the University of Saskatchewan and a practicing child psychiatrist, has noted:

Many persons working in the child protection field . . . do not know about the projection-evoking properties of

toys. The result has been that material produced . . . can appear to confirm suspicions of sexual abuse when it may actually be no more than a normal reaction of a child to the dolls and the situation. . . . [T]he suspect will almost always be found "guilty."⁸

DO CHILDREN LIE?

For generations, children were thought to be incapable of reporting what really happened to them. But the current view is that, since normal children are sexually inexperienced, every sexual experience they report must actually have taken place. This argument ignores the realities of child growth and development, however.

The work of Jean Piaget suggests that children do not discriminate between thoughts and the things thought of, between episodes of play and real-world events. They do not remember the origins of their knowledge, and they often mistake memories of dreams for memories of actual events. Children are not able to fully differentiate between internal thoughts and external happenings until about age 11.

People who maintain that children never fabricate with regard to sexual experiences are deluding themselves. Vengeful or disturbed adults can manipu-

late children into believing that they have been sexually abused when that has not been the case. Questioning by adults whom they fear and wish to please can induce children to lie. Having done so, the children come to believe what they have said. After prolonged questioning by investigators, children often confuse fact and fantasy. When adults already (and often too willingly) believe that sexual abuse has occurred, they often deal with the alleged victims in ways that heighten the suggestibility of these children.⁹

The situation has been further confused by what has come to be known as the "child sexual abuse accommodation syndrome."¹⁰ Derived from cases of incest in intact families, the syndrome includes such behaviors on the part of the victim as secretiveness and helplessness. But children who have not been sexually abused often display these same behaviors, and the syndrome has never been scientifically validated.¹¹ Yet investigators continue to use the syndrome to corroborate children's statements about having been sexually abused.

Even the polygraph (or lie detector) is biased against innocent suspects who tell the truth. An innocent suspect who trusts the polygraph test is likely to fail it. Studies have shown that failed poly-

graph tests are less accurate than polygraph tests that are passed. Yet juries are more likely to accept the results of a polygraph test if the suspect fails it than if the suspect passes it. After 30 years of studying the polygraph, David Lykken, a scientist with no vested interest in the instrument, has concluded that "the assumptions of the polygraph test are implausible and the evidence for its validity is weak."¹²

THE CHILD ABUSE INDUSTRY

Accusations involving child abuse used to be handled responsibly by established legal and family support agencies. Today the government has established a quasi-independent investigatory system for such cases that functions at taxpayers' expense. Not uncommonly today, child protection workers are women who consider themselves to be — or to have been — victims of abuse.¹³ LeRoy Schultz studied child protection workers recently and concluded that they tend to be self-righteous, unwilling to admit mistakes, lacking in ethics, naive about children, willing to use hearsay evidence, likely to conduct one-sided investigations, and prone to contradictory evidence.¹⁴ When Anderson found therapists to be addicted to power and often involved in a conflict of interest between their books and their professional responsibilities.¹⁵ Writing for the Boston Globe in 1993, Eli Newberger also had some disturbing

views on child protection workers. He said that "many of these individuals seem to take pleasure in inflicting pain on children, to derive personal excitement and titillation from the stories of their suffering, and to relish the lively interest of opposing counsel, jurors, and their peers."¹⁶

Large national organizations, though they mean well, sometimes contribute to the injustices. For example, in a 1985 statistical report on child abuse and neglect, the American Humane Association stated, "While some 'unsubstantiated' reports are in fact false, an 'unsubstantiated' case does not necessarily mean that the child was not abused or neglected or that someone was falsely accused of abuse or neglect." The report fails to point out, however, that a "substantiated" case may also be false. These officials forgive their own mistakes. They also ignore the fact that "unsubstantiated" cases involving innocent individuals can have disastrous effects on those individuals' lives.

Dr. Domeena Renshaw, a professor of psychiatry and director of the Sexual Dysfunction Clinic at Loyola University of Chicago, believes that far fewer children have actually been sexually abused than the number of reported cases suggests.¹⁷ Douglas Besharov, the former director of the National Center on Child Abuse and Neglect, concurs.¹⁸ Richard Wexler maintains that child protection workers are often determined to find evidence of wrongdoing in order to make themselves look good.¹⁹ For example, promotions are sometimes given to police officers who have a good record of convictions.²⁰ Meanwhile, the Berean League has pointed out that social workers "must find (or conjure) enough evidence to support their action" in cases of child abuse.²¹ Predictably, when observers question the astonishing number of reported cases of child abuse, child protection workers commonly respond with pleas for more funds, more staff, better reporting campaigns, and greater authority over families and child-care workers, including teachers.

Even with increased funding, however, investigations of child abuse would be woefully inadequate. Investigators are often insufficiently regulated, and they tend to lack knowledge of child development and training in the procedures of conducting psychological evaluations. They often inject into reports their own personal opinions. Yet they often have enough

influence to convince a judge to issue a warrant for an individual's arrest — thereby causing that person's name to be placed on police records as a suspected child abuser.

Investigators will excuse themselves for inadequate investigations, because supervisors are supposed to review their work. But the reviews by supervisors are seldom thorough, thanks to heavy workloads and the desire of supervisors to support the actions of their subordinates.

Going to court is a costly and distressing process. Yet this is often the only way for individuals accused of child abuse to prove their innocence. For the falsely accused, however, going to court has many risks. Attorneys and judges assume that the accused is guilty much more frequently in cases involving child abuse than in other kinds of criminal cases, including those involving murder.²² Since getting a fair trial is very difficult, individuals falsely accused of child abuse are often advised to plead guilty and to accept counseling or other remediation offered by members of the same child protection industry that has falsely accused them.

WHAT CAN BE DONE?

School administrators, teachers, parents, and other potential victims of child abuse laws can take a number of steps to protect themselves. First, they must squarely face the possibility of a false accusation. Should such an event occur, the accused — though innocent — should consider himself or herself in serious trouble, hire an attorney immediately, and make no statement to anyone unless the attorney is present.

The accused should document everything and should not be fooled into thinking that the child protection workers are merely attempting to solicit his or her professional help as part of a preliminary investigation. Those workers are trying to build a case. By the same token, the accused should not offend the child protection workers, because they have the upper hand. Meanwhile, colleagues and acquaintances of the accused should operate on the assumption that the accused person is innocent until proven guilty.

Happily, an increasing number of people are familiar with the problems I have pointed out here, and they are attempting to change the system. Therefore, an individual who is accused of child abuse should immediately report to an appropriate official in the child protection system



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"I must have an intelligence leak."

any investigator whose attitude seems unreasonable or whose procedure seems questionable.

Individuals who are falsely accused of child abuse — as well as their colleagues and friends — should be willing to go to court. The time has come to hold child protection workers legally and financially responsible for their actions. Of late, the courts have been finding more child protection workers liable for conducting substandard investigations and ignoring the rights of the accused. As Schultz has noted, the threat of a lawsuit, a charge of malpractice, or revocation of a child protection worker's license to practice "may be our last resort."¹⁴

Meanwhile, school personnel should actively endeavor to improve the child protection system, not only for the benefit of abused children but also for the benefit of adults who have been falsely accused of such wrongdoing. The laws related to child abuse and neglect should be rewritten to define "abuse" more clearly, to guarantee due process for accused individuals, to establish rules of evidence that better protect the innocent, to hold those who falsely accuse others legally accountable, and to establish legal processes that would enable accused individuals to afford a reasonable defense. Publicity campaigns should emphasize what *should* be reported as potential child abuse — and also what *should not*. The motives of accusers should be evaluated carefully.

Inadequately trained child protection workers must be stripped of their power through stricter professional standards. The personal opinions of child protection workers should be expunged from oral or written reports. Unless a worker has formal training in the area, he or she should not be allowed to make any statement that implies expertise in psychology or psychiatry.

Child protection workers should be required to turn in well-documented reports. Hearsay evidence should not be permitted, and all interviews should be videotaped to insure that the information was not obtained through improper interviewing techniques. Child protection workers should be held accountable for their actions, and they should be regularly supervised by individuals who are knowledgeable regarding child development.

The repeated use of certain "experts," who have developed reputations for getting convictions, should be discontinued.

As things now stand, it is easy to be against child abuse but very difficult to defend those who are accused of this crime.

Child protection workers rely too much on the testimony of such individuals, instead of conducting thorough investigations on their own.

Processes should be developed for correcting or removing information from an individual's record when that information cannot be established as fact. Statistical reports should be accurate and honest. If child protection teams have been established, their membership and their procedures should be open to public scrutiny. Leaders in a variety of arenas — political, educational, governmental, medical, religious, legal, and so on — must assume responsibility for dealing with the problems that have been created by the current laws on child abuse.

As things now stand, it is easy to be against child abuse but very difficult to defend those who are accused of this crime. Unless something is done to correct this situation, our entire system for protecting children from abuse will falter and our child-care institutions — and the people working in them — will remain in jeopardy. The child protection system must come under close public scrutiny. The goal is to keep the system honest, to resist media-generated hysteria, and to protect the innocent — both children and adults.*

*For more information, contact the VOCAL National Office, P.O. Box 11335, Minneapolis, MN 55411. Ph. 612/521-9714.

1. Reported in *Child Abuse and Neglect: FY 85 Statistical Report* (Pierre, S.D.: Department of Social Services, 1986), p. 1.

2. Allan C. Carlson, "Family Abuse," *Reason*, May 1986, pp. 37-41.
3. Karl J. Karlson, "Child Protection System Said Out of Control," *St. Paul Pioneer Press Dispatch*, 15 November 1985, p. 1-D.
4. Margaret Doe, Steven Doe, and DWYG Linwe, eds., *VOCAL* (Victims of Child Abuse Laws) *National Newsletter*, vol. 1, no. 5, 1986, p. 1.
5. E. Michael Jones, "Abuse Abuse: The Therapeutic State Terrorizes Parents in Jordan, Minnesota," *Filecity*, February 1985, pp. 28-33.
6. Michael A. Frost, "'Weird Science' and Child Sexual Abuse Cases," *Champion*, January-February 1986, pp. 17-18.
7. Sue White, "Interviewing Young Sexual Abuse Victims with Anatomically Correct Dolls," *Child Abuse and Neglect*, paper presented at the 22nd annual meeting of the American Academy of Child Psychiatry, San Antonio, Tex., October 1985.
8. Ronald M. Gabriel, "Anatomically Correct Dolls in the Diagnosis of Sexual Abuse of Children," *Journal of the Melanie Klein Society*, December 1985, pp. 40-51.
9. Graham M. Davies and Elizabeth F. Loftus, "Distortions in the Memory of Children," *Journal of Social Issues*, vol. 40, 1984, pp. 51-67.
10. Roland Summit, "The Child Sexual Abuse Accommodation Syndrome," *Child Abuse and Neglect*, vol. 7, 1983, pp. 177-93.
11. Lee Coleman, "The Law: False Allegations of Child Sexual Abuse: Have the Experts Been Caught with Their Pants Down?," *Forum*, January-February 1986, pp. 12-21.
12. David T. Lykken, "The Probity of the Polygraph," in Saul M. Kassin and Lawrence S. Wrightsman, eds., *The Psychology of Evidence and Trial Procedure* (Beverly Hills, Calif.: Sage, 1985), pp. 94-123.
13. Arlyne H. Diamond, "'Let's Be Rational': An Attempt to Use a Logical, Problem-Solving Approach to a Highly Emotionally Charged Situation in Order to Defend Accused Child Molesters," unpublished paper, Victims of Child Abuse Laws (VOCAL), Minneapolis, n.d.
14. LeRoy G. Schultz, "The Social Worker and the Sexually Abused Minor: Where Are We Going?," paper presented at the First National Conference on the Victims of Child Abuse Laws, West Virginia University, Morgantown, 1-13 November 1985.
15. Eileen Anderson, "Therapists and Power: The Unexamined Addiction," *National Association of Social Workers Newsletter* (Minnesota Chapter), May/June 1985, p. 3.
16. Eli H. Newberger, "Courts, at Times, Add to Damage," *Boston Globe*, 1 December 1985, pp. 21, 24.
17. Domeena C. Renshaw, "When Sex Abuse Is Falsely Charged," *Champion*, January-February 1986, pp. 8-10.
18. Reported in Dori Meinert, "Two-Thirds of All Child-Abuse Reports Groundless, Says Study," *San Diego Union*, December 1985.
19. Richard Wexler, "Invasion of the Child Savers: No One Is Safe in the War Against Abuse," *Progressive*, September 1985, pp. 19-21.
20. Schultz, "The Social Worker and the Sexually Abused Minor. . . ."
21. *Berean League Task Force Interim Report* (St. Paul, Minn.: Berean League Fund, 1985), p. 4.
22. Renshaw, "When Sex Abuse Is Falsely Charged. . . ."
23. Schultz, "The Social Worker and the Sexually Abused Minor. . . ."

PressRelease



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CONTACT: Pam Prothro, 202/862-5829 FOR IMMEDIATE RELEASE

FEDERAL ACTION URGED TO PROTECT RIGHTS OF PARENTS ACCUSED OF CHILD ABUSE

WASHINGTON, D.C., March 3, 1987 -- Douglas J. Besharov, a resident scholar at the American Enterprise Institute and a former director of the National Center on Child Abuse and Neglect, today urged Congress to consider increased protection for the rights of parents accused of child abuse, in testimony before the House Select Committee on Children, Youth, and Families.

The last twenty years have seen major progress in protecting abused and neglected children, he said, and public child welfare agencies have much reason to be proud. Nevertheless, there are still major problems that threaten to undo past improvements. For example:

-- About 65 percent of all reports of child abuse are labelled unfounded after investigation. This is in sharp contrast to 1975, when only about 35 percent of all reports were unfounded.

-- More than 500,000 families are put through investigations of unfounded reports each year.

"Laws against child abuse are an implicit recognition that family privacy must give way to the need to protect helpless children," Besharov says. "But in seeking to protect children, it is all too easy for courts and social agencies to ignore the legitimate rights of parents."

In 1985, more than 1.9 million children were reported to the authorities as suspected victims of child abuse and neglect, he says. This is more than twelve times the estimated 150,000 children reported in 1963. Increased reporting and specialized child protective agencies have saved many thousands of children from death and serious injury. The best estimate is that, nationwide, child abuse deaths are down from 2,000 to 3,000 a year to about 1,000 a year.

Nevertheless, there are still major problems. First, existing programs do an inadequate job protecting children:

-- Of the 1,000 children who die under circumstances suggestive of parental maltreatment each year, between 35 and 50 percent were
[more]

previously reported to child protective agencies. Many thousands of other children suffer serious injuries after their plight becomes known to the authorities.

-- Professionals -- physicians, nurses, teachers, social workers, child care workers, and police workers -- still fail to report half of the maltreated children whom they see. Each year, about 50,000 children with observable injuries severe enough to require hospitalization are not reported.

Besharov says lowering the rate of unfounded reports will require:

- (1) development of improved definitions and guidelines for what should -- and what should not -- be reported. They should call for reporting only when there is credible evidence that the parents have already engaged in seriously harmful behavior toward their children or that, because of severe mental disability or drug addiction, they are incapable of providing adequate care.
- (2) modification of state reporting laws. Rather than penalize the negligent failure to report while granting immunity for incorrect but good faith reports, states should limit civil liability to knowing or willful failures to report.
- (3) screening of reports to hotlines for initial sufficiency.
- (4) more responsible use of statistics by child welfare officials. Almost 85 percent of the 1 million maltreated children are victims of excessive corporal punishment, minor physical neglect, educational neglect, or emotional maltreatment. These are really forms of emotional or developmental harm to children that pose no physical danger.

"Few unfounded reports are made maliciously," Besharov said. "Most involve an honest desire to protect children coupled with confusion about when reports should be made. Hence, much can be done to reduce the number of unfounded reports without discouraging reports of children in real danger."

Besharov gave the following examples of the areas in which reporting can be improved:

Anonymous reports: Even though only about 15 percent of these reports are later deemed founded, all states accept anonymous reports because they sometimes identify children in serious danger who would otherwise go unprotected. This is no reason, however, to investigate anonymous reports that can cite no specific reason to suspect maltreatment. One agency accepted a report that alleged nothing more than that "there are strange noises coming from next door."

Matrimonial and custody cases: Divorce and the acrimony that frequently follows is a fertile ground for unfounded reports. Fear of criticism -- and liability -- is leading agencies to accept unquestioningly reports from estranged spouses. These reports cannot be rejected out of
[more]

hand, because a small proportion involve real danger to children. However, a method must be found to screen out the vast majority of obviously inappropriate reports.

"Reasonable" corporal punishment cases: Until very recently, it was accurate to say that all states recognized the parental right to engage in "reasonable" corporal punishment. But the concern to identify children in "imminent danger" is leading many agencies to investigate reports that, on their face, amount to nothing more than what courts would recognize as reasonable corporal punishment.

Behavioral indicators: There is a tendency to consider the so-called "behavioral indicators" of child abuse -- especially of sexual abuse -- on their own, without physical evidence or statements of the child or others, as sufficient reason to make a report. Intake workers are accepting reports from teachers and others that "Mary is shy in class," or that "Mary is over friendly." Behavioral indicators alone are insufficient bases for a report. There are many other explanations for such behavior.

Imminent danger cases: Agencies cannot wait until a child has suffered serious injury before acting. That is why all states allow reports of "imminent danger" or "threatened harm." However, the failure to articulate the reasons for believing that a child may be in danger of future abuse encourages vague reports that agencies feel they cannot reject without an investigation.

Emotional maltreatment: Vague definitions -- one state defines emotional neglect to include "the failure to provide adequate love" -- encourage reports that cannot be rejected, but that are almost invariably deemed unfounded after investigation.

Besharov's report is available to the media. Call AEI at 202/862-5829.

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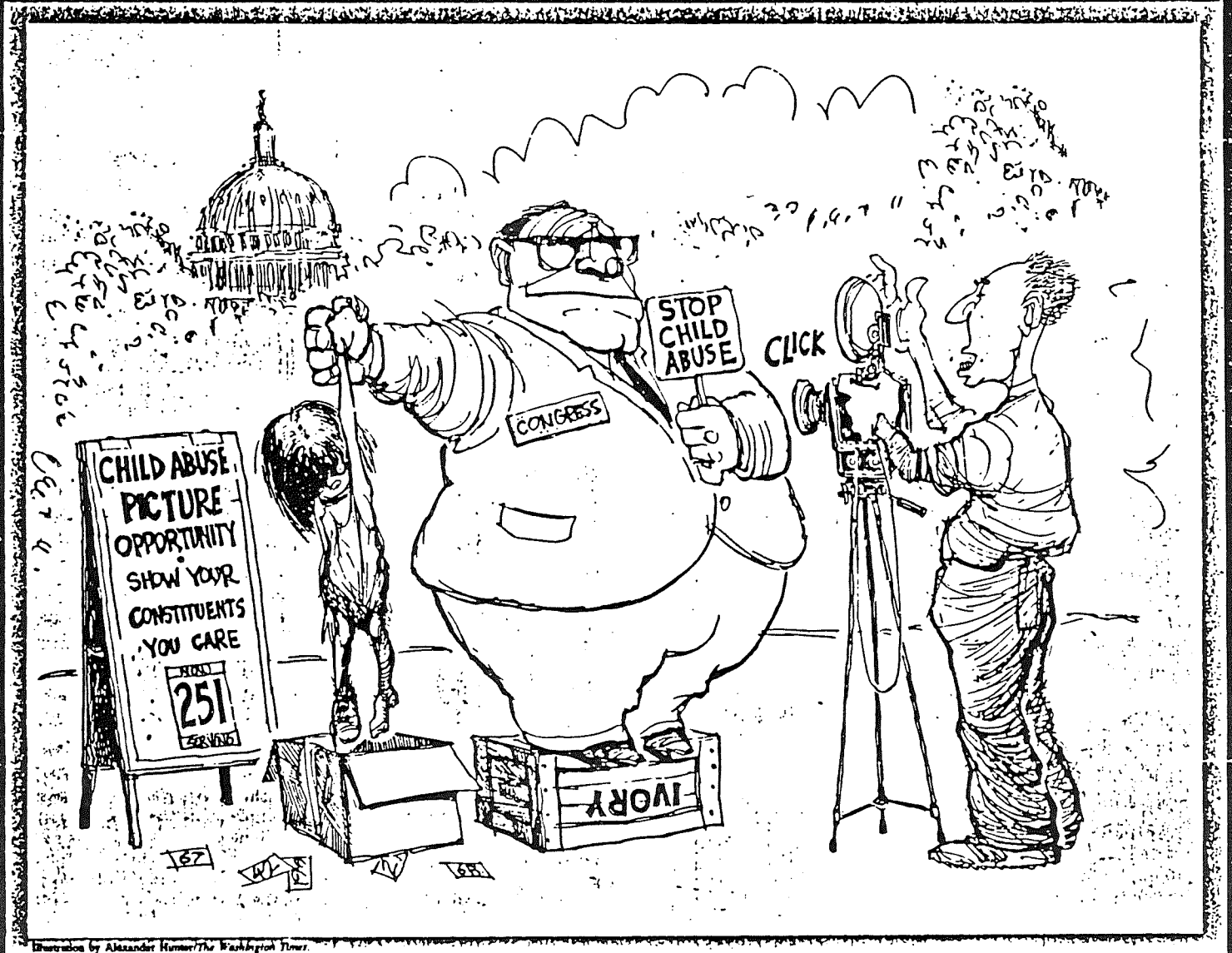


Illustration by Alexander Himmelfarb/The Washington Times

Is This the Way to Protect Children?

See page 7

The Case for a Therapeutic Interview in Situations of Alleged Sexual Molestation

by William F. McIver, Ph.D.

There is a right way and a wrong way to interview children in cases of alleged molestation. The right way results in more accurate information and helps children. The wrong way yields questionable information and can hurt children.

Unfortunately, children are currently being damaged in the interview process in these cases because, quite simply, they are being denied the opportunity to tell the truth. Typically, the interviewer's needs are taken care of—not the child's. The story told is too often one the interviewer wants to hear and not an objectively true one.

The purpose of an interview is, after all, investigatory. Therefore, a number of questions need to be asked. However, it can be much more fruitful to ask these questions in ways that don't lead the child to feel that certain sorts of answers are expected. This is the difference between getting accurate information and not getting it. In cases of possible molestation, the most useful technique for gathering accurate information can also be the most helpful for the child.

Typically, the child is interviewed by

various agency people, sometimes repeatedly. This might include police, prosecutors, child service workers, and sometimes a grand jury. These interviews are narrow in focus and are based on the assumption that abuse did occur and that "children don't lie about this sort of thing."

The "anatomically correct" dolls are brought out, occasionally accompanied by a drawing about which the child is asked to complete and tell a story. It might be

A biased interviewer can shape a child's responses.

just the child and the interviewer or perhaps there is a police officer or member of the district attorney's office in the room. (There are, in fact, instances in which a child has been interviewed while sitting on the lap of the parent making a complaint against another parent!) Whatever actually did (or did not) happen, this child will experience emotional conflicts which are usually ignored in this sort of non-therapeutic, exploitative situation.

The child receives rapt attention when it says or demonstrates certain things (e.g., points at the genital plumbing on the dolls or says things such as "he touched me

here," "put his mouth on me," "made me touch him," etc.). Often this scene is repeated. And interviewers respond more to these sorts of communications than to anything else a child might be trying to express. Further, nothing need be vocalized; interviewer responses can be non-verbal—through facial expressions and mannerisms.

In such a setting (which is "high pressure" to the child, especially a young one), a strongly biased interviewer can shape a child's responses by a method called "successive approximation." Simply put, this means reinforcing or rewarding the child (through smiles, hugs, or statements like "good girl...don't you feel better now?...that's the way!...") for statements leading up to and finally including those the interviewer wants to hear. (I know of cases where the interviewer congratulated the child for making allegations and became perturbed when s/he didn't.)

For example, the interviewer might elicit a number of "yes" responses after pointing to one of the dolls and asking if her daddy ever touched her on the knee, buttocks, belly-button, etc. Her answers would be followed by hugs and comments such as "nice going!"..."you're doing a good job!"..., etc., and easily lead into the caseworker pointing to the pubic area and

Dr. McIver is a Clinical Psychologist in private practice in Newport, Oregon.

asking if she was ever touched there. This question will, not surprisingly, commonly receive an affirmative response from the child, because negative implications for such a question do not exist for the child and because the child, especially a young one, wants to go on pleasing this nice adult (who is giving her so much attention). And that's the whole game!

This sort of attention, often quite new for a child, is a most powerful reinforcer. That is, it greatly increases the likelihood that the child will say the same things and demonstrate the same things again. And, the more a child repeats something (we all suffer confusion about one or another story

Interviews are based on the assumption that abuse did occur.

we've told ourselves many times over the years), the more it becomes believable and the more believable the child becomes on the witness stand.

Thus, two powerful variables that affect learning—*reinforcement* and *repetition*—can seriously shape a child's memory. Reinforcement produces a story of questionable accuracy; repetition produces a subjective belief in the accuracy of that story. Result: arguably inaccurate testimony becomes unassailable since the credibility of the child-witness is not at issue.¹

A therapeutic interview, on the other hand, is an unbiased attempt to find out what story a child might have to tell and/or what conflicts need to be expressed and resolved. The setting is unstructured and open-ended to encourage a free narrative. The child is not expected to perform in any special way. Instead, the child is encouraged to feel safe and comfortable enough to act out spontaneously (with dolls, drawings, stuffed animals, or just "play acting") anything it can't or won't put into words.

1. A different issue is the instance(s) in which a child knowingly lies. This can happen when, for its own protection, the child assumes the attitude of one parent who is angry with another, when s/he has been coerced, or even when angry over some real or imagined harm the defendant has done.

A brief example is in order. Recently a thirty-eight-year-old man was found guilty of molesting a four-and-a-half-year-old girl. She had been interviewed repeatedly by a child service worker. One session with the worker and a police officer was videotaped. It was clear that the child was being led to say that the defendant had touched her genital area with his hands and his mouth. The worker smiled and hugged her when she made such allegations, and was cold and non-demonstrative when she didn't.

A defense attorney new to the case was able to secure a court order for the child to be evaluated. The evaluation took place during a two-hour interview that was videotaped. In the initial part of the interview, when the child was not yet comfortable and might have expected the same sort of interviews she had experienced before, she said that the defendant had done "nasty things," had gotten on top of her, touched her genital area, etc. She had been so conditioned by the way she had been questioned previously that she even indicated that the child service worker who interviewed her had "grabbed her by the crotch!"

Later, as she became more comfortable, she not only indicated that the defendant had done nothing, but also that she cared for him and didn't want him to be in trouble for things she had said. Additionally, through spontaneous role playing (using little stuffed animals and a drawing), she indicated that some boy had pulled her pants down while she was in the bathroom of her home and that an older male had fondled her. She re-enacted a violent verbal exchange between her mother and someone who might have been a neighbor and expressed fantasies in which she, the child, died.

Whatever death means to a small child, it is the worst thing that can happen, something to be greatly feared. And she feared the worst for herself if she did not give the "right" answers. The child had identified with her mother's anger toward the defendant. Statements she made about people who *did* molest her were somehow twisted around to the point where she said that *the defendant* had molested her. This allowed her to survive in the home of a mother who felt the defendant had wronged her. And these statements then caused adults, especially the child service worker,

to give her warmth and attention that she did not get at home.

This child had been pressured to say certain things and not to say others. On the surface, she was a pretty, talkative, and affectionate little girl. But underneath the surface, she was a seriously disturbed child who had been kept from expressing and resolving her conflicts by the interrogation process used, ostensibly, to help her.²

The point here is that proper interviewing techniques were not only therapeutic for the child in that they allowed her to express serious unresolved conflicts, but they resulted in more detailed and verifiable in-

The child was being led to say that the defendant had touched her.

formation than the previous interviews.

Stress distorts and blocks memory. An anxious child will depend to a great degree on the interviewer to "fill in the blanks" and provide some way to allay anxiety. A child who is not anxious, but comfortable, will depend to a lesser degree on the interviewer and hence will be not only able to be more accurate in remembering things, but also be much less likely to be conditioned by a zealous investigator.

General Comments and Recommendations

So how should we examine children in cases of alleged sexual abuse?

There is a myth propagated by "abuse detectors" that "children don't lie about these things." Yet there is no real evidence to back this up. On the contrary, Jean Piaget, in his monumental work, *The Moral Development of Children*, showed that, until age five or six, a lie is whatever an adult says it is,³ notwithstanding the often clumsy attempts by prosecutors and

-
2. During cross examination of the psychologist, the district attorney inadvertently revealed that the babysitter's teenage son had been in court for sexual molestation.
 3. I am indebted to T.F. Naumann, Ph.D., ABPP, of Central Washington University, Ellensburg, Washington, for referring me to Piaget's works on developmental stages of cognitive abilities.

child service workers to establish that the child knows the difference between truth and falsehood.

Additionally, a child's responses can be conditioned by the complaining parent's and/or investigator's beliefs and responses (intentional and unintentional) to what the child says or does. And, as previously mentioned, the reinforcement the child typically gets in these interrogations is a powerful factor in shaping its own responses and imbedding them in its conscious mind. Add repetition to this, and it is all too easy for the child to confuse objective and subjective reality. It is obvious that this can be tragic for the accused; it is also tragic for the developing child who, at an unconscious level, suffers disturbance resulting from this schism.

Just as these factors can affect memory, so can trauma. We know that the more traumatic an event and the greater the emotions aroused, the more poorly it is remembered. We sometimes alter our memory of events for self-protective purposes. Kerr, in studying the children kidnapped in the Chowchilla bus incident, noted how they can actually misperceive events as a defense to the trauma;⁴ Katan has pointed out that they can, at times, attribute sexual abuse to the wrong person.⁵

Recently, a child on the witness stand told a deliberately outrageous tale in order to be "caught"; in this way, she was relieved of the burden of disappointing a complaining parent, children's service workers, a prosecutor, and the "support group," all of which clearly expected her to perform in a certain way.

These considerations make it basic, then, that the child be examined by an experienced, unbiased professional. There is reason to believe that a large percentage of false accusations brought by a parent during an acrimonious separation or divorce not only might have ulterior motives, but also might result from that parent's own personality disturbance.⁶

With all of the foregoing in mind, the following recommendations can be generalized:

(1) Interviews should be audio- or video-taped in their entirety.

(2) The setting should be open and non-pressured. Children should be encouraged to express themselves and tell whatever story they might have through the use of toys, drawings, stuffed animals, etc., with a minimum of direction by the interviewer. When left to their own devices in a relaxed and even playful setting, children who are stressed (by having been abused or by having adults incorrectly act as if they have been abused) will sometimes spontaneously act out their experiences. It is up to the therapist to find out what this means.

(3) The therapist-investigator should obtain as much information about the child and the alleged incident as possible, including, but not limited to, police reports, children's service reports, medical and school records, and, if possible, observa-

tion(s) of the child with the alleged offender.

(4) During interviews, one should establish the extent to which the child is in touch with reality, *i.e.*, to what extent does s/he know the difference between "pretend" and "real"?

(5) During interviews, one should be alert as to whether the child seems "programmed" and gives rote responses or is able to go from general to specific examples.

(6) Diagnoses and recommendations should rest on clear-cut, well-reasoned data, and not on anecdotal material or arcane psychodynamic formulations.

Finally, and perhaps most importantly, evaluators should be "exquisitely aware of their own biases and presumptions."⁷ Sadly enough, most of the "abuse professionals" are not in touch with their real motives and are "masquerading tyranny as charity."⁸

6. While there is no large-scale study which supports this proposition, there has been periodical treatment of the topic. See, e.g., Benesek & Schetsky, *Allegations of Sexual Abuse in Child Custody Cases*, Emerging Issues in Child Psychiatry and the Law, Spring, 1985. A "must" for defense attorneys is Gordon, *False Allegations of Abuse in Child Custody Disputes*, New L. J., July, 1985.

7. Schumann, *False Accusations of Physical and Sexual Abuse*, presented to the Annual Conference of the American Academy of Psychiatry and the Law, October 26, 1984.

8. Whitefield, *Tyranny Masquerades as Charity: Who are the Real Child Abusers?*, Fidelity, February, 1985.

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4. Kerr, *Children of Chowchilla: A Study of Psychic Trauma*, 34 The Psychoanalytic Study of the Child 552-623 (1979).

5. See Katan, *Children Who Were Raped*, 28 Psychoanalytic Study of the Child 208 (1973).

Has a child been molested?

A psychiatrist argues for reforms in the way child sexual abuse cases are investigated

by Lee Coleman, M.D.

Innocent until proven guilty." It's a sacred principle of our legal system, and one we have for the most part lived up to. Until recently, that is. In the past few years we have abandoned this principle in cases of alleged child sexual abuse.

Particularly noteworthy in such cases is the cozy relationship between law enforcement and psychiatry. Police and prosecutors have traditionally thumbed their noses at psychiatry, but now these former enemies are dedicated allies in the war on child sexual abuse. The tools of psychiatry may not be worth much when it comes to *mens rea*, but they are reliable (so the argument seems to go) when it comes to determining if a child has been molested and finding out who did it.

Perhaps the most pernicious aspect of our handling of such cases—and the single most important reason the system is doing a terrible job at getting at the truth—is the direct importation into investigations and court proceedings of the idea that "children don't lie about sexual abuse."

Where did investigators get such an idea? From the "experts." In hundreds of workshops for police, protective service workers and prosecutors, the leading lights from psy-

chiatry, psychology and social work are training investigators to believe that when it comes to alleged sexual abuse, the child's statements are unimpeachable.

Ignored at such workshops is the fact that the experts developed their ideas by studying incest in intact families, while the major arena of false allegations is divorce/custody battles. In the former the child may be pressured to drop a true accusation, but in the latter the pressure may go the other way—to "remember" something that never happened. The young child may easily be led to the point of sincerely believing in things that did not take place.

Experts developed their ideas by studying incest in intact families.

Armed, nonetheless, with the belief that under no circumstances would a child claim to have been molested unless it were true, child protection agencies are ready to send a child for "therapy" before any kind of thorough investigation has been done. Even worse, those interviewing a child allegedly molested (whether investigators or therapists) frequently manipulate the child. They do so because they



do not take very seriously the possibility of a false allegation. Let us look at why this is happening.

If "children don't lie" about sexual abuse, then it follows that a child may be asked leading and suggestive questions about possible molestation, urged to pretend with dolls, and rewarded for statements indicating abuse, with no danger that a child may stray from the truth. Any denials of abuse merely indicate that the "yucky secrets" are hard to tell and that the abuser must have threatened the child into silence.

As a result of such thinking, the "sensitive and caring" professional pushes even harder until the child complies and offers up information about sexual exploitation.

Berkeley psychiatrist Lee Coleman, M.D. wrote about the use of psychiatry in the courtroom in his 1984 book *The Reign of Error*.

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JULIA A. FONG, M.D.

Opinion

My own study of audio- and video-taped interviews with children indicates that this is how the clap-trap about "satanic cults" and murders has surfaced in places like Jordan, Minnesota, Bakersfield, and the McMartin Pre-School in Manhattan Beach.

Three possibilities

If it is not true that children never "lie" about sexual abuse, it is true that such a thing is rather unlikely. But this misses the point. When it comes to a child's statements about sexual victimization, there are not two possibilities—lying or telling the truth—but three. A child may be neither lying nor telling the truth. A child, particularly a very young one, may say what he or she believes is true, even though it is not the truth.

The possibility that the child may have been manipulated by an adult with an axe to grind is not taken seriously.

At first blush, this seems a rather unlikely possibility, to say the least. A child believes in sexual abuse which has not taken place? I would certainly be skeptical of such an idea if I hadn't had a chance to see how children are being manipulated by adult interviewers—sometimes by a police officer or protective service worker, sometimes by a mental health professional—who have been trained to believe that those who really care and are sufficiently skilled at their work will help the child talk about sexual abuse.

Consider what such methodology does to a case in which the child has been manipulated before the police or child protection worker arrives. Especially when divorce and child custody disputes are taking place, it is a tragic fact that

certain parents either deliberately create false accusations, or interpret a child's problems as "subtle clues" to child sexual abuse. Everything from nightmares to temper tantrums is being listed by the experts as signs that should alert parents to the possibility of sexual abuse.

Thus, when an investigator first contacts a child, it is crucial that all possibilities be considered. Instead, too often a judgment is reached once the child's statements are heard, however inconsistent they may be. The investigation effectively grinds to a halt, because "children don't lie about sexual abuse." All that is left is for the judge to give the juvenile court's stamp of approval. The possibility that the child may have been manipulated by an adult with an axe to grind is not taken seriously.

By the time the child has been interviewed several times, the statements may become increasingly embellished, and any chance to help the child stick to what he remembers is lost forever. The child now believes he has been molested, because so many adults believe the same thing and seem so pleased with the child for saying so.

The use of dolls and other play materials is a powerful technique for confounding this problem. Consider the difficulties inherent in using play materials to get at the truth. Children use dolls, puppets or drawings to make stories—not to stick to the facts. Why are such techniques nonetheless being used in fact-finding investigations? Because our legal system has naively turned to the child therapists, who have used play therapy for decades. But using play techniques in therapy is one thing; using such techniques in legal investigations is quite another. Even worse is the result when the adult interviewer is already convinced that sexual abuse has taken place and (perhaps unwittingly) uses play methods to coax some "evidence" from the child.

Four reforms

Awareness of these problems leads directly to the kinds of legal

Opinion

reforms needed to bring some sense of proportion to protecting children from sexual exploitation.

First, all contacts with the child must be either video- or audiotaped. Taping preserves a record not only of what the child says, but of the interviewer's behavior. Such a record will not only spare the child repeated interviews; it will also give county counsel, district attorneys, defense attorneys, judges, and juries an opportunity to study whether a child's statements seem spontaneous or the product of manipulation.

Second, a child's competence to testify must be examined in a more thorough way than it is at present. With few exceptions, children as young as 4 are being found competent if they can tell the difference between the truth and a lie. But such awareness is irrelevant if a child has been so manipulated by adults that he believes something

happened which did not happen. Judges faced with deciding whether a child is competent to testify must focus on the issue of independent recall. Is the child capable of sticking to what he can remember, or has prior training contaminated his ability to do so?

Third, our juvenile court procedures are in urgent need of major review. The vast majority of child sexual abuse allegations are not prosecuted criminally but are handled in juvenile court, where tradition dictates that judges rely heavily on casework evaluations. It is especially here that an accused person may be considered guilty until proven innocent. Judges, acting in good faith, assume that the child protection system is doing a good job of unbiased investigation. This faith is misplaced, given the biases that currently pervade our county child protection agencies.

Fourth, our child protection system will need to alter its current practices. Its primary mistake has

been placing so much trust in the experts. By now the mistaken ideas from mental health are rooted in the very foundations of our investigative agencies. While I don't see this reform coming soon or easily, nothing less than a massive retraining will be necessary. Just as in other kinds of investigations, the primary role of unbiased fact-finding must be established, with no reliance on "examinations" from mental health professionals. Whatever psychiatry and related disciplines are good for, they do no good, and much harm, when it comes to getting at the truth.

If psychiatry has no examinations to determine if a child has been molested, and has no examinations to determine if the accused person is a child molester, then our continued reliance on psychiatry will only add a new form of child abuse, one in which we subject the very children we aim to protect to manipulations they are powerless to resist. □

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THE ROLE OF THE PSYCHOLOGIST IN THE ASSESSMENT OF CASES OF ALLEGED SEXUAL ABUSE OF CHILDREN

Ralph Underwager, M. Div., Ph.D. - Hollida Wakefield, M.A. - Ross Legrand, Ph.D.

Christine Samples Bartz, B.A. - Joseph Erickson, M.A.

(Institute for Psychological Therapies)

The following is a summary of a 49 page paper, presented at the August 1986 American Psychological Association 94th Annual Convention. Ralph Underwager and Hollida Wakefield are Advisors to the VOCAL National Office.

What is the role of the psychologist in assessing alleged child sexual abuse? According to the Institute for Psychological Therapies (IPT) in Minneapolis, there is only one role in this respect: that of a scientist who is ". . . to remain consciously tied . . . to the real world, to empirical data and to probability rather than certainty."

More to the point, they state that:

The psychologist gives information to the justice system, not certainty. Any expression of certainty or conclusion about the issue of fact exceeds the competency of the psychologist. (emphasis added)

The authors differentiate between the role of the therapist and that of an investigator, in context with interviewing the alleged child victim:

The therapist is interested in the subjective reality of his client. His goal is to heal and to change the subjective reality for the better. Toward that goal he asks leading questions, reinforces behaviors and responses, and attempts to maximize change through the way he relates to the client.

The investigator is not interested in subjective reality, but in facts and truth. When interviewing a child, the subjective reality of the child is a barrier that the investigator must overcome to arrive at the truth. In order to arrive at truth, he must avoid coercion and leading questions, avoid reinforcing responses, be aware of his own stimulus value and attempt to minimize the extent to which his behavior influences the responses of the child. (emphasis added)

In order to accomplish the investigative role--whether dealing with the defendant or the alleged child victim--the psychologist must, of course, have adequate knowledge in the basic areas of: developmental psychology, pathology, personality, social psychology, probability theory, and base rates. He should also have a capacity to critically evaluate reports and research.

Specialized additional knowledge required when investigating the defendant is then discussed. In this regard the authors first offer a brief description of their own defendant investigative methodology. This is followed by a survey of the research done on 1) pedophiles, 2) the value and limitations of the MMPI, 3) the use of the lie detector and penile plethysmograph, and, finally, 4) a discussion of research into what a sex abuser actually does and does not do.

Regarding pedophiles, it is pointed out that there is not much evidence that abusers were themselves abused

as children. However, there is some agreement on other psychological characteristics of sexual abusers. Generally, ". . . MMPI studies indicate that pedophiles generally do not have normal MMPIs and that the [test "reading"] is most likely to be . . . poor impulse control, antisocial behavior, poor judgment, a history of acting out, lack of self-esteem, feelings of inadequacy. . ." The authors do not hesitate to acknowledge that the MMPI should be considered the most significant assessment tool available, including clinical interviews.

The penile plethysmograph research is noted as being lacking, particularly in showing the critical causal relationship between the measurement of arousal, and the abusive behavior inferred to this measurement. "There is no study dealing with the widely accepted notion that we all have a few unusual 'turn-ons' yet never come close to acting on them (Harris, 1986)."

Next is a discussion of the investigative tools used in assessing the alleged child victim. *First*, is the background knowledge required of this investigator, including: developmental psychology, childrens' capacities and competence, and principles of learning theory, communication, and social influence. *Second*, the investigator must be aware of his own stimulus value and preconceptions. *Third*, training is mandatory.

As an aid to proper investigation of victims the authors provide a list of 15 guides to implementing an uncontaminated interview.

A variety of tools and concepts currently being used in the investigation of alleged child victims, are then examined. Drawings are found to be of no use at all for evidencing abuse. The anatomically correct doll is concluded to be ill researched and as a consequence only properly viewed as a learning experience. The several books available are found to be unresearched. Regarding concepts, those of 1) the ability of a child to provide details of the abuse, 2) the consistency of the facts being related by the child over a period of time, 3) that coercion is typical of sexual abuse, 4) that many characteristics are "consistent with" sexual abuse, and 5) the claim that certain behavioral indicators show that sexual abuse has occurred, are demonstrated by the authors to be either simply false, or of such inaccuracy as to be useless. Summit's Sexual Abuse Accomodation Syndrome is similarly examined, and found to be

invalid for diagnosing child sexual abuse, as well as limited in its basis to "intact incest families." Summit himself (1986) disclaims application of his syndrome for diagnostic purposes. Summarizing this area of concern, the authors state:

There is enough research now available that the concepts, methods and practices used in assessment can be reevaluated and improved. Many of the methods and practices that have been used in the initial stages of developing a reliable and valid assessment procedure must now be changed, improved, or dropped.

Interrogation as a Learning Process

Special attention is paid to "interrogation as a learning process." The authors state that:

The way children are interrogated when sexual abuse is suspected shows a common pattern across the nation. The structure of reporting laws, child protection agencies, law enforcement officials, prosecutors, and the laws and regulatory codes governing these agencies shape the pattern.

In every exposure to interrogation the child learns more about what the interrogator expects. The child learns the language game of the sexual abuse literature, for example, the distinction between "good touch" and "bad touch." The child learns about explicit sexual behavior. The child learns what adults, including parents, want and expect from the child. The child learns what to say or do that will get a reinforcing response from the interrogator. The child learns what attitude is expected towards the alleged abuser. The child learns the victim role. The child learns the tale and, by repetition, may come to experience the subjective reality that it happened, even when it never did happen.

Current research under way at IPT is cited in order to illustrate the magnitude of the problem in interviewing allegedly sexually abused children. This research finds, for instance, that more than 1/2 of the adult interview behaviors contaminated the children's statements. This is not a laboratory simulation, but analyses of video and audio tapes of actual interrogations.

"The tragedy," the authors point out, "is that reduction of reliability has two outcomes. More actual abusers escape. More innocent people are found guilty."

This paper also contains (next column) the disturbing results of a questionnaire sent out by the authors to other mental health professionals who have testified for the defense in child sexual abuse cases.

The paper, which is available through VOCAL, is highly informative and relatively easy to understand. It contains a 36 pg text, 10 pg bibliography, and 13 pg appendix. Cost is \$5, which includes 3rd class postage. Ask for The Role of the Psychologist in the Assessment of Cases of Alleged Sexual Abuse of Children when ordering. (This paper was first mentioned in the last newsletter)

HUMAN COSTS OF DEFENDING SEXUAL ABUSE CHARGES

Your "right to an attorney" takes on added value when you consider that your attorney may soon be all you have to stand at your side. You may be effectively denied all access to the most qualified of expert witnesses--given that the responses below reflect what is truly happening. In an admittedly unscientifically structured inquiry, one initiated merely to find out if further scientific inquiry should be pursued, the authors elicited the following startling responses from 33 medical health professionals surveyed. In all, 17 people responded.

Do you believe, as a result of your testifying for the defense, efforts have been made to harm you professionally?

11 reported such efforts, including a) negative information has been given to clients, b) classes and workshops have been cancelled, c) contracts and consulting jobs have been cancelled, d) governmental blacklisting has occurred, e) false information has been given to prospective staff members and reporters. Six responded that complaints were made to their licensing boards. One reported that research money was cut.

As a result of your testifying for the defense, have you experienced any problems with child protection workers that have affected you professionally?

14 reported such problems, including a) refusals to consult, b) withholding information, c) attempts to force clients to use "one of their franchised evaluators" instead of the respondent, d) blacklisting and cutting off referrals, e) spreading slanderous and libelous stories.

As a result of your testifying for the defense, have you experienced criticism from mental health professionals?

11 reported a) decrease in referrals, b) cancelled workshops, c) complaints to the licensing board, d) distortion of beliefs and tenets, e) spreading of innuendoes and slanderous stories, f) isolation, etc.

Have you been characterized as a "hired gun" for the defense?

12 answered "yes" and most stated that it happens frequently.

Describe the efforts to impeach you as a witness when you have testified in the defense.

9 stated that either they were accused of a) biased testimony, b) liking and supporting child molesters, c) having a homosexual relationship with the defendant, d) condoned child abuse, or e) was a child molester himself.

These repercussions to doing one's job--to permitting a defendant a full defense--go far beyond the expected posturing of the prosecution when "qualifying" an expert.

THE ANATOMICALLY CORRECT DOLL

Wm. F. McIver, Ph.D., P.C.

The following is a brief abstract of part of the work Dr. McIver is currently doing on the anatomical dolls. A comprehensive report on this research will be appearing in one of the trade journals in the near future. We will report on the availability of the entire study as soon as it is published.

Dr. McIver, a clinical psychologist, cautions those who use these dolls that according to the Ethical Principles of Psychologists (Principle Eight--Assessment Techniques), "Psychologists responsible for the development and standardization of psychological tests and other assessment techniques utilize established scientific procedures and observe the relevant APA standards." It is his opinion that use of assessment techniques, such as these dolls, which have not been established as valid or reliable, violates these principles, and risks malpractice charges.

"Anatomically correct dolls" have gained quite an acceptance as diagnostic tools for determining whether or not children have been sexually abused, and for determining the manner and form of such abuse. A premise of their development was that children would be able to demonstrate with these dolls what they couldn't describe verbally. It was assumed that children see the dolls in the same way that adults do. The basic assumption here was that they would identify gender on the basis of primary sexual characteristics and that those children who had been abused would do things with these dolls that was significantly different from those children who had not been abused.

As assessment devices, the dolls had "face validity." They looked as if they would be useful. But, as with any diagnostic tool, one has to ask what it is supposed to diagnose and how well it does it.

We videotaped fifty children, ages three to seven, who, to the best of our knowledge, had never been abused, and seven children who had been abused in various ways but who had not been exposed to the dolls. The children were given four fully clothed dolls (two "adult" and two "children" [the children did not always make this assumption]).

In brief, we found that until the ages of 6 to 6 1/2, the children did not identify gender on the basis of primary sexual characteristics. For example, when asked if a doll was a boy or a girl, the typical answer was, "It's a girl . . . because it has blue eyes" or ". . . because it has a dress" or ". . . because she has long hair," etc.

In one instance a 4 1/2 year old child said, "She's got a 'gina" but was not able to elaborate on this, and indicated that boys have one too. Children 4 1/2 and under readily changed the doll's sex by changing its clothes.

One bright 3 1/2 year old girl (whose mother is an RN) walked around the room holding what to an adult would be a boy doll, by its obvious "handle." When asked if this was a boy or a girl she said, "A girl." When asked why, her answer was a typical, "Because."

Most of the children in both groups readily dressed and undressed the dolls. Those six and under did so with

no reference to the genitalia.

Many of the children, particularly the older boys, would make the dolls "wrestle" much in the same way they do with their "Mr. T" or "G.I. Joe" dolls. This is simply a form of play common to children and did not indicate that they had experienced these things at home.

A 3 1/2 year old girl took what she called a "daddy" doll and placed it on top of a smaller doll, gleefully saying "Daddy went pooh-pooh on her head!" This again is normal fantasy play for a child, and in no way indicated that her father sat on top of her head and defecated. As Dr. Underwager of the Institute of Psychological Therapies has pointed out, "Little kids like to talk dirty!"

One disturbing finding was that with only the slightest suggestion on the part of the interviewer, ("could this fit there? . . . could that be the daddy doll? . . . could the mommy doll sit on top of his face?") as well as interviewer interest when the child focused on the genital areas, children readily positioned the dolls in various combinations from which could be seen depicted every sort of sexual behavior.

In sum, the data show that the dolls are of no use as diagnostic instruments for discriminating between children who have or have not been abused. And the evidence is equally clear that the responses children make with the dolls are all too easily affected by the examiner's attitude.

In a separate pilot study we divided ten children into two groups. The control group was simply observed playing with the dolls--and this play included only a normal amount of poking, prodding, dressing, undressing and even disinterest. The experimental group was exposed to the dolls after having been read "Good Touch - Bad Touch" books. This group showed significantly more interest in the genital areas as evidenced by the amount of fondling they engaged in. As I say, this was just a pilot study and there is more work yet to be done. But it does raise serious concern about the over genitalization of "touching" and the fact that after some of these training programs, a lot of kids will simply confuse an affectionate hug or pat on the bottom with whatever they've been programmed to think of as "bad touching."

(See pg. 9 for a listing of anatomical doll articles.)

THREE AND A half years ago, the nation was shocked by charges of child molestation at the McMartin Preschool in Manhattan Beach. It was the largest child molestation case in history: more than 300 counts of sodomy, rape and oral copulation were filed against three generations of the McMartin family and three teachers at the school. There were allegations of an international pornographic ring, of satanic rituals and the mutilation of animals in bizarre rituals used to scare the children into silence. When the story broke, the public outcry prompted L.A. District Attorney Robert Philibosian to send the case to a grand jury. Three attorneys from the D.A.'s office, Lael Rubin, Christine Johnston and Glenn Stevens, were picked to be the prosecution team. The case had started with the charge by one mother that her son had been molested at the preschool by Ray Buckey, grandson of the school's owner, Virginia McMartin. Buckey was arrested and then released for lack of evidence. But the case did not stop there. The Manhattan Beach Police Department sent letters to 200 families of children enrolled at the McMartin Preschool, naming Ray Buckey as a suspect in child molestation and asking the parents to interrogate their children about oral sex, fondling of genitals and buttocks or sodomy. The letter panicked many parents, who besieged the police department with complaints, which were passed on to the L.A. District Attorney's office. Unequipped to deal with the volume of kids who were coming forward, the D.A.'s office sent the parents and their children to Children's Institute International, which had worked with the D.A.'s office before on molestation cases. Using playacting techniques and puppets, therapists at CII videotaped interviews with more than 400 children, many describing elaborate, sometimes incredible, tales of molestation, mutilation, satanic rites and pornography. These tapes were the basis for the indictments handed down on March 23, 1984, against five women as well as Ray Buckey and his mother, Peggy McMartin Buckey. Search warrants were issued for the school, a neighborhood market, the studio of private photographers and seven private homes. Rewards were offered for pornographic pictures or films depicting the so-called McMartin kids. The floor of the school was torn up looking for subterranean chambers; the lot next to the school was dug up in search of animal remains from satanic rituals. In the midst of this investigation, L.A. elected a new District Attorney, Ira Reiner. Almost immediately, Reiner expressed doubts as to the strength of the case, suggesting his predecessor had filed too much

too soon. Two of the three prosecutors were also having serious reservations. Their doubts would soon be magnified when the preliminary hearing commenced in August 1984. They had no corroborating evidence and scant medical evidence of actual molestation. Their case was built almost entirely on the charges made on videotape by the children at CII. But when the children were

put on the witness stand, their stories changed, often dramatically. On January 16, 1986, after an eighteen-month preliminary hearing, the longest such hearing in the history of California, District Attorney Ira Reiner dismissed charges against five of the seven original defendants, saying

the evidence against them was "incredibly weak." The two remaining defendants still face nearly 100

THE McMARTIN TAPES

counts of molestation and conspiracy. Prosecuting the remaining defendants will be Lael Rubin. Of the three original prosecutors two have been removed. Christine Johnston reportedly asked to be reassigned and refuses to discuss the case

publicly. The other dissenting prosecutor, Glenn Stevens, went public with his misgivings as early as September 1985. That cost him his job in the D.A.'s office. But that was not the end of his involvement in the McMartin case. Stevens signed a deal to work with film producer Abby Mann on a book and movie about the case. In researching this project Mann and his wife, Myra, interviewed Stevens in detail about all aspects of the case. Over the course of 30 hours of taped interviews, Stevens revealed facts that had never before been made public. He described questionable actions on the part of the D.A.'s office, fundamental flaws in the techniques used to elicit testimony from the children and grievous lapses in judgment that may have kept innocent people in jail long after the D.A.'s office knew there was no evidence to hold them. At some point, it occurred to Stevens and the Manns that the tapes themselves could be evidence in the trial of the remaining McMartin defendants. On the advice of counsel they made the tapes available to the court. Transcripts of the tapes were entered into the court record as one of the primary bases of a defense motion for dismissal. The following are excerpts from those tapes, abridged from more than 1,000 pages of transcripts in an effort to reflect accurately the conversations recorded. Quotation marks have been inserted for clarity and are not meant to represent verbatim discourse. Breaks in the dialogue are indicated by three stars. Participating in the interviews were Abby Mann, film producer; Myra Mann, scriptwriter; and Glenn Stevens, former deputy D.A.

I. THE ORIGINAL STATEMENT

The accusation against Ray Buckley started the whole case; subsequent revelations call into doubt the veracity and reliability of the original complainant.

G.S.: Now let me go through this, because this is really important. This is February 22, 1984. Now please understand the impact of the date.

M.M.: February 22...

G.S.: We're talking prior to the indictment. This is during the investigation. Judy Johnson regarding her son, S—: "S— feels that he left LAX in an airplane and flew to Palm Springs. He described the airplane as one like used by Federal Express only it had windows." Okay, so he's talking about a jet, right? "S— went to the armory located behind Judy Johnson's residence. Ray drove there in his VW bus. S— went with Peggy, who drove a red and white VW bus. At the armory there were some people there wearing army uniforms. The goat man was there. After going to the armory S— was taken to Sand Dune Park. At the armory, it was a ritual-type atmosphere." The words are Judy's.

M.M.: S— doesn't talk, right?

G.S.: Right. Ah, the atmosphere was that of magic acts. Ray flew in the air. Okay, now, this is another interview. February 16. "The three women are witches. The man poked him. Peggy, Babs and Betty are dressed up as witches, too. The person who buried S— is Miss Betty. There were no holes in the coffin. Babs went with him on a train with an older girl, where he was hurt by men in suits. Ray waved good-bye. The train moved fast. It had lights. Ray took him back to school—possibly San Diego Big Brothers. Peggy gave S— an enema. Staples were poked in S—'s ears, nipples and tongue. Babs put scissors in his eyes. She hit him a lot. She chopped up animals and said she would come in the night and take him away. She pushed his stomach and threw him against a wall. Also, something awful would come in the window." This thing about something awful coming in the window I think is also part of her fear that she's being burglarized every two minutes.

M.M.: Oh, right, the paranoia.

G.S.: This is almost done. S— was hurt by a lion. An elephant played with the lion and squirted

water. Then the lion didn't move. S— was on his back. Ray let him pull the lion's tail. The lion roared but didn't move. Betty was there and other people. One lady took pictures. S— describes having communion in a church. A prayer similar in sound to the Lord's Prayer was recited." Now, Judy is a very religious woman. She carries her Bible around everywhere.

M.M.: What did she do—dictate this?

G.S.: She wrote this. This is her writing.

A.M.: This is her writing?

G.S.: Yes. "A goat climbed up higher and higher and higher, then a bad man threw it down the stairs. It woke up later. Ray poked Peggy at the altar. Lots of candles. Ray pricked his right pointer finger. It bled. Ray put it in the goat's anus. Nobody had clothes on under the robes. S— had a robe on, too. They put a Band-Aid on his finger. Old grandma played the piano." I presume that's Virginia, but there's no reference to any name. "Lots of threats were made against S— and his family. It is unclear what it was, a doll or a real baby. S— says a real baby. But the head was chopped open, and the brains were burned. S— says Peggy killed the baby. Peggy had a scissors in the church, and she cut S—'s hair."

M.M.: And killed the baby.

G.S.: Yeah, right.

A.M.: Okay, now...

G.S.: "S— had to drink the baby's blood. Ray wanted S—'s spit. He put it on the altar. The baby was big like S—. It screamed. When S—'s bottom was bleeding, Ray put a Tampax in it to stop the bleeding. Then he took it out." That's it.

G.S.: Judy is a loner. She really is. And she now has a cause. She starts hanging out with these people that are acting like junior detectives—going through Manhattan Beach and looking for child molesters behind every billboard, looking through garbage pails and going through the trash of this house and that house. I mean, she would be getting calls and she really felt important. She calls me one day. She said that her house had been broken into at one time. And that nothing was taken and nothing had happened but she knew her house was broken into because the screen had been slightly moved. Well, it's a very small house. And it would be very difficult for even a cat to move across the floor without somebody hearing it. And everybody's a very light sleeper.

"You remember *The Emperor's New Clothes*, the children's story? Everybody says, 'Oh, you have such beautiful clothes,' and the Emperor is parading up and down naked. This is McMartin."

So she's starting to really see ghosts. She calls me up collect.

M.M.: When is this?

G.S.: Some time in the latter part of 1984. From Seattle. She's in the hospital. She has no idea how she got there. All she knows is that she was in her Volkswagen bus and she was with the kids and she was driving up to Seattle and they were being followed by a car with a marine in it. Was he in uniform, Judy? No. He wasn't in uniform. Do you know who he is? Well, not really. What do you mean not really? Well, I met him at my mother's house out in the desert. Her mother lives out by [the] Palm Springs area.

M.M.: Excuse me, but at this time isn't S— not talking yet?

G.S.: S— had *never* talked to me.

M.M.: Isn't he nonverbal? How could he give her this report?

G.S.: What he says to his mother doesn't necessarily mean he's

nonverbal. He's nonverbal to people other than his mom.

M.M.: Oh, but he can talk?

G.S.: Oh, he talks fine. But he's just one of these quiet kids that talks to mommy only.

A.M.: How old was S— at the time he was supposed to [have had this experience]?

G.S.: Two and a half, three years old. But that's pretty young. Even if they're verbal, you just about need a parent to translate.

M.M.: In simple language for him to go on and on about this church and the blood and my finger. It's pretty sophisticated language for someone who doesn't speak too much.

G.S.: Right. That's another point. But see, Judy was my main concern. So she calls me up. She doesn't know how she got out of this hospital. But she's afraid that this marine who's AWOL from Twentynine Palms is still following her. So I'm beginning to

The Cast of Characters

GLENN STEVENS: One of the original prosecutors on the McMartin case, he was removed from the case by the Los Angeles District Attorney's office in February 1986 after publicly expressing reservations about the strength of the evidence against the defendants.

CHRISTINE JOHNSTON: A second member of the original prosecution team, she reportedly asked to be removed from the case in January of 1986. She was reassigned within the D.A.'s office and has since been promoted.

LAEL RUBIN: The final member of the original prosecution team, and the only one still working on the case.

JEAN MATUSINKA: One of two attorneys in the D.A.'s office who handled early allegations against the McMartin Preschool.

ELEANOR BARRETT: The other attorney in the D.A.'s office who handled early allegations against the McMartin Preschool.

ROBERT PHILIBOSIAN: The District Attorney whose office filed the original indictment against the seven McMartin defendants in March 1984. He lost his post in the June 1984 election.

IRA REINER: The current District Attorney who inherited the McMartin case when he won the 1984 election. He took over the office in December of that year.

JUDGE AVIVA BOBB: The Municipal Court judge who presided over the eighteen-month-long preliminary hearing.

JANE HOAG: The Manhattan Beach Police Department detective who handled the original molestation complaint against Ray Buckley. Her investigation ended when the D.A.'s office stepped in.

"think, you know, this woman is bananas.

M.M.: This is the first time she exhibited signs of crazies to you?

G.S.: No. My first interview of her, when she says that everybody's been molesting her son. She's accused everybody of being a child molester, not only Ray, but the person that ran the Nautilus and this guy over here at the church.

M.M.: Where did you tell me that the dog was sodomized also?

G.S.: Oh, that was later. That was after she got back from her Seattle trip. You know, I just really chalked up a lot of what Judy was saying to the fact that she was just completely distraught and upset about what happened to her son that she just flipped out.

M.M.: I don't know, Glenn. You don't go insane because your child's been molested.

G.S.: Well, if you're fragile anyway.

M.M.: But if you're fragile, you have to have an emotional problem to break down. A sane person doesn't break down because a child's been sodomized.

G.S.: Let me finish telling you about the trip.

A.M.: Right.

G.S.: I told her to call me periodically. But she wanted me to send an investigator to protect her on her way back.

M.M.: Did you ever find out why she was hospitalized by the Seattle hospital records?

G.S.: She wouldn't give me any information about the name of the hospital or the telephone number that she was calling from or any other thing else. And I had no other way of knowing where she was, other than the fact that she called me. She calls me later on from somewhere inside California and she said that the marine had been following her all the way back down the coast. They were camping out one night, her and the boys, and the marine tried to break into the van. How did she know that? Well, there were little scratch marks around the lock. I said is there any other evidence that the marine tried to break into the van? She says no. How do you know it was him? Well, because he was following, I see the car as I'm driving. So, she calls me when she was inside the California border. She says well, I'm in California now and I know that your jurisdiction is just in California and you couldn't do anything to protect me in Oregon or Washington. Now I want you to protect me in California. I said Judy, you know, why don't you just get

back to Los Angeles. It's all right, just drive the boys home. So, she gets back and I don't hear a word from her. Judy then calls with the story about the house being broken into. At this point, it's really beginning to be pathetic. The incidences are getting bizarre. The dog is missing hair, and then S—'s butt is red again, and she had accused her husband of molesting the child.

M.M.: Did anybody look at the child at that point?

G.S.: She wouldn't let anybody.

A.M.: But it didn't seem more likely all the time that Ray did this? I mean, isn't it...

G.S.: ...getting to the point where you have to discount whatever the child says about Ray being involved?

A.M.: Right.

G.S.: Because there's too many other possibilities. I'll go all over that. She called me again saying that S— and [his brother] R— had gone over to visit with [their] father. They were in the bathtub and he came home with a red butt. And S—'s complained that his father did it. So the father's interviewed and there's no basis.

M.M.: But they won't look into it.

G.S.: She won't consent. So eventually they end up taking the kids from her. The county takes the kids away, saying that she's just absolutely nuts. She's got weapons in the house to protect them. She had a shotgun. She even kept it loaded. It may be important for you to go into this particular area, you know, Judy's kids being taken away.

A.M.: All right.

G.S.: But basically the accusations made against S—'s father were unfounded. And you're right, I think that really wipes out the credibility of Ray being involved.

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M.M.: Did you ever talk to Lael about Judy Johnson?

G.S.: Sure. We had a good laugh about Judy.

A.M.: What was that like?

G.S.: I said, "You want to hear what Judy says happened now, Lael?" Okay, so I relate the story, the one about the marine and everything, and she just starts laughing. We had never discussed what it meant to the whole case.

A.M.: Why?

M.M.: She would avoid anything that didn't buttress her side, right?

G.S.: Oh, no. It wasn't just her, it was me, too. I never sat down and looked at what this all meant to everything else.

A.M.: Well, it's kind of extraordinary, because here was a woman who made the first charges, started the whole thing going. Something's wrong with her, chances are something's wrong with the whole damn thing.

G.S.: I guess because everything hadn't been put in place yet, Abby, that's the best way I can explain it. I never really looked at it that way when she started making these accusations because I wasn't looking at the case skeptically yet. It wasn't until later that I started putting stuff like this out.

A.M.: Right.

G.S.: I really started looking at it with a little more skepticism and realizing that Judy may be sort of a crucial piece. Earlier I figured, well, all right, so Judy's freaking out. I explained it to myself as the fact that Judy was going nuts because Ray abused her kid; that's the way I was thinking, and that's the way Lael was thinking.

A.M.: But anybody else might say if you find out that your kid is molested, that doesn't mean you go bonkers.

G.S.: No, but it doesn't mean you stay sane, either.

A.M.: Well, let's see how crazy she was. [Do] you remember some of [the] things that she wrote to the investigator?

G.S.: Yeah. It was a goat ritual.

M.M.: Then she accused the Nautilus club, right?

G.S.: Uh huh. She says oh yeah, by the way, people at the Nautilus abused S—.

M.M.: And she circled three pictures.

A.M.: Holy God!

M.M.: And the club went out of business.

G.S.: Not because of this.

M.M.: Oh, yes.

G.S.: I'm not so sure.

M.M.: Oh, yes.

A.M.: And here she was, already charging other people of molesting.

M.M.: The entire world.

G.S.: Everybody. Roberta Weintraub. She accused Roberta Weintraub of molesting S—.

M.M.: Who's Roberta Weintraub?

G.S.: [The former head of the L.A.] school board. S— saw her

CII: Children's Institute International in Los Angeles. Due to the volume of complaints that came in during the early stages of the investigation, the Los Angeles D.A.'s office decided to have the initial testimony of the children involved taken by therapists at CII and recorded on videotape for later use in court.

KEE MacFARLANE: The therapist at CII who conducted most of the interviews with the children, in which they claimed they had been molested by the McMartin defendants. It was in these interviews that increasingly bizarre and elaborate stories of satanic rituals and animal sacrifices began to emerge.

WAYNE SATZ: The KABC-TV reporter in Los Angeles who broke the McMartin story, later linked romantically to Kee MacFarlane.

JUDY JOHNSON: The mother who first accused Ray Buckey. It was her initial allegations that started the entire McMartin case rolling. Johnson was found dead in her home on December 19, 1986.

*The names of all other parents and all children involved in this case have been changed.

THE McMARTIN DEFENDANTS:

MARY ANN JACKSON.. Charges dropped January 16, 1986

BABETTE SPITLER.. Charges dropped January 16, 1986

BETTY RAIDOR.. Charges dropped January 16, 1986

PEGGY ANN BUCKEY.. Charges dropped January 16, 1986

VIRGINIA McMARTIN.. Charges dropped January 16, 1986

PEGGY McMARTIN BUCKEY.. Still facing trial

RAYMOND BUCKEY.. Still facing trial

"The only child that broke down and cried was the one that was caught in giving completely contradictory versions of events, not crying because he was looking at Ray Buckey, a man who terrorized him."

on TV and said, "Mom, she molested me."

M.M.: When was this?

G.S.: This was during the pre-lim, and after she had testified. We were just thinking jeez, I wish Judy would just disappear and leave us alone.

M.M.: That's funny, the head of the board of education.

G.S.: Isn't that funny? Not so funny.

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A.M.: You said an interesting thing. You said that if you could conclude [unintelligible] that Judy Johnson really was lying... would you then believe that Ray is innocent?

G.S.: That could possibly be. If, in fact, Judy made it up, then automatically I'd have to look very skeptically on all the evidence against Ray.

A.M.: That's fascinating.

M.M.: It is fascinating. But I understand why you don't make that quantum leap and that's because you've never been able to think divorced of how you entered the case. You see, we can look at it very coldly and say let's look at Judy Johnson.

G.S.: Your perspective is different than mine. That's true.

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G.S.: Supposing Judy is cuckoo all along, and—wait. Let me think this out with you. She's cuckoo all along, okay? She goes to Jane Hoag as lucid as the three of us.

A.M.: You read her statement at that time?

G.S.: Yeah. And it's normal. It says my kid was molested. It says that Ray did it. Take the kid to UCLA. They say the child was molested. Obviously, the conclusion is Ray did it because of the statements to the mother and the physical findings. Then the other kids come forward. We know that Ray molested S— so we want to find out if Ray molested other children. Okay, meanwhile Judy starts flaming out so you have to start looking at everything Judy says with distrust.

M.M.: Right.

G.S.: But as a prosecutor you feel that because of the medical evidence you know that Ray or somebody molested S— and you believe it's Ray because Ray is the one man who has access to S—.

M.M.: But now when Jane Hoag interviews S—...

G.S.: I have to make several conclusions from my opinion: one is that a man in fact molested S— and not a woman; two is that somebody in fact molested S— although, wait a minute—see, I don't know. It really begins to crumble—the entire foundation of the case begins to crumble without her. Now I can see that.

A.M.: See, that's exactly what I was driving at.

G.S.: That is really amazing. That's amazing. That the very, very thing that started it was fallacious.

M.M.: It's suspect, it's the only thing that is really suspect.

G.S.: See, if you take Judy out of it then you would have never gotten to the [Children's] Institute [International] in the first place.

A.M.: Exactly.

M.M.: And you had all these suggestive questions.

G.S.: And I don't mean—you wouldn't have gone to the Institute, but the Institute wouldn't have gotten the facts that Ray has molested S— and a whole bunch of other kids.

M.M.: Two hundred letters wouldn't have gone out and you wouldn't have had hysteria.

G.S.: Well, I'm not going to sleep tonight, I can tell already.

II. THE D.A.'S VERSION

Stevens's introduction to the case; his transformation from absolute belief in guilt of defendants to complete disillusionment.

G.S.: The press influenced this case to proceed when it did.

A.M.: Let's talk about that. In which ways?

G.S.: Wayne Satz got the information about the McMartin case because he was at CII doing an unrelated story.

M.M.: When?

G.S.: September, August 1983. Someone at the Institute said, "Hey, we are getting reports out of Manhattan Beach that there's a school down there that is being investigated for abusing children."

M.M.: February 2 he broke the case. It was just before the grand jury, right?

G.S.: Manhattan Beach was already beginning to become a beehive of activity because the letters had gone out. The letters were really the first thing that started the ball rolling. People would start complaining to Peggy—she received a tremendous amount of calls, everyone at the school did. And they would complain to the police department. Everyone would say you've got to arrest these people. I see them in the markets. I see them here. I see them there. Ray gets arrested and then released for lack of evidence. Wayne breaks the story, and the investigation is still continuing. The letter goes to the Institute to commence physical examinations. The public wanted immediate action. They wanted arrests. They wanted the school closed down. They wanted the heads of those that had abused their children. More and more kids started coming forward. We didn't know it yet, but the seeds had already been planted regarding the germination of information [among the kids and their parents]. In that period of time—about five weeks—there was tremendous pressure being placed on the district attorney. Wayne Satz was downtown all the time, wanting to know when is Mr. Philibosian going to do something about this case? All the press coverage got the parents into such a frenzy.

Philibosian finally decides we're going to present it to the grand jury. Jean Matusinka and Eleanor Barrett are instructed to put together as many kids as you can, take them to the grand jury and let the grand jury make a decision about whether or not we have enough to go to trial. He figures that in the time it's going to take for the case to go to the grand jury and eventually get to trial, we'll be able to do a complete and thorough investigation, and everything will be kosher. Evidence will be uncovered.

A.M.: Right, right.

G.S.: The thinking wasn't really

flawed, except when you know how much really had to be done. And the reason so much had to be done was because this case involved a lot of looking with no finding. It wasn't like going out and interviewing x number of witnesses in a murder case. Here, the leads turned to leads, and everything turned out to be dead ends. Nobody could have known that at the time. The only information was being brought to the D.A. through the Institute. So Jean and Eleanor take these kids to the grand jury. The grand jury returns an indictment. Philibosian says, "Okay, fine. We've let them make the tough decision about whether to file, and the case is filed." And then everyone gets rearrested. The warrants go out.

A.M.: When was Philibosian defeated?

M.M.: June 6.

A.M.: Which is the eve of the preliminary hearing, right?

G.S.: Right. That is one of the bigger coincidences of the year.

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Stevens is asked to join prosecution team along with Christine Johnston and Lael Rubin:

G.S.: All of the defendants were languishing in jail without bail except Mary Ann and Virginia, and their whole lives were crumbling as the press is running story after story. I left on the tenth of April for San Luis Obispo to do some work for the D.A.'s office on something unrelated to McMartin. My wife and I decided I should take the case. It would be a good career move. It's a special case, a tremendous amount of publicity. It would be good for me as a prosecutor. I get back in town on Friday the thirteenth. The first thing I did was go through boxes of stuff: all of the search warrants, all the preliminary transcripts, all the police reports they had. My job was to familiarize myself with everything that had been done up to that point. It was difficult because there were a lot of new fires popping up all the time. People were calling with all kinds of problems... the phone was ringing off the hook.

M.M.: What kind of things?

G.S.: Parents calling up with leads like "I heard from Mrs. Green who heard from Mrs. Brem that her daughter was at the McMartin school." There was a lot of that going on. The whole weekend was spent reviewing the transcripts and I distinctly remember being totally aghast; kids don't make up things that they have no firsthand knowledge about. I became an instant expert at child

abuse, [not] because I did a tremendous amount of investigation, but because I believed what I was told by prosecutors who were working child abuse. Kids don't make up this stuff. How are they gonna know that a penis goes into a vagina? How come the kids waited so long [to talk]? Because of the threats. That terrible guy threatening all these kids, bringing all these animals to school and cutting their ears off and stuff.

G.S.: The biggest mistake the D.A.'s office made [was] in putting Lael and Christine and I on the case. All three of us are good trial lawyers. All three of us are energetic and hardworking. We all have our pluses and minuses, but we all have one big minus. None of us had enough experience to supervise a case of that magnitude. And [Lael Rubin] fought tooth and nail against the D.A.'s office putting someone in the case on top of her. The D.A. wanted to put a third lawyer on the case and Lael had told me, "I'm not going to accept a grade four lawyer on this case." And I'd been telling her, "We need a grade four. We need somebody with more experience than us, because it's just too big of a thing." And she says, "I won't work under anybody on this case." And I said okay.

M.M.: This was to be her moment.

G.S.: So, that's the unwritten bottom line. I thought that was [putting] personal interest over office interest. This was gonna be her case.

"Kee MacFarlane could make a six-month-old baby confess to being molested."

M.M.: Isn't that illegal?

G.S.: No.

M.M.: Inappropriate?

G.S.: She felt she was qualified to handle it. I didn't feel either one of us was qualified in and of ourselves to handle it. Top-notch veteran trial lawyers in the office would tell me "if I had had this case from the beginning, there is no way I would have filed unless I sat down and watched every single one of those tapes first."

M.M.: Jesus.

G.S.: And I thought, you know something, you're absolutely correct. And we didn't. The case was filed and there were tapes that we hadn't watched. And that was wrong.

In December 1984 Reiner, the new district attorney, is briefed on the McMartin case:

M.M.: What were those first meetings like?

G.S.: Just briefing him on the case, what kind of evidence there was and what we were doing, what needed to be done, that sort of thing.

M.M.: In December what was your point of view?

G.S.: No point of view. The state of the evidence was discussed. There was still a great deal of investigation that needed to be done.

M.M.: What was your position at the March [1985] meeting?

G.S.: That was the first meeting where I really opened my mouth and said that I really didn't have a position. I honestly didn't know what to make of the case at that point. I was sort of torn between two different masters. One of them was telling me I'm the prosecutor and that this case was brought in good faith and therefore there must be something to go on, otherwise we wouldn't be going on it. And the other side of me is saying that it's totally unfair in a case of this magnitude to make people who you don't have a case against sit and suffer as long as these people suffered.

M.M.: What testimony started turning you around?

G.S.: The tapes. It wasn't that I watched the tapes and said oh, my

God, this case is terrible, it shouldn't be prosecuted. I was watching, but slowly you begin to develop an opinion.

M.M.: You mean as the testimony was coming out in court?

G.S.: Yes, compared to what the kids were saying during prior statement, coupled with problems of the videotapes and with the fact that there was absolutely no corroboration, which was uncontroverted.

A.M.: Did you have doubts at the opening of the prelim?

G.S.: No. I didn't have any doubts at all. They were all guilty and we were going to have a heck of a battle, but in the end we'd prove it.

A.M.: What was the strongest thing [about the case]?

G.S.: The volume of kids, the similarity in the statements. See, D.A.'s are trained to believe a lot of what police say. And the police were positive about McMartin. You have to presume that a victim of a crime is not going to lie about it.

Stevens explains how the D.A.'s office works and why the case wasn't dropped:

G.S.: One thing the D.A.'s office has always prided itself on, whether or not you have Philibosian or Reiner in, one policy is not changed and that is you give a very, very wide amount of discretion to a trial lawyer who is in charge of the case. Whether it be little Joe, who goes down and steals a car or whether it's the Night Stalker case. And that is regardless of any political fallout that comes of it. Now, if Lael puts on a real good argument why she wants to prosecute, the D.A. is going to give a tremendous amount of [weight] to that.

M.M.: Was it at this March meeting that Reiner said [the case] was overfiled?

G.S.: Yeah. He said the case was overfiled, underinvestigated, that the grand jury should not have indicted Virginia.

M.M.: What did you say in this meeting?

G.S.: I was real ambivalent. I knew the case had problems, but I also knew we had other considerations to look at. We had a hounding press corps on us all the time. We had a parent group that was so outraged they were just about ready to hang anybody who said one negative word about the case. And let's face it, I really felt that politically it is a tough thing to decide to drop this case because that would be a very unpopular decision. We had an obligation to be fair, and we had an obligation to see that justice is done. Had this been Joe Blow going down to Sixth and Main and stealing a car, the case would have been dismissed. But because it was McMartin, we kept plugging. That was really a poor attitude, even on my part. I was just looking at it very realistically and not as I should have according to the D.A.'s policies.

M.M.: Emotionally at that moment you were feeling what?

G.S.: I was feeling [that] if we got a conviction it would be because the jurors knew that where there was smoke there was fire. And not because we had any tremendous amount of overwhelming

evidence against anybody.

M.M.: Did you worry that you would lose the case at that point?

G.S.: It was something I had considered, but I never feared that. I felt that if a case is lost at jury trial, then the obvious scapegoat is going to be the jurors who didn't understand the case.

M.M.: [What was Lael's position at this meeting]?

G.S.: There was no equivocation in her voice. She [favored] going forward with all seven. And I remember exactly what she said. She said, "I will never dismiss this case against any one of the defendants, and if this office decides to dismiss against anybody or any of the counts, they will have to have somebody else do it because I won't."

M.M.: And why was that? Because she had become the champion for the parents?

G.S.: Yeah, and she looked at McMartin as her own personal slingshot to stardom. You know, whatever her political ambitions are, I don't know. Whether she wants to just rise real quickly in the D.A.'s office or whether she has aspirations to be a judge like [one of the defense attorneys] seems to believe.

M.M.: What was Christine Johnston's position?

G.S.: She felt there wasn't enough evidence to prove guilt beyond a reasonable doubt on any of the women. That was a real bold approach. Why would somebody who wanted to dismiss the case against the women continue working for the prosecution for another nine months before that end was finally met?

M.M.: Why do you think?

G.S.: Well, I think she felt an ethical split. In other words, she could ethically prosecute the case through [the] preliminary hearing because the burden of proof is so different. But once you go into trial, where the burden of proof is beyond a reasonable doubt, you can't do that. You know, you can't prosecute a case you don't personally believe in. At that point I was so unsure of what we ought to do. I felt that we ought to just continue with our investigation, see how it played out for now and not rule out the possibility that we may have to eat it later.

M.M.: Did you know before the meeting that this was going to be her recommendation?

G.S.: Sure. She and I had discussed that for a couple of months before the meeting. We sat around and dickered over this and that.

Basically, she came right to the issue, the tapes.

M.M.: She said what?

G.S.: "Well, my God, Glenn, can you believe the way these kids were questioned? That was her analysis of it as early as December of '84.

The prosecutors originally filed redundant complaints against defendants. The effect was to screen, in some legal way, the defendants from a reasonable chance to make bail—get out of jail—as was their right:

A.M.: Did your boss ever discuss that double [complaint] with you?

G.S.: Yeah. He wanted to know [why we had done it]. We told him we were proceeding on both complaints. It ended up being a blessing at the time because we got to keep everybody in jail.

A.M.: But it wasn't cricket, right?

G.S.: No, it wasn't cricket. You know what really wasn't cricket—the real tragedy—was the defense knew exactly why we had two complaints. And yet Judge Aviva Bobb would never allow them to go into that issue. It meant the difference between the defendants bailing out of jail and staying in jail. And she never allowed that. Because she screwed up in setting bail. And she would never reconsider that and figured it was easier—and this was really unfair—just to drop everything in the lap of the judge [Superior Court judge Ronald George] that set it at no bail so she wouldn't have to deal with it. That's a very, very bad posture for a judge to take in a case. If the defense can prove that the complaint is a sham and that the only reason that it's even in existence is to keep people in jail and the prosecution never intends to go on it or never intended to go on it when it was filed, why shouldn't that come out in court? And the judge never, never asked me. I can't tell you how many times I was in court when that issue was raised by [one of the defense attorneys]. He would say, "Judge, ask Mr. Stevens why there are two complaints." And I sat at the end of the table with a smile on my face because I knew exactly what he was saying. And he was right. And [the judge] always said, "You're out of order. Let's go on to something else."

A.M.: How serious is that? Is that grounds for a dismissal?

G.S.: No. It may not even be an abuse of her discretion. It's just not fair. She should have at least given them an opportunity to be

heard on the issue.

A.M.: But she was stupid, right?

G.S.: Yeah. This is also important. I was subpoenaed to be a witness.

M.M.: By the defense?

G.S.: Yeah. They wanted to know that the two complaints were just bullshit and it was mainly done to leave Peggy Buckley in jail. And if I had been allowed to testify, I would have said that.

A.M.: Did it bother you at all that here was this woman, Peggy, in jail? You were stalling and this woman's rotting in jail?

G.S.: No, it didn't bother me.

A.M.: Well, that's a good answer.

G.S.: The question you're asking me is did it bother you that you were prosecuting innocent people?

A.M.: For months, you weren't prosecuting, you were stalling. Right?

G.S.: Yeah, and we wouldn't have been prosecuting her at all if we didn't think she was guilty and if she is guilty, she belongs in the slammer.

A.M.: She doesn't necessarily belong in jail without bail.

G.S.: What difference does it make?

"She enjoyed having herself held out as a child therapist and an expert when in fact she doesn't have a license other than a driver's license."

A.M.: It makes a hell of a lot of difference to her.

G.S.: Yeah, but I'm not her. I was the guy that wanted to keep her there.

A.M.: Did you believe that she was threatening people?

G.S.: No. I never believed that for a minute. I thought she was abusive to kids. So, she should be in jail. It's just that simple. I'm not going to sugarcoat my feelings at the time.

A.M.: I don't want you to.

G.S.: She belonged in jail. I didn't lose any sleep over her being in jail. I did later. After I started having my doubts, it began to really bother me that she had spent as much time as she did in jail. My God, I mean, anybody who isn't really guilty doesn't deserve to be even a minute in a courtroom, let alone

in jail.

A.M.: Who thought that she was guilty at the Reiner meeting [in March]?

G.S.: Peggy? By the March meeting, just Lael thought she was guilty. I thought we should take a wait-and-see attitude until we did more research and more analysis, and Christine thought she oughta be kicked loose immediately. And she stayed in jail. This was the part that horrified me. From the time we really had a consensus that the case against her was bad, weak, she stayed in jail all those extra months while we fiddle-faddled around with the case.

M.M.: What did Reiner say about that?

G.S.: We didn't discuss it with him.

M.M.: Did Reiner understand the implication of Peggy's being in jail? Did Lael make it clear to him that she should be out?

G.S.: I don't know. No. Lael never made a pitch that these people should be out. Christine and I were the ones that were really bearing the primary frustration. We were the ones that had to go to court every day and see them in their jail habitat.

M.M.: Do you think Rubin told Reiner everything she knew about

the case?

G.S.: No.

A.M.: She lied to Reiner?

G.S.: She didn't lie to Reiner, she's real good at pussyfooting around facts.

M.M.: So, which issues didn't he know about?

G.S.: I'm not sure. I wasn't party to all of the Reiner/Rubin conversations. The very first time Reiner wanted to meet, it was just with Lael. He wanted a complete overview of McMartin. This was right after he took office. And one of the things that we specifically asked Lael [was] did you tell him about the problems that we were having? And she kind of looks away and says yes. And I said, What did you tell him? Well, that more investigation needed to be done. And I said well, did you ever say anything to him about the lack of evidence? Well, she did tell

him that there is no direct evidence that corroborates the kids. But what she didn't tell him was how the other kids were uncorroborating each other, because of the inconsistencies and also the problems we were having with Kee MacFarlane as a witness. I don't think that Lael really impressed that on the boss.

M.M.: He didn't know what was really going on?

G.S.: He only knows what we tell him, and I don't feel she was being completely candid with him. And there's a reason for that. It's because she really wanted to go...

M.M.: ...with the case.

G.S.: It was a real rough time, that last summer. My morale in the case was just the lowest it had ever been and really degenerated. Everything was really coming up nothing, the investigation was finished. We had 60,000 pages of discovery to turn over to the defense, and all of it boiled down to zero.

A.M.: Did you feel...

G.S.: I felt like I did what I had to do as prosecutor and that is to really do a thorough investigation. I felt—not guilt—I felt sorry for some of the weaker defendants, Mary Ann, Virginia, Babs, Peggy Ann. I felt sorry for them, the fact that they had to come to court day after day after day and be subject to the kind of humiliation that they were subject to.

G.S.: When I first started out in this case, I honestly felt we were dealing with seven people who ought to be thrown in prison for life—they crawled out from under a rock somewhere and they ought to be treated like they did. I continued that belief through my early study and documentation of the evidence. It wasn't until we started throwing these kids up on the witness stand and watching the little Indians testify without any effect...

A.M.: How did it change you?

G.S.: It made me realize that one of the things I valued very deeply is that the prosecutor not only has to be a prosecutor, he has to be a defense attorney. If you've got somebody that you really feel the system is shafting, you have an obligation as a prosecutor to stand up and say, judge, I think this person is getting a bum deal and we want to dismiss the case, or we want to drop the charges and add lesser charges. That's what prosecutors do. I've never prosecuted people that were innocent until I got involved in this

case. The case had gone on for so long when anyone with any brains at all had to have seen that the case had tremendous problems. Whether or not they're guilty doesn't make any difference; the evidence was so bad, and so weak, that we really had to stop and decide are we going to go through with this thing or are we just going to cut bait right here and now? That never happened. The fact that the case got so big was as much my responsibility as anyone else's. I could have said hey, Lael, there's no reason we need this many counts. But to tell you the truth, public pressure is something I was very conscious of. We were getting such tremendous press. We were winning those days and when the home team is ahead, they try and score more runs. And that's what we were doing.

M.M.: Show-offs.

G.S.: Yeah. [We] had a very, very big interest in getting as much exposure as we [could] for future use. Everybody used this case for their own personal gain. I was no different in those days. McMartin was my ticket to something bigger and better. And it never occurred to me that I would see the stop sign there at the end of the street saying hey, this case isn't what it started out to be.

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A.M.: Let me ask you something very important, Glenn, because I think you emerge as a real hero out of this. What would have happened if you hadn't [expressed your doubts about the case publicly]?

G.S.: It's hard to say. I mean it was quite obvious to people that the D.A.'s office was not unified. And it was really important that the office become unified either by dismissing charges or going forward.

A.M.: He did a really brave thing.

M.M.: Was it very hard?

G.S.: It was just the time. I would have gone along with it if the prelim had moved a little quicker.

M.M.: [Laughter.]

A.M.: No. I don't believe that. You're too nice a guy.

M.M.: You're too nice a guy, really. You're a bad liar.

G.S.: That's really true. That's why I confessed. . . .

M.M.: I don't think you could live with it.

G.S.: Because I couldn't live with it.

III. THE KIDS' VERSION

The basis of the McMartin case rested on videotaped interviews in which children made shocking and increasingly unbelievable claims. Stevens finds that the children change their stories drastically every time they tell them.

G.S.: This is the only case I've ever been involved in as prosecutor where I'm not working from a position of strength. In every other case, the prosecutor has their act together. They've got all [their] witnesses, all their ducks in a row, and they go into court and put their evidence on, and they're confident and secure in knowing that this is going to prove a conviction. In McMartin it was not the case. We were forced to start, because we really were fumbling for time. We were proceeding with this preliminary hearing from the beginning without being ready to go. And when T— hit the stand it was because I was the only one that had a child ready to testify. So I put T— on. And while I was doing that the second child was being made ready. The bottom line is, we proved that we never knew what was going to happen on the stand.

M.M.: So how much time did you spend with T— in preparation?

G.S.: Oh, hours.

M.M.: You went over the story with him. . . .

G.S.: Absolutely.

M.M.: Would the story change for you as you were even questioning him?

G.S.: The story would not only change for me, it would change in comparison to what he said on the tape and in prior interviews.

M.M.: And it was getting more fantastic with each telling?

G.S.: It was just getting different. It was getting confusing. It was getting contradictory.

A.M.: Let's just go through these witnesses, because they'll be some of the biggest scenes in our movie. So first, T— comes on. He's confident, right?

G.S.: He's good. It's as if he could have the look and feel of a witness that actually experienced the things he was testifying to and it would have fooled me. But it's what he says that begins to cause some problems. Let me give you

"I've never prosecuted people that were innocent until I got involved in this case."

an example. His CII interview: he says the Naked Movie Star game was played by every child at the school except for him. He says everybody played, but not me. Well, that can be explained away if you're a true believer by saying that they're embarrassed about it and they're shy and they're still afraid of the teachers. I mean, that's something that is used to explain everything—the aspect of fear.

A.M.: Right.

G.S.: It's a wonderful tool, you know, to say hey, this child was terrorized. Why would you expect him to be totally forthright? He says everybody played except for him. But at the grand jury he changes again. He says the kids got naked and had to do somersaults. So he's increasing the activity. Now, the grand jury automatically becomes inconsistent with the CII interview. At the Institute he was very adamant about the fact that he wasn't involved. At the medical interview he says the teachers are naked, so again another element [has been added]. When I interviewed him on July 10, 1984, Ray and Babs are directing the whole thing. And Ray and Babs also take pictures with a Polaroid. But now he says that the teachers had their clothes on. That's inconsistent with the grand jury. You see what's happening here?

A.M.: Right.

G.S.: Okay. And he tells me his sister taught him the Naked Movie Star rhyme.

M.M.: Before, he said he learned it at the school.

G.S.: Exactly. He said that he learned the Naked Movie Star rhyme at the school in previous interviews. So it's like he's working in and out of all kinds of different stories.

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G.S.: I asked all the kids during my interviews with them if they were afraid of Ray, if Ray terrorized them, if Ray frightened them. They all said yeah, he did, and so did Peggy, and Betty was mean to kids. Well, Betty was mean looking, but that doesn't make her a criminal necessarily. Anyway, they would all say that she was mean to the children, but none of them would appear to be afraid of her on the witness stand. Now, if you were a true believer, you'd say

well, why would they be afraid on the witness stand, there are bailiffs around, it's in a courtroom and the kids aren't going to but you'd still. . . .

M.M.: You'd still see their reaction in their behavior.

G.S.: Exactly. Anybody that's terrified of someone else, even though they know in their mind—and I don't think there's a difference between children and adults—if you know in your mind that there's no way that person can hurt you now, you're still going to have in your mind a flashback episode to terror that happened. Something caused you to hate that person.

A.M.: They'd cry, they'd do something.

G.S.: The only child that broke down and cried was the one that was caught in giving completely contradictory versions of events, not crying because he was looking at Ray Buckley, a man who terrorized him.

M.M.: He got caught lying, he got caught lying.

G.S.: Yeah. I thought that was really important.

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G.S.: This is all the cross-examination of N— in court, under oath. His typical day at school went as follows: first he would do a flag salute, then they would go to class and do a project or show and tell. Then the kids went to the cemetery. All the kids would go with the teachers to the graves. The teachers would tell the kids to start digging.

A.M.: How old were they now?

G.S.: Three-, four-year-old kids. Kids would use pickaxes.

A.M.: Was this ever used in court?

G.S.: Yeah, this came out in court. It was the most embarrassing moment of our lives.

A.M.: The pickaxes were bigger than the kids, right?

G.S.: Can you imagine? You know what it looked like? Hi ho, hi ho, off to work we go. . . .

M.M.: Did you ever lift a pickaxe? They're so heavy you could barely pick it up yourself.

G.S.: Anyway, after they dig down six feet, there was a coffin.

The teachers would be just standing around—they would never help the kids dig—~~never~~. The kids are only three feet tall. They would get into the hole. Now, how do you get the dirt out? Right? Well, he's got an answer. They used to put the dirt into their pockets and carry it out of the hole.

A.M.: I have to ask you...

G.S.: Wait, you can't write better humor. The casket was brought up by use of a pulley. Now he introduces the pulley because it was the only way to get the casket out and he knows it. N— says two pulleys and two ropes were needed at the grave site in order to pull the casket out of the ground. The teachers aren't helping. After the casket was pulled out of the ground it was opened. One of the teachers would say, "This will happen to your parents if you tell about the abusing." And *the abusing* is his word. The teachers would point to the body. One of the teachers cut a few parts out of the body after it was brought up, assuming it had been brought up. They used knives to cut the body—the kids never cut the body. After the teachers cut the body, they put the body back into the casket. The kids were there and buried 'em up. Sometimes when the body was cut, it would start bleeding. N— said the teachers would help the kids get the body back into the casket. The teachers never helped the kids put the dirt back over the body after the casket was put back in the ground. The kids would bury up the casket, put the grass back.

M.M.: Six feet under.

G.S.: Six feet under. After they left the cemetery, they were taken by the teachers to a house. He couldn't describe the house, [but there] the kids would take showers. Each time he would get cleaned up. The teachers took all the clothes, rinsed them off in the shower and placed them outside in the sun in order to dry.

M.M.: This never happened in the winter in California, I'm sorry.

G.S.: How long does it take to sun-dry shoes?

M.M.: Three days.

G.S.: Two to three days. I used to beg my mother to put my shoes in the dryer so I could wear them...

M.M.: Right.

G.S.: I mean, you know, it's not a joke. It was my witness. I called him to the stand. I had the responsibility of interviewing witnesses before I put them on

and having some idea of what they were going to say when they got on the witness stand and he pulls this on me.

A.M.: What did the judge say?

G.S.: Well, the judge didn't say anything. She was actually sitting there, stone-faced....

M.M.: Judge Bobb, right?

G.S.: Judge Boob. God, she was real stupid....

A.M.: Did she believe it?

G.S.: No, she didn't believe it.

A.M.: So, what did this judge say, anything?

G.S.: No, no. She admonished [one of the defense attorneys] not to chuckle.

A.M.: What did the spectators do?

G.S.: Well, naturally, the press were on me like vultures on a carcass: "Mr. Stevens, do you believe the testimony, do you believe the strength of the testimony of the witness you just put on the stand?" What are you going to say if you're me? I couldn't lie to the press, I mean, I just can't do it.

A.M.: So what did you say? What did you tell them?

G.S.: I said that yeah, some parts of his testimony are inherently incredible, but you have to look at the whole picture. Isn't that the best answer I can come up with? You have to look at the whole testimony to understand these kids were terrorized, and they're not only physically abused but they were psychologically abused.

G.S.: B— was interesting in [this] respect. He talked about going to a house where he was locked in [a] closet and pictures were taken while he was naked. And there was a camera there with a light that shined into a big umbrella. I'm a D.A., I see this and I say this is fantastic.

A.M.: Right.

G.S.: The child's being used for pornography, which is like everything else in the McMartin case. The wind was taken out of our sails with that sort of an allegation, and you know why? Because B—, it was developed on cross-examination, modeled clothing for The Broadway department stores.

A.M.: Oh, Jesus.

G.S.: What kind of lights do you think they used? Lights that shine into big umbrellas.

"I couldn't ignore the fact that we'd never be able to convict these people. I was just a big chicken, too, to go into Reiner's office... and say I want you to dismiss the McMartin case. I was too scared to do that."

G.S.: [We had to pull B—] from the case because of the bizarre statements he made. Listen to this. He went to a farm and to the desert in an airplane piloted by a stranger. The airplane ride was scary. The pilot did loops and steep banks to scare the kids. At the farm they were met by a farmer, who threatened the kids by shooting a chicken, a pig and sheep. This happened on more than one occasion. Okay, the farmer would then drag the dead animals away... at the farm where the kids played Naked Movie Star and were molested. They were given cookies, drinks and were allowed to watch TV. Then they returned to school by plane. On the desert trips, the plane would [be met] at a landing site—not an airport—by a stranger in a pickup truck. He would shoot jackrabbits while the kids watched. After killing animals, they would all walk into a nearby diner, where Ray would touch kids in the bathroom. The stranger stayed in the diner to eat. They would then return to the school by plane.

A.M.: And this all took place in an hour and a half?

G.S.: [I'm] assuming it took place in a whole day. B— also describes secret tunnels under the school. We checked this out. We pulled up the floor and it's all concrete. Mary Ann, Peggy and Ray would take the kids down in the tunnels. The walls were sandy, and everyone had to crawl. Can you imagine Mary Ann inside a tunnel? Once inside, a larger room. Spiders were shown to the kids and they were told that the devil is good and God is bad, a classic statement, just classic. The game of Horsey was played in the tunnels. Can you imagine Mary Ann playing Horsey inside of a tunnel?

A.M.: Or Ray.

G.S.: Right. Good point. All teachers had to take their clothes off to play. Now, you got naked Mary Ann inside a tunnel. A dirt tunnel.

M.M.: That's what Betty Rador's husband said: "You, naked!"

G.S.: The tunnel was locked up

with the secret locks. If a kid went in there when he was not allowed, he would get beaten by Peggy and Ray, and B— says he went into the tunnel once and they took him and they beat him. The kids who were beat-up looked bad, and they had blood all over. Their clothes had to be washed before moms came to get them. Every day, Ray would take different kids on an airplane ride to the mortuary, the house, and would also play naked games at the school.

A.M.: Now, was this presented to the court?

G.S.: No.

M.M.: Now, they registered no emotion telling you this at all. It was an absolute game.

G.S.: That's what I'm thinking when I think back. At the time, I would have never picked it up.

M.M.: Another thing I noticed from what you told me was that the smarter kids gave better stories.

G.S.: Yes.

M.M.: That you could tell who was smart and who was not, right? The better [the] imagination the better the story, right?

G.S.: That's right.

G.S.: Jane Hoag put together a lineup. There were so many possible suspects—30 to 40—they needed filler. In each six-pack of photographs, there is one suspect in five people that are just filler.

A.M.: Right.

G.S.: She needed pictures that looked similar to the guys so she puts [L.A. City Controller James] Hahn in one and [actor Chuck] Norris in the other. Damned if they didn't pick it up in court and give the kids the six-pack of photos and say this is the guy, isn't it? And [the defense attorney], of course, he has to turn to the press and say may the record show that he has identified Los Angeles City Controller James Hahn as somebody that was at the McMartin school, and all the media is sitting there, just furiously writing this down.

A.M.: In a reasonable court, with a reasonable judge, that would be enough to blow the whole god-damned thing out of the water, right?

G.S.: That's a very difficult question to answer. It really is, because judges have to stand election. A judge is going to say hey, I don't believe a word this kid is saying, but I'm going to let some other judge make the tough decision.

A.M.: Uh huh.

G.S.: I think what Aviva Bobb should have done is completely discount the testimony of [B—] and she didn't. That was the mistake she made. It wouldn't have blown the whole case out of the water, but she could have definitely found something to blow the testimony of [this child].

G.S.: There was no rhyme or reason for the inconsistencies. And even though you believe the kids were molested, you as a prosecutor still have an uphill battle in any case if you have to give explanations for your case. The prosecutor's case should never have to be given an explanation. It's got to stand on its own. It has to leave you with the irrefutable conclusion that what the witnesses are saying is true, that the person is guilty of the crime charged. And we could not do that.

M.M.: So now what was happening?

G.S.: We're having to explain too much. The press is starting to get all over us because the kids are just too inconsistent.

M.M.: Right.

G.S.: You know, this is all coming out on cross-examination. It's becoming apparent to everybody that all of the hype and glitter that we promised is just not coming true. The kids are falling apart. The only thing they're doing with any great success is that they're all able to testify in front of the defendants. They're doing great.

M.M.: They're havin' a good time.

G.S.: They're having fun.

M.M.: When I read that what scared me about it is they don't seem to be having a trauma. You know what I mean?

G.S.: That's right.

M.M.: This doesn't seem to have marked them.

G.S.: No, it hasn't.

M.M.: Well, if you read it with a discerning eye, you have to say that they only get upset when

they're caught in a lie.

G.S.: Yeah.

G.S.: Spencer Eth testifies. We had to lay a foundation that the kids were traumatized. Dr. Eth is wonderful. He's such a good witness.

M.M.: What did he say that made him so great?

G.S.: Oh, he talks about if a child is traumatized, and if that child who is traumatized is put in a situation where he is face to face with the source of the trauma, the child will be re-traumatized on the witness stand, much like Vietnam veterans when...

M.M.: You know that's a crock of bull, right?

"Everything was really coming up nothing, the investigation was finished. We had 60,000 pages of discovery to turn over to the defense and all of it boiled down to zero."

G.S.: That's not a crock of bull. The crock of bull is that none of the kids were, in fact, traumatized. That's what makes it a crock of bull. What Spencer Eth is saying, I think, is scientific and psychiatric fact.

M.M.: He proved something for the defense. Because he gets on the stand and he says if the child is in the room with the guy who did it, they'll be re-traumatized, right?

G.S.: If somebody experiences an event and that event causes them emotional and psychological trauma, they're upset and they manifest it through their behavior. If they are later on put in an area or a room or an environment where they are face to face with the source of their original trauma, they would suffer what is called re-traumatization.

M.M.: But the kids at McMartin were never?

G.S.: Well, that's what Dr. Eth said. The whole thing, what we were trying to prove, is Dr. Eth is going through what happens with re-traumatization. Then Kee MacFarlane, who is going to be the witness who says all of these kids are traumatized. Therefore, you can plug Spencer Eth's theories into McMartin and arrive at the need for [testifying on] closed circuit for all the kids. It would have been a neat trick. But Kee could not prove, or we could not prove through Kee, that these kids were

all traumatized.

M.M.: But the kids weren't traumatized anyway, as you've admitted.

G.S.: Although she says they were. No, they weren't. No, they weren't.

M.M.: Then they weren't molested by these people or they would have been traumatized. The corollary has to be true also, right?

G.S.: His theory is right, but it had no application for the case. It ended up not having an application because none of the kids suffered any trauma.

A.M.: Wait a minute. What do you mean none of the kids suffered any trauma?

M.M.: None of them suffered a trauma by seeing Ray again.

G.S.: Yeah.

M.M.: He said they couldn't see him again because they'd been traumatized.

G.S.: What he said is if Ray, he says if. Now he never said that Ray traumatized these kids. All he was saying is if Ray is the source of all the pain, then you can't put the kids in the same room with the guy.

M.M.: They'll go crazy.

G.S.: Because they'll go crazy and they'll have a complete relapse.

A.M.: But they didn't.

G.S.: They didn't.

A.M.: So then Ray's innocent.

G.S.: No, then they weren't traumatized.

A.M.: What do you mean?

G.S.: They could have been molested, but they didn't suffer any trauma as a result of it.

G.S.: What happens is generally if somebody is sexually abused, misused by an individual, it's going to have some negative impact on them emotionally and behaviorally. They're gonna withdraw, they're gonna revert to baby talk. They're gonna start bedwetting again. They're gonna flunk classes

in school. None of this happened to these kids.

M.M.: Right. One thing I read on the tape: it said that as the child started to confess she went into the fetal position. She cringed, went into the fetal position and then was very unhappy that she had confessed this to her parents and was afraid she was going to die, be killed.

G.S.: Yeah. Supposing that I tell you there are two ways to look at that?

M.M.: Okay.

G.S.: One way to look at it is that the child was so traumatized by reliving the horrible event that occurred that this child is experiencing emotional trauma in quotes. And that means they're reverting to emotional trauma, reverting back to the womb days.

M.M.: Back to the womb, right?

G.S.: The other way to look at it is we're all programmed by our parents that we shouldn't lie about things. And she could just be manifesting some sort of guilt feelings.

A.M.: That's what it sounds like to me.

G.S.: Well, Abby, you know you might be right. And I think with some of these kids you are. It's gonna be impossible for us to separate which kids actually were abused and which ones weren't.

G.S.: And you want to hear the funny thing? Kee MacFarlane has always maintained that out of all the prosecutors, I was the best one with the kids.

IV. KEE MAC-FARLANE'S VERSION

The case rested primarily on testimony elicited by MacFarlane; Stevens identifies fundamental flaw in her techniques, later discovers she has no credentials.

M.M.: Tell me again how it all started with Kee MacFarlane?

G.S.: She was necessary because the volume of kids who started coming forward at that point was so great for a small department like Manhattan Beach P.D. And so Kee was...brought in. They figured we're going to send the kids over there because they're better equipped to handle it and

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McMartin

(continued from page 65)

to do the interviews and tape record them and if they get kids that are abused, then a police report would be taken. That was the general theory of why it went that way.

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M.M.: Your first impression of Kee MacFarlane.

G.S.: Very impressed. Sincere, very honest. She was introduced to me as an expert in what she did. I believed in her techniques. I believed in what she was doing. I didn't believe that the D.A.'s office would ever employ somebody to do this sort of work without them being really of impeccable qualifications. I thought that Kee was going to be the person that we could put on the witness stand and explain away all the problems that we had with the videotapes.

A.M.: And she probably was a good witness, right?

G.S.: Yeah. I don't believe that what she says can be believed by somebody who's reasonable and who has an open mind now. Then I believed it: I believed that she gave such good explanations for everything. She sat down and explained it to me. She says [that] it's necessary to get the kids to relive through the puppets what happened to them at the school many years ago. The reason we use the puppets is because the children are just too terrified to talk about the events themselves. And so they use the puppets because that way in their own minds it's not like they're saying it. Okay?

A.M.: The puppets are saying it.

G.S.: Yeah, that makes sense. We as adults know that the child is talking. It's not the puppet. But the child doesn't feel so bad. The child doesn't feel like they are disclosing this big secret that Ray Buckley threatened them with death if they disclosed it. The puppet is the one that's talking about all of this stuff. And it's very, very neat. And it's a good explanation. At this point it's totally unthinkable...

M.M.: ... that this is baloney.

G.S.: That this is baloney. Because [of] the public pressure, I mean, you can't ignore it. We're all reasonable people. Nobody wants to get lynched. And you believe that a child nodding a puppet up and down means that I was molested. That's an interpretation that can't be ignored.

M.M.: It went from the nodding of a head to how much?

G.S.: It depends on the child. You watch these tapes and you can see the personality. Some kids won't talk. The bright ones do. The bright ones not only will talk, but they'll start embellishing. And they'll start adding to it. Some kids don't want to verbalize at all. Some kids don't even wanna bother with what is going on at the CII. They just wanna get out of there. Can I go see my mommy now?

A.M.: Uh huh.

G.S.: There's a lot of that. Jim Dawson's kid. He didn't even know who Ray Buckley was, for God's sake. And here Jim Dawson is one of the militants.

A.M.: (Laughter)

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M.M.: How did she start [the interviews with them]?

G.S.: An introduction, um, "Hi, how are you? You know why you're here? You're here to talk about the stuff that happened at McMartin school. Before we do that, why don't I show you some of my friends? My friends are really gonna help us figure out some of the games that happened at McMartin school. You wanna see my friends?" Out come the puppets. Piles of puppets. And it's just all of this fantasy land that these kids can dive into, you know. Kids like to play with dolls and they do that because they like going to fantasy land. They're developing their imagination and their creativity. And it's just wonderful. They love it there. Kee is so sweet and she's so good with children. She's a natural with kids. She gets down on the floor and she puts on these funky clothes. She has her routine down pat. She has a wardrobe that she wears only when she's at work playing with the kids and it's almost like Bozo the Clown time. With those that you couldn't even buy at the Salvation Army, with stripes and bright colors on. She does that because the kids are interested in those things.

M.M.: Okay, so she gets down and she brings out all these puppets. She gets down on the floor and then...

G.S.: And she asks these kids, "Do you have any favorites? Well, I like Mr. Snake and I like Mr. Pac-Man and I like Mr. Frog." Whatever, it doesn't matter. The kid'll pick the favorite puppet. Put the puppet on the hand and he'll say, "This is my favorite." And they give a little giggle. You know, she sort of breaks the ice.

It's like having a drink.

M.M.: And the kid has naturally been responding already.

G.S.: Loves it. He'll play with the puppet a little bit and watch the mouth move, and he'll sit there and stare at it. It's all new and exciting and it's fun. Then she'll sit down and she'll break out the photographs that were provided to her by the Manhattan Beach Police Department District Attorney's office, including the class photos of the children. She'll show [the kid] the class photos and say, "[Do you] see you in this picture? This is you. Do you know any of your classmates here? Is that G—? Yeah, she was here last week. Who's this over here? Oh, that's N—. Yeah, he's coming tomorrow, or oh, there's J—. Remember J— from your class? Oh, J— was here." It doesn't matter what the kid says. The kid says, "No, I don't remember J—." And Kee will say, "Oh yeah, J—'s parents called and they're gonna bring her in." And the kid says, "Yeah, I remember J—." You know what I mean?

M.M.: Right.

G.S.: "Do you know your teachers? Who were your teachers at the school? Is this Mr. Ray? Do you know Mr. Ray here?" Yeah, okay. Let's assume for a minute that Ray Buckley was a terrible person, let's say that he did all the threatening things that they say he did. If you look at his picture, okay, and you were just about six years old, what would be your natural reaction? You'd absolutely go bananas, it would trigger all of these terrible things in your subconscious. And some effect would be visible on your face. But you look at the tape and some of the kids didn't remember who Mr. Ray was. Didn't remember. [Yet] within an hour, these kids are all saying they were abused. That's the way they set them up, okay? Then she starts with the drawings. "I bet you don't know what I'm drawing." And she draws a head and she draws a body and she draws an arm on it with fingers. The kid's laughing. The drawing's funny, you know.

A.M.: Uh huh.

G.S.: "Do you know the parts of the body?" And then she'll go "these are the eyes, and the nose, and the hair, and this is the ears, and this is the boobs and this is the penis and this is the vagina." And the kid uses whatever words the kid uses for the particular body parts. And the kid would have to point everything out. Kids start getting familiar with the names. And she'd play games.

And then they go into the cities of the school.

M.M.: Has she told them the names or they knew already?

G.S.: No, they would use whatever words they used. And by now maybe 25 or 30 minutes has gone, and the child's attention is beginning to go. Remember when you were in school. How long of an attention span do you think they have?

M.M.: Fifteen minutes.

G.S.: Yeah, 15, 20 minutes at the most. Well, that's just her warm-ups. These tapes went on an hour and a half to two hours of actual concentration. Going through all of these games. There's Naked Movie Star, there's Alligator, there's Tickle, there's Horsey, there's different variations of them. There's Lookout, there's Cowboys and Indians. But with each game you not only have to go through how the game is played and which of the kids played it but it's important to know which teachers played the game. So you could actually spend 15, 20 minutes on a single game. She asks, "Did you play any games at the school?" The kids are thinking, I don't know, let's see, we played Hide and Seek. "Oh, Hide and Seek, that sounds like a game. And who played Hide and Seek?" Uh, let's see. R— played and, um, J— played and C— played. "Did any of the teachers play?" Yeah. "Was that a naked game?" No. Okay, well then they don't wanna talk about the game anymore because it's not a naked game. Kee wants to talk about something that has to do with naked bodies. "Did you play any naked games at school?" Kee says, "I told you that L— was here the other day, and L— talked about a game called Naked Movie Star. And he said you played." [So the kid] nods up and down. "That is so good. That is such a good thing for you to remember. Your parents are going to be so proud of you." Now, the bells are going off in the child's head, because mom and dad all of a sudden are proud of the child for something that he is doing in the room. Some kids did come out [on their own] and say, yeah, we played this game and it was a naked game. But there are a lot of different reasons why they could have said that: their parents told them, they saw it on the news, their friends who went to CII told them what a fun time they had there.

M.M.: So the first tapes...

G.S.: ... [are of] contaminated kids. And the kids would then use their fantasy to describe it.

game that they have absolutely no idea went on. Okay?

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G.S.: Myra says you were touched at the school. And you got puppets in your hands, and you just think this is so neat, this is so much fun. So you start saying yeah, I did. You believe it not because it really popped into your brain as fact, but because Kee said that and why would she lie about it? So now you're saying yeah, I guess I was touched. Then Kee says to you, "When you were touched, what kind of games did you play? Did you play Cowboys and Indians?" And you go yeah. "Well, who was the cowboy?" It doesn't matter from here on in what you say. You're making it up. Because now you're getting the hang of the game. That's how it starts. And the way it continues is you go outside, and Kee says to your parents, "Abby was so brave. He told us about all these naked games and the way he was touched in the school, and I think you should be very supportive of him." And your parents look at you, little Abby, and they smile, and they say we love you so much for what you've done, and they take you home and they say let's go to McDonald's for lunch, and you love McDonald's. It's your favorite place to eat. So you go to the guys and say hey, this game is really fun. You get home and your parents are all worried, but they don't want to show you that. Right? So what they do is, they immediately call a therapist that's on the list that Kee gave them. They make an appointment. They say, "We have someone else we want you to talk to, about all this stuff." You say okay, sure, why not, the first time wasn't so bad. So you go down, and you start talking to this other person. And they say, "Were there cameras used in this game?" And now you've got the rules down pretty good. And then you start talking to your friends at school. "Guess where I went yesterday? I went to something called a therapist. And my parents were so proud of me when I did this." And they say, "Yeah, mine, too. What'd you talk about?" "Well, I talked about when Ray took us in an airplane. You remember that?" The other kid says, "Oh yeah, sure. I remember that, you remember when he took us in a tunnel, and you remember when he did this, and he did that?" No one remembers it, but they're all saying yeah, I remember because you can't say, I don't remember. This is all nonsense. You remember *The Emperor's New Clothes*, the children's story?

A.M.: Sure.

G.S.: When everybody says, "Oh, you have such beautiful clothes," and the Emperor is parading up and down naked? This is McMartin. The child is a showpiece once he hits the witness stand. The parents have so much at stake, they go home and work with him. The judge says, "We don't want you talking about the case when you go home." Okay judge, sure, whatever you say. They march out the door, and on the way home they say, "Okay, now tomorrow this is what's going to happen." They rehearse.

A.M.: Why are they doing that?

M.M.: They don't want them to screw up.

G.S.: Because they don't want their kid to look like a jerk up there.

M.M.: And they don't want to be caught in a lie now. . . . They have a vested interest in this.

G.S.: Exactly. And the kid can't back out. I said to all of these kids, "Look, if none of this happened, tell me now. No one's going to be mad at you. Your parents aren't going to be mad at you." But they're getting such positive reinforcement for saying things that are embellished that they are not going to say the whole thing's just a game. They become liars if they back out automatically. So they never back out. They get deeper and deeper and deeper into it.

M.M.: But they're not really paying attention to their game, because every time a D.A. investigator goes to see [them], the story changes. They're not keeping tabs on the stories.

G.S.: Exactly. All they do is remember the skeleton of the games that they've played, but they don't remember anything else. And they'll change it all. The bright ones remembered some of the details between interviews. But they started adding more to it. The ones that weren't so bright, like B—, changed everything.

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G.S.: I met with Kee MacFarlane at the Institute because we knew that the case was going to have to be filed in the municipal court. And our purpose was to discuss what she felt was going on with the kids. By that time, any free moment I had I would sit down and watch another videotape. But I wasn't watching the videotapes in the context in which I should have been. I would just grab one rather than sit there and watch them with any logic. I really

believed that we could explain to a jury why the kids are being led so much. Why the kids are being nonverbal. Why the kids are just affirming what the therapist said. I really believed that we would have enough expertise to explain that as an absolutely normal and proper way for kids to act under the circumstances. So it didn't strike me as odd yet that these tapes were very leading. I said oh, here's another kid that talks about Betty Rador touching him. I would say Kee, don't you have any kids that talk about Mary Ann? Don't you have any kids that talk about Peggy Ann? Don't you have any kids that talk about Virginia? We're weak on them. We need to build up the case on them. If these people are all going to be convicted, we need more evidence. We don't have enough evidence. So we're pushing.

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G.S.: Kee MacFarlane has in McMartin one common denominator that she never had in other cases: a network of germination of information that is going to get around and get around in a hurry, because the parents talk, because the kids all went to the same school and because they're all following the same bouncing ball. There are all kinds of ways for fertile minds to pick up information. You know, once the first couple of kids started saying this happened, it was just. . .

M.M.: . . . a breeze.

G.S.: Logarithmically spread all over the community.

A.M.: Right.

G.S.: That's the one thing that changed her, that made her techniques. . .

M.M.: . . . work faster.

G.S.: Yeah. And be fallible. She believed that McMartin was just like any other case; you just sit down with the kids, you talk to them a little bit, you get them in your confidence. If they're molested they'll say, "Yeah, I was molested." If they weren't, they'll say, "No, I wasn't." Ordinarily she's absolutely right. Kids are not going to lie about that stuff unless it really happened. With one exception. That is if somebody is giving them information, their friends, their parents. . .

M.M.: They come in with information.

G.S.: They come in with lots of information.

M.M.: With expectations.

G.S.: And she isn't taking that into consideration. She never did. None of us took that into consid-

eration. For the Institute to say "we talked to your friend X and he told us he was touched" is so powerful. It's so powerful because it turns this into a game and peer pressure. Now the kids start thinking oh, yeah, these kids all said this stuff, you know? They want to belong. That is one thing that nobody factored in.

M.M.: Who was the first to realize that?

G.S.: [The defense.] And we didn't consider it, because we were rolling on a snowball, moving down the hill.

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G.S.: Generally, you know, her type of techniques are good if you have, for example, really hardcore evidence that a specific child has been abused, and yet the child says hey, I don't want to talk about this stuff. I just don't want to because I'm embarrassed. With McMartin, [we] put the cart before the horse. In a regular case where you have evidence, I mean, the child has, let's say, vaginal or rectal bleeding and the doctor immediately diagnoses it as sexual abuse. Then the child doesn't want to admit it. "I don't want to talk about it." Then you send the child over to someone like Kee, who will sit down with the puppets and say, "It's okay to talk about this stuff, and we know, because the doctor said that this has happened to you. So tell us why."

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G.S.: We talked about people being motivated by different reasons in the case. There was some talk about Kee MacFarlane being motivated to make money on this.

A.M.: Um um. [Affirmative]

G.S.: I don't think that she started out doing this in order to reap fortune.

A.M.: Fame maybe?

G.S.: No, I don't think so. I just think she went into it the same way she went into every other case she's ever done with the D.A.'s office, and that is knowing that there was a suspect who was probably guilty, like most of these things really end up being. And she had a technique that she was working [with] and it didn't fit into the program of the McMartin case. She had the best of intentions at the beginning, and they ended up trapping a lot of people into making allegations which really weren't true. Once she started the case really became astronomical in its proportions [and] there was no way she could back down. She had to justify everything.

G.S.: Kee MacFarlane could make a six-month-old baby confess to being molested. If I was to rewrite McMartin from day one, it should have never gone through her. And it isn't because of her insincerity or anything. She's not a qualified questioner for a police-type investigation. She's not good at that.

A.M.: And her assistants were worse, right?

G.S.: Much worse.

M.M.: But wasn't anybody alarmed? After all, you had no evidence but these tapes ever.

M.M.: Did her credentials ever come into doubt over at the D.A.'s office?

G.S.: You want to know something funny? I was never aware of her lack of credentials or her lack of background until it became a real central issue in court... because it never occurred to me that any expert we would use wouldn't be. But I think that Lael knew.

A.M.: Did she talk about it?

G.S.: Yeah.

A.M.: What did she say?

G.S.: We finally got MacFarlane's résumé because we were going to be giving it to the defense attorneys as part of discovery.

M.M.: At what point was this, do you remember?

G.S.: Oh God, this was during the early discovery before the prelim began. So I'm looking through [her résumé] for the very first time. I had been on the case two months and worked with Kee and talked to her and really sat down and really got a lot of her theories. I was being programmed the way that she was telling me it should go.

A.M.: Yeah. Of course.

G.S.: And I'm noticing that she really doesn't have any degrees in the fields in any way related to what we were doing in court. I brought it up with Lael. She says, "Oh, didn't you know that?" I said, "No, I didn't know that."

M.M.: [Laughs] Jesus Christ.

G.S.: "Well, don't you think it's going to be a problem, Lael?" "No, not at all, why? Why should it be?" I said, "Well, it should be because the defense is going to make a big issue out of the fact that she doesn't have any credentials." And Lael said that it shouldn't be a problem down the line. I said, "Well, this die is cast. And we just have to accept what

she's saying and her practical application of theory over her training."

M.M.: Didn't it worry you?

G.S.: No. Not at the time.

M.M.: Did it make you skeptical to look at the tapes again?

G.S.: Well, eventually, you know, you get enough of these pieces and you start really beginning...

M.M.: A little bell goes off.

G.S.: Yeah. The bell starts going off. And it took a while with me. I was very dense.

A.M.: Did she falsify her background?

G.S.: She didn't falsify her background, but she was not candid publicly about her background, her lack of credentials—by being involved in her field, going to Washington, D.C., and testifying, getting her name in all the periodicals and all the journals, going on TV, being in the newspapers as an expert. That stuff ends up propagating and people start believing you're an expert. You don't have to sit there and say hey, I'm an expert because I have all these credentials. She enjoyed having herself held out as a child therapist and an expert when in fact she provided her own expertise through self-study and through the study of people without receiving the necessary degree. She doesn't have it. She doesn't have a license other than a driver's license.

Stevens reacting to the inconsistency he sees when he watches the tapes closely:

G.S.: The kids are still sticking to what was said, and there's absolutely no reason to believe that suggestive questioning about an incident is going to completely taint the entire case. I mean, I just didn't jump from that one fact to the conclusion that it would be fatal. Logic tells me that if you talk to a basically truthful person you can't suggest an answer to them. And I think kids are basically truthful.

M.M.: Right.

A.M.: So you're saying to yourself okay, a lot of this doesn't make sense—but they are embroidering it, they are fantasizing with it now, but the nucleus of it happened.

G.S.: That's it. And I am 100 percent relying on the expertise of the Institute. One hundred percent.

A.M.: Break away for a second and now look at it. What the hell

was wrong with these experts?

G.S.: Well, before you make a determination that something is wrong with the experts, you have to make a determination that there's something wrong with the tapes and that kids do lie. And then you've gotta go back and question the experts. I mean, in hindsight, the biggest problem is that there was a reward system for answering the questions affirmatively on the tapes. And I didn't see it at the time. It's very subtle, in the form of praise. It's difficult to talk about something as embarrassing as sexual abuse. Kids have to be assured that it's okay to talk about it to somebody that they don't know very well. And therefore, it's quite natural to say that's so brave of you to talk about this. But that isn't the effect that it really had.

M.M.: So they try to please.

G.S.: Exactly. They were seeking that encouragement.

A.M.: They had to manipulate like hell.

G.S.: Back in July of '84, I never saw Kee as a manipulator. I saw her as a very warm person, a very giving person introduced to me as an expert. And I don't know anything about this field. I don't know anything about the dynamics of children, of their minds. I was 100 percent behind what she was telling me. And she really filled me with all of her doctrine about sure the tapes are leading, but you have to in order to unlock these secrets. And she knew that the kids were molested because of the way they answered, and that kids don't lie about this sort of thing, and you can explain the bizarre allegations because of either confabulation or brainwashing. And she told me that the teachers terrorized the children. She believed that kids were in fact given drugs in order to hallucinate. And when she and Astrid [Heger] talked about the medical evidence they had uncovered, it was [presented as] fact that these kids were molested.

A.M.: These kids were manipulated. She manipulated them.

G.S.: You may be right. I don't see anything that indicates to me that she was anything more than naive.

G.S.: If you can criticize [Kee] for anything, it would be that she didn't really stop and take a look at exactly where we were and what was going on here, and really compare and contrast. Which is the same criticism you can heap on the D.A.'s office.

M.M.: Oh, I can accuse her of a

lot more.

G.S.: She whipped up a lot of frenzy that was going on...

M.M.: By creating the trauma she created she has destroyed minds of those [kids].

G.S.: I can't really comment that because I don't know the long-term effect is going to be on these kids. All I know is once they got locked into saying things it was very difficult for them to back down. It's like going up a ladder, you're afraid to come back down. The only way to go is down. And that's what they were doing. They just kept embellishing, embellishing their stories.

A.M.: If you could have had MacFarlane on the stand and cross-examining her, what would you have asked her?

G.S.: I would have gone through her qualifications first. Or lack of qualifications. I would have started by asking her what type of interview technique she does, set her up for an expert that I would call who would say that kids can be very easily influenced by leading questions and can be influenced by other children giving them information. Kee is not somebody that you can make into a bad witness through just cross-examination. She needs to be impeached by an expert that contradicts her technique. Somebody that has a greater deal more qualification.

A.M.: [Which were the damaging tapes?]

G.S.: Damaging to the prosecution?

A.M.: No. To the defendant.

G.S.: I don't think a single one of those that was presented in court damaged the defendants.

A.M.: Because they're tainted?

G.S.: Well, it isn't because they're tainted.

M.M.: They're cross-variated, right?

G.S.: Yeah, there's a lot of that, but I think the more important consideration about the tapes is that they can only help the defendants; they can't hurt them.

Wayne Satz is the KABC-TV reporter who broke the McMartin story—early and big:

A.M.: Let's talk about Wayne Satz and Kee. When did you find out they were having an affair?

G.S.: Lael told me because she found out first.

(continued on page 104)

McMartin

(continued from page 92)

M.M.: When?

G.S.: Fall of '84.

M.M.: Oh, so just at the beginning of the prelim.

G.S.: I think it might have been Sandy Krebs at the Institute [who] told me that [Kee and Wayne] had been living together and that was something Lael also confirmed to me. And Kee told me that they had gone on vacation together. So there was that romantic interconnection between the two of them. The *Herald Examiner* ran an article saying that Kee and Wayne were dating. And when interviewed for the *Herald* article, Wayne said that he was forthright about his relationship from the outset with Tom Van Amburg at KABC and he just wanted Tom to know that [he was] romantically involved with the central character in the McMartin case and still covering the case, and Tom kept him on it. So therefore there was no ethical conflict [in his view].

A.M.: But there [was].

G.S.: You lose your objectivity when you are biased in favor of one person in an issue that you're covering. Everybody knows that. I've spoken with other reporters who wanted to get off the case because they were getting too friendly with the people they were covering.

V. THE EVIDENCE

The exhaustive search for physical evidence yields nothing.

Acting on the first search warrants:

G.S.: We ended up going out early in the morning and, and teams of [us] swooping down on Manhattan Beach and tossing everybody's houses. The search warrants were served in the morning on May the seventh at seven o'clock. Anybody that had any connection at all with the school got tossed. I ended up going to Harry's Market with the D.A.'s investigators and started going through their records. We had information from kids that they were taken to Harry's Market and taken in the back room and molested there, okay? In the office. So, I wanted to see this office. It is just completely the most disorganized office you've ever seen. You go around the corner and in back is a big freezer. Later on, we get reports from kids that say one child was hung upside down on

the meat hook in the freezer section of the market.

A.M.: He must have seen *On the Waterfront*.

G.S.: Maybe. Who knows where he got that information, but he's the same kid that was talking about the secret tunnels underneath the school. So, I'm out back in the market. And they're going through everything. There's a list on the wall, okay. What does the list have on there? Ray Buckley's name and telephone number. Now, why is Ray Buckley's name and telephone number on the phone list that's taped to the wall next to the desk in the office in Harry's Market? Ray Buckley used to work there as a box boy. That's one explanation. Of course, the other explanation that everybody is reaching for is hey, Ray, we'd like to get some kids down here this afternoon. Can you deliver? You see what I mean?

A.M.: Oh, yeah.

G.S.: My next stop was at [a local photographer's studio]. Did you know that photographers keep all their negatives?

A.M.: Yeah.

G.S.: Do you know how long it takes to look at thousands and thousands of negatives? He's got drawers and drawers and boxes and boxes full of these things. Not only that, photographers take pictures of naked women. And I mean that's just something that they do.

A.M.: Right.

G.S.: You know, you wanna go in the modeling job or something, or you know [pose] nude. And the guys from the sheriff's department had to go through all of the negatives and just took a tremendous amount of time.

M.M.: Any children?

G.S.: Are you kidding? Not one. His house was searched. Can you picture this? Everybody just looking through the photographs for anything that has to do with naked children—the McMartin kids. We found McMartin pictures but they were class photos.

M.M.: Yeah, right.

G.S.: He was the official school photographer, you know?

M.M.: By the way, when did you dump all this satan stuff?

G.S.: I can't really give you an exact time. It was something that we started to see and started to really have to look into because there was just too much of it being talked about to ignore.

M.M.: Right.

G.S.: But then after a while, it just became absolutely ridiculous.

M.M.: Uh huh.

G.S.: You know, I just started to disbelieve it.

M.M.: So, whose idea was it to abandon it?

G.S.: I don't know if there really was an idea. It was always my feeling that even if I believed it, it was not something that was gonna be brought up at a trial.

M.M.: Right.

G.S.: And you'd have a real tough time with a jury on that kind of stuff.

M.M.: And you knew that no two kids were in the same molestation at the same time.

G.S.: Yeah. There was no consistency. I talked to Jane Hoag endlessly on the telephone. I talked to Lieutenant Willey at the Sheriff's Task Force.

M.M.: So what did Jane have to say?

G.S.: It wasn't what she had to say, it's what she didn't have to say. That's the point. They were investigating all the churches. They were investigating all the preschools around town. And they're not getting anything. They're shutting down investigations one after another because there was just nothing there. I think it had run its course.

M.M.: So you were feeling what?

G.S.: Relief that I knew that a decision was in my mind.

M.M.: What was the decision?

G.S.: That we had no business going against people we have no evidence against, evidence of their guilt. We had no evidence of guilt of the six. We had expended so many hours [and] just countless human and monetary resources in trying to uncover everything we could and there was nothing. We had gone through tons of material that had been taken in search warrants. We had enlisted the help of the FBI to go through phone records and bank accounts. We prepared lists of known pedophiles in this area to see if there [were] any similarities or any common denominators. We checked out leads as far away as South Dakota and San Diego, Reno, Nevada, and Oregon, and interviewed people in Oregon and Ohio and Florida and Boston, Massachusetts.

G.S.: Any connection with McMartin. Anybody that had any information at all that would lead us

somewhere.

Johnston and Stevens decide they don't have enough evidence to pursue the case:

G.S.: Christine and I had come to this conclusion, and we were open about it. We conveyed this information to Lael, and it was almost like we were talking to that picture over there.

M.M.: Did you go to her together?

G.S.: We talked to her, we talked to anyone in the D.A.'s office that would listen. Everybody would listen to what we had to say, but nobody said hey, okay, let's take some affirmative steps. It's almost like yeah, you may be right, but let's just wait and see what happens. Okay. It's almost like everyone was pushing for the prelim to be over so we could make the decision at that time, and damn it, my morale and my interest and my ego and my energy just [weren't] into doing that. I couldn't stand another day of Lael Rubin, I couldn't stand another day of going to court and seeing these people have to drive from their homes when they didn't have to be there and sit there from nine o'clock in the morning until five o'clock in the afternoon.

M.M.: Right.

G.S.: What's the difference if Babette Spidler has to sit in a courtroom for eight hours a day and have to put up with this when there is no way we can prove she did anything. What's the difference? We might as well just lock her up. We might as well put her in jail. And that is what I'm thinking at the time. It's absolutely unnecessary for us to go forward with this. Okay, fine. And people that are experienced prosecutors, and I have to give this point of view a lot of credence, [know] you wait until the logical point in the case and make your decision because Judge Bobb could, if she wanted to, deny our motion to dismiss. But if you wait till the prelim's over, there's not a thing she can do. And they're absolutely right. But I felt you've got to at least make the effort. You've got to at least say hey, we've got to somehow send a message that we are not completely heartless and whatever we have done in the past has come up empty and we do not want to continue with this charade. It was important for us to make that point. It was important for me, okay? Christine was a wonderful person. I could talk to her. My wife was a wonderful person, I could talk to her, but I couldn't talk to people that really could do something about it. No-

body really wanted to say Glenn, are you suggesting that we dismiss this case now? And I just felt, you know, damn it, this is not right. I love the District Attorney's office. Until McMartin, I had been there five years. When I quit, I was there seven. And I felt that was probably the most wonderful place a lawyer could work. It was terrific. There was no pressure about winning or losing cases. You did what was ethically required of you. I've got to do something to stop this from happening. It really was the beginning of depression, of Glenn's depression. I had a lot of other feelings that I was going through. It's unethical for a lawyer to prosecute a case that he doesn't believe in. For whatever reason. And I was still a member of the McMartin team. I knew that we would get these people held to answer. I didn't believe we would ever convict them. To me, that was something that I couldn't ignore. I suppose that if I'm going to be really honest with it, I'm gonna feel like a chicken. I was just a big chicken, too, to go into Reiner's office, bump the secretary and say I've gotta see Ira right away. I walk into his office and say I want you to dismiss the McMartin case. I was too scared to do that.

A.M.: Why?

G.S.: Because I felt like I'd be just stepping over too many people. And I was still at that point very much a company man, and I felt that would be looked on very adversely.

M.M.: You would have to break protocol, is that what you mean?

G.S.: I would break protocol and I also felt that it would stand in the way of my career in the office. I mean, it was selfish.

A.M.: Of course.

G.S.: But I still had the feelings, and I know Christine did, too.

M.M.: So you had an imaginary conversation with Ira Reiner.

G.S.: Yeah.

A.M.: What would you have liked to have said to him?

G.S.: You know, as much as I would like to have told him I think we should get out of the case, I could not find a single argument that would counter his position, and that would have been what if we go in to dismiss the case [and] the judge says motion denied. What do we do then, Mr. Stevens?

A.M.: Did the judge say...

G.S.: No, because it had never

come up. No one had ever suggested that we dismiss it, other than what Christine said [unintelligible] and that's exactly what the judge did in the Hillside Strangler case. Remember when John Van de Kamp wanted to dismiss the case against Angelo Buono and the judge says motion denied? What would happen if Judge Bobb did that? Where would we be then? We would be worse off, because then the District Attorney's office would be removed from the case immediately. The Attorney General would be brought in and the case would probably get continued for at least two or three months while they reviewed all the material and then made a decision what they wanted to do. And there's no way around that argument. So here's the frustration of it all. You've got that on the one hand...

M.M.: So what does [your wife] Mary think? She's just had a baby.

G.S.: She just can't wait for me to get done with it.

M.M.: So...

G.S.: So you've got that on the one hand. On the other hand, you've got the human element. Forget about the ethics. Forget about the legal realities of the case. You've got the human element that these people really are... it's just an absolute atrocity for them to have to go down day after day when they're never going to see a day of prison.

This weakness of the medical evidence; Dr. Heger is the prosecution expert witness saying there is physical evidence of abuse:

M.M.: In general, you all tended to think [the medical evidence] was impressive enough. And Heger was impressive enough.

G.S.: Her science was impressive the way she portrayed it. We also all agreed that we would have to spend a great deal of energy finding another doctor to come into court to look at all of Heger's findings and come up with the same conclusion.

M.M.: Did you find someone?

G.S.: No.

M.M.: What did other experts say to you?

G.S.: They all said it's just too new of an area, I don't have enough experience in it.

M.M.: When experts looked at that same evidence...

G.S.: No, we didn't have anyone actually look at it. I called at least five or six pathologists and pediat-

ricians around the country. And they said it makes sense and it seems like trauma, but I can't really testify because I don't have enough background for it. That was generally the consensus. It was never considered by the D.A.'s office that the force used to inflict that kind of damage would not only cause scarring but would cause bleeding and a tremendous amount of pain and discomfort, and all of those kids hid that from their parents remarkably well. The true believers would say, "Well, that's because of the threats and the brainwashing."

M.M.: That's just not physically real.

G.S.: It may take some expert opinion as to what the ability of the human body is at that age to succumb to brainwashing to the extent that they can block out that kind of pain.

A.M.: Was this discussed in the trial?

G.S.: No. Never.

A.M.: Seems strange.

G.S.: No it doesn't. Because everybody who wanted people convicted in the case looked at the medical evidence as fact.

G.S.: Evidence isn't only black and white, [it] can be gray. People say medical evidence and they immediately think of evidence like this doctor said you're feverish, your glands are swollen, so you've got a cold. That's medical evidence. But is what we've seen here medical evidence? We say it's medical evidence only because it's admissible as evidence legally, but the interpretations can be so vastly different.

Meeting with Reiner in March 1985 discussing lack of evidence:

G.S.: After Christine got finished talking about her feelings about the case, she hit it on the head as far as what must be done from a prosecution point of view. You argue the hell out of the fact that this many kids wouldn't make up stories like this. You make it one or two that might be brainwashed, but you wouldn't get this many. And that the medical evidence is corroborative and the only common denominator is Ray Buckley and therefore he's the one that molested the kids. And that's basically the theory that the prosecution should go on. The case can't really be dismissed. There's just too much that's open for interpretation. Ira wanted to know what my feeling was. And I told him there are a great deal of in-

consistencies that trouble me. The fact that really bothered me more than anything else was the total resources that we put into investigating and trying to turn up clues and leads and more evidence and absolutely nothing has come to pass. So many people had come forward and said I'll give the evidence and we'll find it, and this much pornography just couldn't have vanished. Some of it is gonna turn up somewhere. And nothing ever did. Every time we did a search warrant, we came up empty. Every time we interviewed a witness about kids possibly leaving the school en masse and going to some hill-top haunted house, we came up empty. We searched just about the entire [cities] of Manhattan Beach and Hermosa Beach and came up empty.

G.S.: On the other hand, the number of kids that talk about the women has got to at least make you sit up and take notice that there might be some[thing] there, okay? The sheer numbers to me untrained juror are going to be impressive. And it was impressive to me in March, and in the one year that I was with the case up until this point. I felt you had to give consideration to the fact that this many kids could not have been brainwashed. And so I came up with the conclusion that hey, we'd better just keep on plugging with testimony and keep on plugging with investigation and see what comes up. And I wanted to make sure that we did everything. Because [I] knew that the public was just gonna be totally outraged [if] it was dismissed without at least turning over every single rock and stone. And eventually we turned over every single rock and stone...

M.M.: And when did you turn the last stone?

G.S.: I can't give you an exact date, but it was... emotionally, I probably gave up sometime in July or August of '85. I mean that it just became absolutely—became a joke.

M.M.: When was that?

G.S.: I think it was about the time that we had all that nonsense with the arrest warrants back in June of '85.

M.M.: In other words, everything is coming up nothing.

G.S.: Everything is really coming up nothing, the investigation was finished, and here we had 60,000 pages of discovery, turn over to the defense and in all that, you can boil it down to one number, and that was number zero.

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Adults may be victims in child abuse cases

By Sidney L. Willens

Is there a Santa Claus? "Yes." Is your child lying? Of course not. The child believes there is a Santa Claus. A young child can be made to believe anything.

America is in the throes of mass-produced compassion for children. The sentiment, fueled by mandatory reporting laws and highly publicized child sex cases, has virtually put the kiss of death to the legal presumption of innocence for an adult accused of child abuse.

How has it happened? Take the story of the mother from Texas. She came to Kansas City to reunite with the husband she said she loved. But she got mad at him when she arrived in Kansas City.

The mother misled two Jackson County judges and a Clay County judge into believing her husband molested their 2-year-old daughter. The three judges issued orders to protect her and gave her temporary custody of the daughter and a 5-year-old son.

(Under Missouri law, a judge initially hears only one side of the story. None of the judges knew what the other had done.) Several social workers jumped on the bandwagon and believed what

Sidney L. Willens, a Kansas City lawyer, is the author of Missouri's Crime Victim Compensation law. He was named Citizen of the Year by the local chapter of the National Association of Social Workers in 1977 and 1981. Mr. Willens is a reviewer of books on the law and court system.

the mother said and what the 2-year-old daughter seemed to say—that the father had sexually molested her in a tent in Texas.

By a few simple telephone calls, I found a witness in Texas willing to testify here that the mother had admitted her brother molested his 2-year-old niece. A few more phone calls soon revealed that the child's uncle was a convicted Texas child abuser. A judge here gave the innocent father joint custody of the two children.

Take a second case of the mother's call to the Child Abuse and Neglect Hotline with the complaint that she found "bruises" on her 4-year-old daughter, a child involved in a custody dispute.

A social worker with the Missouri Division of Family Services testified in Jackson County Circuit Court that she took the girl into a room alone and asked her, "Did your daddy stick his finger into where you go to the bathroom?" The child replied, "Yes."

The social worker left the room and told the mother. The custody dispute got nastier as a four-day hearing began.

A physician and detective testified at the divorce trial that the little girl was not sexually or physically abused. The detective told the court the Missouri Division of Family Services uses a "little more loose approach" to its investigations.

The father won full custody of his daughter and the Missouri Court of Appeals upheld the decision. Yet the Missouri Division of Family Services had found "reason to suspect" the father was guilty of child abuse. Dr. Lee Coleman, a psychiatrist in

"Child protective agencies must quit focusing on only what the child says and start looking at how they investigate such cases. The confusion of mental health specialists is triggered by failure to come to grips with the psychological manipulation of children."

—Dr. Lee Coleman, California psychiatrist

Berkeley, Calif., is calling the nation's attention to false charges of child abuse arising out of custody disputes.

Child protective agencies must quit focusing on only what the child says and start looking at how they investigate such cases," Dr. Coleman said in a long-distance phone interview. "The confusion of mental health specialists is triggered by failure to come to grips with the

psychological manipulation of children."

How does it happen? Indeed, children are made to believe Santa Claus is a reality. So children squeezed between parents locked in a custody battle echo what parents want them to say. A mother or father may put words in the child's mouth for the expert to conclude sexual molestation occurred. The expert seizes on the child's words, and before long prosecutors and judges believe it.

A molested child, silenced by a mother or father, or both, to keep the family intact and the breadwinner out of trouble, is usually truthful if the silence is broken. But children involved in complaints against estranged parents, teachers, youth leaders or, for that matter, any adult outside the intact family unit must be viewed as possible pawns for an adult with an ulterior motive.

(No Missouri hotline statistics are available to show the number of complaints against divorcing parents or adults outside the family unit.)

Dr. Robert Thorud, psychologist with the Illinois state police, has interviewed hundreds of alleged child victims. He calls for "full-scale, first-rate investigation" of every hotline complaint of child abuse.

"I insist that social workers interview all family members, school chums, teachers, the pediatrician, day-care workers or anybody else with an influence over the child."

Under Section 510.152, Revised Statutes of Missouri, "judicial review" (a lawsuit) is the only way to overturn a social worker's decision handed down by the Division of Fam-

ily Services. There is no right to an administrative remedy (hearing) before the Division of Family Services to reverse its decision of "reason to suspect" child abuse.

Missouri is the only state in the nation with direct judicial review and no administrative remedy," said Howard Davidson, director of the National Legal Resources Center for Child Advocacy of the American Bar Association.

If you file a lawsuit, who "reviews" what? Nobody knows. The Missouri legislature has dumped the question of who is a child abuser and who isn't into the laps of two circuit court judges.

If you don't like what one judge does, you may go to a second judge on the same court. The law forbids an appeal to the Missouri Court of Appeals, all bizarre and unheard-of procedures.

Last year the Kansas attorney general and the New Hampshire Supreme Court ruled that an administrative remedy (hearing) is an essential constitutional protection for a person charged with child abuse.

"Government effort to combat one of the greatest evils of the day, abuse and neglect of children, is laudable," the New Hampshire Supreme Court said. "But the image of Big Brother looms behind such effort."

Last June, a veteran Boy Scout leader restrained a screaming, kicking, spitting 8-year-old Cub Scout who was refusing to go home after five days of camping at Longview Lake. The child's mother was called, she arrived at the scene, and the matter was resolved.

See Victims

Victims continued

But the Division of Family Services judged there was "reason to suspect" the cubmaster and the Boy Scouts of America guilty of child abuse. The division said they were guilty of "inappropriate punishment."

In October, the division withdrew the ruling. But only after the volunteer youth leader and his wife (the assistant cubmaster) spent hundreds of dollars in attorney fees and suffered months of mental anguish.

(Unfounded suspected child abuse charges may be encouraging baseless threats and lawsuits against teachers, youth leaders and day-care operators.)

Nowhere in Missouri law will you find the words "inappropriate punishment." But the Division of Family Services uses those words in its "code sheets" for social workers. The choice of words may determine whether you are a suspected child abuser in Missouri.

"Do your daddy and mommy hit you?" "Lots of times, especially Daddy."

"Were you scared all the time and does it hurt all the time?" "Yes, Daddy really scares me and he hits me harder than Mommy."

The "hit" may be a "spank" and, of course, the scare came before the spank. The way a social worker asks questions may set the stage for a child abuse charge (that could be kicked out of court because the questions are "leading and suggestive").

In Missouri, policemen, prosecutors, social workers, mental health professionals, private and public school officials and day-care center operators have access to names of suspected child abusers. If you have a friend among these people, chances are a secret inside the Central Registry in Jefferson City is no secret at all. Your name remains there 10 years—yes, 10 years.

In Jackson County, 27 dedicated social workers of the Division of Family Services enter homes, schools and wherever kids are, in response to hotline tips. Almost half "moonlight" with a second job. You can't blame them. Starting salary is \$1,356 monthly. Few stay long enough to reach the high of \$1,866 a month.

How shall we catch and convict child abusers? The first answer, of course, is to teach social workers how to interview children without abusing them during the process of investigation.

In Kansas City, a child may be quizzed over and over again. Teachers, principals, social workers, policemen and prosecutors may have a hand in a child

"Missouri is the only state in the nation with direct judicial review and no administrative remedy."

—Howard Davidson American Bar Association

MOCSA should be named the single interviewer of child victims. Last year, MOCSA had less than six full-time and part-time workers swamped with interviews involving 639 adults and children. MOCSA needs more money.

abuse case

The Metropolitan Organization to Counter Sexual Assault (MOCSA) in Kansas City interviews child molestation and rape victims from the surrounding area. Last year this excellent, underfunded agency had less than six full-time and part-time workers swamped with interviews involving 639 adults and children. MOCSA needs more money.

"We're forced to give opinions to prosecutors and judges on whether molestation occurred," said Ms. Felle Rühling, MOCSA executive director. "We don't have the resources to investigate thoroughly child molestation cases."

Help for victims

Missourians are fighting back at false allegations of child abuse. Victims of Child Abuse Laws (VO-CAL), which has its national headquarters in Minneapolis, has formed chapters in Kansas City and St. Louis. Others are beginning to organize in Jefferson City and Springfield.

Anyone interested may contact the Kansas City chapter at 356-2017 and the St. Louis chapter at 314-382-9087.

MOCSA should be named the single interviewer of child victims. The room in which the interviews take place ought to be brightly colored, with playthings and a hidden television camera. Standard questions (subject to variation, of course, depending on the child's answer) that they are "leading and suggestive."

Under Missouri law, a judge may allow as evidence before a jury a videotaped recording of a child victim's interview. The child need not face the accused perpetrator in the courtroom.

"Years ago, prosecutors didn't find child abuse when it was there, now they are finding it when it's not there," said Dr. Gerald Vandenberg, a clinical psychologist in Leawood.

He said that all the things that happen to families caught up in child abuse charges are often detrimental to the child if they can't be proved. Unproven charges rip families apart. "Too many times adults are accused, affronted, harassed by well-meaning people with evangelical fervor to protect a child," Dr. Vandenberg told me. "But if they can't prove the abuse, they make matters worse than the reported incident. It is the true victims who must be identified and protected."

The right way to question

How to learn what a child may know

Mr. Willens asked his daughter, Susan, to explain the techniques of interviewing a 4-year-old girl reported to have been sexually molested by her father. Susan has interviewed dozens of young children for two mental health agencies in the Kansas City area. She holds a master's degree in clinical social work from the University of Missouri-Columbia.

By Susan Willens Ortbals

In interviewing a child victim, I always make certain to spend as much time as needed to develop rapport. To develop rapport with a 4-year-old girl might take up to five 45-minute sessions. It is essential to learn the vocabulary a 4-year-old uses. Every child is different and responses of the interviewer vary depending on the child's responses.

I may say, "I want you to know that many little children come here to talk and play games with me. What kind of games do you play? Do you play games with other children? Who? What kind of games do you play at home? Who plays games with you at home?" "Do you play with Mommy? What kind of games do you play with Mommy? With Daddy? Do you like the games you play with other children?"

Then I get out my puppets and introduce them to my "friends." Little children will tell my puppets secrets they won't tell me.

At this point I show the child Choppers. Choppers is the bright green alligator puppet I put on like a glove. When I wiggle my fingers, Choppers' mouth opens and closes. Now Choppers starts to talk.

"Do you know why you are here? What did Mommy and Daddy tell you about coming here? Did anybody else tell you why you are here? Some kids come here to talk to me about things they like to do and don't like to do. Sometimes we talk about secrets."

"Can you tell me a good secret? A good secret is something you finally tell someone, like giving Mommy her secret present on her birthday."

"Do you know a bad secret? Bad secrets make us feelicky inside. Bad secrets are secrets you should tell someone. It's never OK to keep bad secrets. Has anyone asked you to keep a bad secret?"

At this point, I may ask the child to draw a picture of a house, tree and family members. The child's drawings stimulate more talk. For example, if I see a tree in the shape of a penis, I would ask more questions.

A child may say, "Daddy touched me on my pee-pee." At this point, I would evaluate whether or not the child has "advanced sexual knowledge," which means the child is saying things she could not have possibly known had she not experienced the event.

I pull from a sack a girl doll and a boy doll. The boy doll has an obvious penis and scrotum. The girl doll is less obvious with holes in the front and back.

If the child puts the male doll on top of the female, that doesn't mean to me that the child was abused. But, if the child inserts the penis into the front or back of the girl doll, I get suspicious.

But even then, I see what "affect" (a psychological term which means emotional tone) and verbal expression accompanies the child's act. It's always possible the child saw another child do it or, who knows, a "significant other" in the child's life may teach what he or she wants the child to know. Kids put things into holes all the time.

Even if a child walks in on her parents engaged in sexual intercourse, she wouldn't know enough to do that with the dolls. There's always what we call "chance behavior" that comes about with no apparent explanation.

If a "daddy" is involved, I make sure which man in the child's life she calls Daddy. I might ask if Daddy has a name, what does Mommy call Daddy, and can you draw a picture of Daddy?

It is very important not to accept what happens with dolls at face value. A lot depends on how much fear is instilled in the child. I look for behavioral indicators such as sleep disturbances, eating disorders, school difficulties and so forth. I try to learn the motivations of people around the child. That takes an abundance of time, which social workers don't have. Caseloads are too heavy.

It's awfully hard not to ask leading and suggestive questions. So I have to be very careful I don't put words in the child's mouth. One time I nodded my head "yes" without realizing it as I was asking a young child a question. Body movements and facial expression are so important. I do worry that maybe there is someone out there I was wrong about.

VOCAL leader to go on trial on child abuse charges

By ANDY HOFFMAN
Daily News Reporter

The Missouri coordinator for Victims Of Child Abuse Laws (VOCAL) will go on trial Monday in Johnson County District Court on charges of sodomizing her 4-year-old son.

Elisa Cosgrove, Raytown, was convicted last May by a 8-woman, 4-man Johnson County jury of aggravated criminal sodomy, but the verdict was set aside and a new trial ordered by District Judge Robert Jones.

Citing an "accumulation of errors" in the original trial, Jones granted the second trial during a

hearing last July. Jones upheld Cosgrove's claim she was "deprived of effective legal counsel" during the original trial. Her attorney was David Gilman.

VOCAL is a national, non-profit organization that supports people they believe have been unjustly accused of child abuse or victimized by the criminal justice system. A spokesman for VOCAL's national office Friday confirmed Cosgrove is the Missouri coordinator.

The 31-year-old Cosgrove is accused of sexually abusing her son, who was then 4, during February and March of 1984. Investigators

say the woman performed oral sex on her son at an apartment in Merriam, according to Richard Guinn, the assistant district attorney prosecuting the case.

Cosgrove has continually denied the charge, claiming her son is simply repeating fictitious stories police and social workers have told him to say. The charges against Cosgrove arose almost 18 months after authorities say the crimes actually occurred.

In a related matter, Cosgrove's parental rights for her two children — the second child is a 11-year-old girl — were permanently severed following a seven-day

trial last fall in Johnson County juvenile court. She is appealing that ruling. The children, who were originally taken out of the home by state officials in April 1984, have remained in foster care.

Her ex-husband, Charles Cosgrove Sr., is serving a 3-to-10 year prison sentence in Lansing for abusing his niece. He was additionally charged with sexually abusing his own daughter, but that charge was dismissed during plea negotiations.

Cosgrove's trial is expected to last at least five days and will pit national experts in the field of

child sexual abuse against each other.

Jones, who will again preside at trial, has already ordered the state of Kansas to pay up to \$5,500 to bring experts to testify on Cosgrove's behalf. Taxpayers will also pay for the state's experts, but that amount has not been revealed by prosecutors.

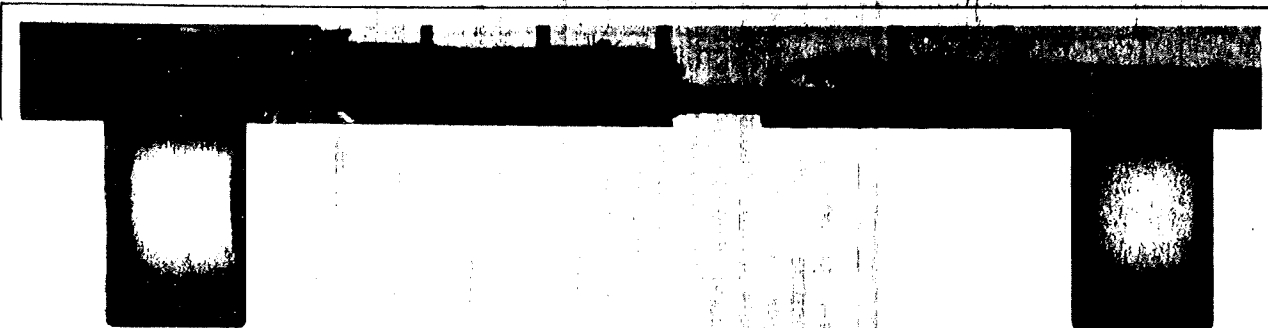
Jones ordered Cosgrove's witness fees to be paid after ruling she was indigent and did not have the funds to hire the witnesses on her own.

Jones also appointed defense attorney Donna Kaser Manning to represent Cosgrove in the second

trial. Manning is the fifth attorney to represent Cosgrove in the criminal case. She retained the first four attorneys. They were Dennis Mitchell, Sue Ellmaker, Gilman and Edward Byrne, who represented her in the motion for a new trial.

She fired the first three. Shortly after the new trial was granted, Byrne asked the court to allow him to withdraw. Byrne said "conflicts of a personal nature have arisen" between the two.

Cosgrove, along with her two children and her ex-husband, are scheduled to testify at the trial.



Traffic problems loom over plans

Area news

Abducted girl still is missing

By The Associated Press

Eureka, Mo.—Missouri authorities maintained a vigil today, hoping a kidnaper would keep his promise to release a teen-age girl he abducted Friday in Eureka, about 30 miles southwest of St. Louis.

More than 12 hours after she called a friend, Kellie Ann Klein,



Kellie Ann Klein
... called friend Sunday

16, was still missing. Kellie, a Eureka High School junior, called a friend about 4:40 p.m. Sunday. She said she was OK and expected to be released soon, Police Chief Michael Wiegand said.

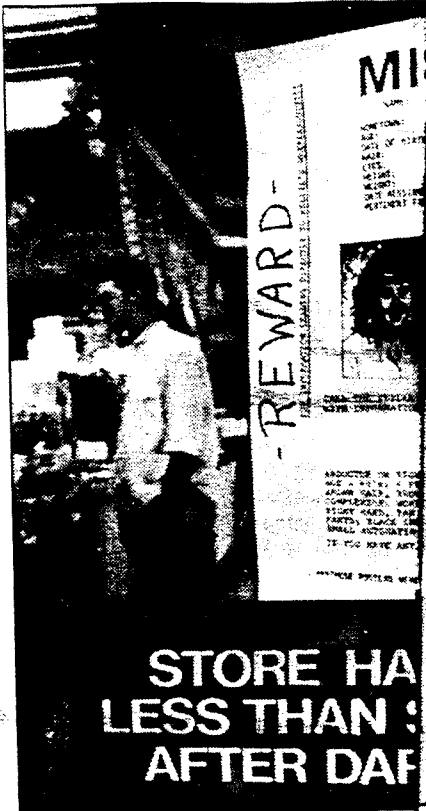
"A lot of people are praying for her," Wiegand said of Kellie.

"Just talking to all the other officers, we have to keep a positive attitude. We have a glimmer of light—at least she's alive."

The girl's captor apparently was at her side when she called her friend, said Sgt. James Lee of the Missouri Highway Patrol.

"Apparently, she had talked him into letting her get word back that she was OK and that she would be home soon," Lee said. "We think probably that he (abductor) hung it (phone call) up. That tells us that as of 4:50 p.m. (Sunday), she was alive and apparently well."

"We're assuming they're still in the area," Lee said Sunday before the call from Kellie. "The



A flier with a photo of Kellie Ann of her abductor hangs in a convenience store window in Eureka, Mo. Authorities are searching for the 16-year-old and her captor.

trouble is, no one saw them leave the (theater) parking lot."

A man said by witnesses to resemble the description of Missouri prison escapee John David Brown, recently the object of an intensive manhunt in Missouri, entered the Eureka 6 Cine shortly before it closed Friday night, authorities said.

The man knocked on a cashier's window, displayed a semi-automatic pistol and demanded the receipts, police said. He then herded theater employees to the lobby area and selected Kellie, a concession stand attendant, to accompany him on foot as he left the building with the \$150 he took.

Lee said, however, he doubted the girl's abductor was Brown—who has been at large since escaping three years ago from a

VFW official

By Matthew Schofield
staff writer

American foreign policy has become a hostage of public opinion in the wake of the arms-for-hostages deals with Iran, a Veterans of Foreign Wars official said Saturday.

Second child abuse trial begins

By The Star's staff

Jury selection began this morning in Johnson County District Court for the second trial of a 31-year-old Raytown woman accused of sexually abusing a 4-year-old boy.

Elisa M. Cosgrove was convicted in May of aggravated criminal sodomy in the case, but a judge overturned the verdict because her attorneys failed to present a key witness.

Since charges were filed against her in June 1985, Cosgrove has led the local chapter of Victims of Child Abuse Laws, a national group that attempts to change the ways in which social service agencies investigate and rule on cases where abuse is suspected. The group contends that such agencies often wield their power with little justification.

Cosgrove was accused of sodomizing the boy between February and March 1984, when she was a resident of Merriam. If convicted, she faces a sentence of five years to life in prison.

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halls

SWANSONS

Area news

MRI gets three-year contract

Work involves cleaning storage tanks

By Barbara Musfeldt

The Star's energy/environment writer

Midwest Research Institute has been awarded a multimillion-dollar contract to help clean up the nation's underground storage tanks, institute officials said today.

The contract, which extends over three years and could total \$9 million, was awarded recently by the U.S. Environmental Protection Agency. The contract is one of three large projects recently assigned through the EPA's Office of Underground Storage Tanks.

The EPA is drafting new regulations to ensure that underground tanks are properly installed, removed and leak-proof.

A study conducted by the institute more than a year ago revealed more than a million underground tanks in the country, said Doug Fiscus, an institute engineer who manages the underground tank program. Thirty percent of those tanks were found to be leaking, he said.

"When a tank leaks it can contaminate the ground around it and the ground water," Fiscus said. "This can pose serious health risks."

Fumes from leaking tanks collecting in basements and pipes can also present the threat of explosions, he said. Most of the tanks hold some kind of petroleum product.

Fiscus cited a hospital in Minnesota where petroleum fumes spread from a buried tank into a hospital ventilation system.

Cleaning up leaks can be a lengthy and expensive process, he said.

The institute researchers will be involved in many aspects of the underground tank program, Fiscus said, including:

Area news in brief

Second child abuse trial begins

Jury selection began this morning in Johnson County District Court for the second trial of a 31-year-old Raytown woman accused of sexually abusing a 4-year-old boy.

Elisa M. Cosgrove was convicted in May of aggravated criminal sodomy in the case, but a judge overturned the verdict after determining she had received ineffective legal counsel.

Since charges were filed against her in June 1985, Cosgrove has led the local chapter of Victims of Child Abuse

Laws, a national group that attempts to change the ways in which social service agencies investigate and rule on cases where abuse is suspected. The group contends that such agencies often wield their power with little justification.

Cosgrove was accused of sodomizing the boy between February and March 1984 when she was a resident of Merriam. If convicted, she faces a sentence of five years to life in prison.

LC STAR 4-27-87 p. 5A

\$350,000 in damages

A federal court jury has awarded \$350,000 in damages to an Independence man for injuries he suffered in a car accident in 1983.

The jury deliberated less than two hours Friday before returning the verdict in favor of Larry Estill, 25. The judgment was against the federal government.

Estill, a route salesman for Exide Corp., was involved in a collision Nov. 22, 1983, with a military van driven by Charles Albee, a civilian employee with the U.S. Air Force at St. Joseph-Rosecrans Airport.

The accident occurred on Missouri 45 when the van crossed the center line and struck Estill's vehicle, according to testimony at the trial. Estill testified he suffered a broken leg and facial lacerations.

Protest at MU

Columbia (AP)—Student groups planned to rally at the University of Missouri today to protest the school's performance on affirmative-action plans and other racial issues.

The Legion of Black Collegians, an organization of black student groups, planned to rally at noon. Rallies also were tentatively scheduled to protest the school's investments

area today to gather information for the company's 1987 city directory.

All employees will wear company identification badges and carry Polk identification cards, according to the company.

The canvassers will be gathering names and employment information at all area businesses and residences for the directory.

The job is expected to take about six months, said R. Goins, Polk's assistant distribution manager.

Surveyors will leave information cards at addresses when no one is home. The cards may be mailed to Polk at an address given on the card, or information may be called in at 231-6084 between 8 a.m. and 5 p.m. weekdays.

Trial begins

Jury selection began today in Johnson County District Court in the trial of a 49-year-old Leawood man who held a 22½-hour standoff with police at his home nearly two years ago.

John L. Harrington was charged with aggravated assault for using a handgun to threaten his wife during the standoff in September 1985.

Gephardt eligible

Washington (AP)—The Federal Election Commission certified that Rep. Ric

Woman accused of sexually abusing boy faces new trial

By Andre A. Jackson
Of the Metropolitan Staff

The second trial of a Raytown woman accused of sodomizing a young boy began Monday in Johnson County District Court with the defense's opening statement punctuated by objections by the prosecution.

Elisa Cosgrove was charged in 1985 with aggravated sodomy and was convicted during a trial last May.

A Johnson County District Court judge later ordered a new trial for Cosgrove, citing errors in the first trial.

Cosgrove, who has been active in a local group critical of child abuse laws, is again charged with aggravated sodomy. The alleged abuse of the who was 4 at the time, took in February and March 1984, prosecutors said.

During his opening statement, Assistant District Attorney Richard G. Guinn said that the abuse came to the attention of authorities after a 3-year-old girl, who had shared a foster home with the boy, told her

mother that the boy had told her of the incident. The boy had been placed in a foster home during his parents' bitter divorce.

The boy had been involved in two sex acts with the girl while at the foster home, Guinn said. At that time, the boy told the girl that Cosgrove had committed one of the acts with him, Guinn said.

During intense questioning by Guinn on Monday, the girl, who is now 6, indicated with the aid of dolls that the boy had sodomized her. She said that she did not remember whether the boy committed the act that Cosgrove is charged with.

The girl's mother, of Trenton,

Mo., testified that the girl had said that Cosgrove "did hasty things with him."

While on the witness stand, the girl said that she did not remember exactly what she told her mother.

Donna Kaser Manning, Cosgrove's attorney, said that she would challenge the validity of testimony by children.

Such a challenge will be based in part on the alleged inability of young children to distinguish fact from fantasy, she said. Manning said defense testimony also would address the theory that children sometimes lie out of a desire to please adults.

During her opening statement, Manning — over numerous objections by Guinn — told the jurors that the boy was severely traumatized by his parents' acrimonious separation and divorce.

She said that several doctors had examined the boy for bowel problems about the time that the alleged

abuse occurred.

"They found no indication, no symptoms, no red flags of sexual abuse," Manning said.

She said that the boy was violent and hostile because of the "warlike" divorce.

Manning said that Cosgrove denied ever sexually abusing the boy.

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THE KANSAS CITY STAR
The Kansas City Times

KC Times 4-28-87
A B5

Congressmen to talk on trade

From the Washington Bureau

WASHINGTON — Two Missouri lawmakers prominent in congressional trade policy discussions, Republican Sen. Jack Danforth and Democratic Rep. Richard Gephardt, will appear tonight on the "MacNeil-Lehrer Newshour" to de-

bate the issue.

Floor debate on the House trade bill begins today, and Danforth has been sharply critical of a major amendment proposed by Gephardt.

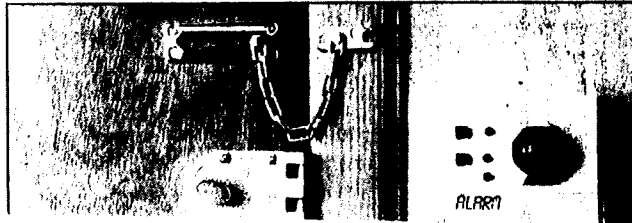
In Kansas City, the "MacNeil-Lehrer Newshour" is broadcast at 6 p.m. on KCPT, Channel 19.

Ex-official pleads guilty to counterfeiting charge

The Associated Press

ST. LOUIS — Gerald Lynn Rains, a former Butler County clerk and Poplar Bluff mayor, pleaded guilty Monday in federal court to control and custody of counterfeit money, authorities said.

Rains, 39, was arrested Feb. 9 in



side ruling was based on information gathered from friends and associations he had made, ~~he~~ he left, ~~Henson~~ Henson said. ~~Statements made~~ Statements made in the information from some acquaintances really leave

no room for doubt that was the situation. He had made comments to his friends that made them believe he had thought about this, talked about it a little bit. He had never made any ref-

erences to blowing himself up — just that things were not going well and that he had some real problems."

Monday, Lenexa investigators and with agents from the Fed-

eral Bureau of Alcohol, Tobacco and Firearms, turned their attention to the origin of the dynamite. Authorities were attempting to determine where

(Continued to page 2)

infant daughter slept.

They scheduled an appointment to have her hearing checked Monday morning. In

(Continued to page 2)

VOCAL leader goes on trial

By ANDY HOFFMAN

Daily News Reporter

Eliza Cosgrove is on trial in Johnson County District Court for sexually abusing her 4-year-old son. But, if her defense attorneys have their way, Cosgrove may not be the only one on trial.

In opening statements late Monday, defense attorney Donna Kaiser Manning told the jury she intends to focus much of Cosgrove's trial on techniques used by those who investigated the claims of child abuse — specifically police and social workers.

Manning said Cosgrove has denied the accusations since they were filed in the summer of 1985 and continues to deny them today. Manning said the charges are the result of antagonism that developed between Cosgrove and state authorities during a bitter divorce and subsequent custody battle in 1984.

"Elisa Cosgrove will testify," Manning told the eight-woman, four-man jury. "She will tell you

she has never committed any act of sexual abuse on her son, ever."

But Richard Guinn, the assistant district attorney prosecuting the case, painted a different picture for the jury during his opening statements. He said Cosgrove performed oral sex on the boy and he has the witnesses to prove it.

The 31-year-old Cosgrove, the coordinator for the Missouri chapter of Victims of Child Abuse Laws (VOCAL), was convicted of the crime by a Johnson County jury last July. But that verdict was set aside and a new trial granted because the judge ruled there was an "accumulation of errors" in the first trial.

In a related matter, a Johnson County juvenile court judge permanently severed Cosgrove's parental rights last fall following a seven-day trial. Cosgrove is appealing that decision. Her two children, who are now 11 and 7, have remained in foster care since 1984. Her ex-husband, Charles Sr., is in prison on an unrelated sexual

(Continued to page 2)



Photo by Dave Kaup

Eliza Cosgrove is shown in court Monday.

OLAThe DAILY NEWS 4-28-87 p.1

Doctors testify in child abuse trial

By Kate Miller

staff writer

Two expert witnesses testified today in Johnson County District Court they saw no warning signs of sexual abuse when they treated a boy who was believed to have been repeatedly sodomized by a Raytown woman.

Assistant District Attorney Richard Guinn, however, challenged the testimony, contending that some people repress memories of sexual abuse for years.

Dr. Paul C. Laybourne Jr., a child psychiatrist and professor of psychiatry at the University of Kansas Medical Center, and Dr. Edward R. Christophersen, a professor of pediatrics at the medical center, testified in the trial of Elisa M. Cosgrove, 31.

Cosgrove is accused of sodomizing the boy in February and March 1984, when the boy was 4 years old. She was convicted of

the charge last May, but a judge ordered a new trial because of errors in the first trial.

Cosgrove coordinates an area chapter of Victims of Child Abuse Laws, a national group that contends adults sometimes are falsely accused of child abuse.

Laybourne said he interviewed the boy in 1984 and found no signs of sexual abuse. He said such signs would include "acting out" sexual behavior, reacting negatively to questions about sex or showing a preoccupation with sex.

"Children who are concealing matters such as sexual abuse, they give it away in interviews," Laybourne said.

Christophersen, a child psychologist, treated the boy for a bowel problem in 1984 using a behavior-management program that included suppositories and enemas. Christophersen said he saw the boy in July 1983 and

again in March 1984.

"When you examined him in March 1984, did you see any red flags or indications of sexual abuse?" asked defense attorney Donna Kaser Manning.

"I'd say just the opposite," Christophersen replied.

Under cross-examination, Guinn noted that the abuse allegations arose after the boy "acted out" a sexual incident with a 3-year-old girl in 1985.

Guinn also questioned both witnesses about the limited amount of time they spent with the boy.

Christophersen said his contact with the boy consisted of two 90-minute meetings. Laybourne said he interviewed the boy once for nearly an hour.

Guinn contended the boy could have successfully suppressed the incidents during those interviews.

board has to decide which building projects at Heritage USA to continue funding.

The Observer reported Saturday that PTL records show that nearly twice the money needed to build the \$26 million Towers hotel at Heritage USA has been

... minister with a weekly TV show based in Chattanooga, Tenn. He said Monday the ABC program "Good Morning America" that he gave "many pieces of evidence" to members of the PTL board to support the allegations he has made about wife swapping, prostitutes and homosexuality.

"We are challenged to public, municipal bulletin board vett said. Lovett's City Hall is about municipal recently got reporter in was considered. A similar land, but it is government. The cost \$2,300 for core undetermined bargain accord One potent bulletin board only one user logged more introducing the number city would have to include more "Not every computer with a vett said. "F growing by le

Photo worked in funds appeal

By The Associated Press

New York—Television evangelist Robert Schuller once sat in his Southern California living room and dictated an urgent fund-raising appeal claiming to be dispatched from China, a fellow pastor says.

"He raised in that particular thing, I believe, about \$1.6 million of gross income," the Rev. Tim Waisanen said Monday night on the ABC News program "Nightline."

Waisanen, an Assemblies of God pastor in Garden Grove, Calif., previously served as director of marketing and planning for Schuller's "Hour of Power" program at the Crystal Cathedral in Orange County, Calif.

As Schuller sat in his living room with eight or 10 persons, he dictated a letter that said he was meeting with Chinese leaders and was visiting the Great Wall, Waisanen said.

"What's more, he has a photograph in there, which on the back of it says something to the effect of, 'Here I am at



Robert Schuller ... television evangelist

the China wall," Waisanen said. "Nightline" said the photo was shot in a studio with a photograph of the Great Wall as the backdrop.

The Schuller organization admits the letter and photograph were sent before Schuller departed for China but maintains it was a clerical error, "Nightline" said.

Witness says boy implicated woman in sex abuse case

By Kate Miller

staff writer

A social worker testified today in Johnson County District Court that a boy she interviewed in 1985 twice implicated a Raytown woman for sexually abusing him when he was 4 years old.

Fam Brooks testified in the trial of Elisa M. Cosgrove, 31, of Raytown, who is charged with aggravated sodomy.

Cosgrove, who leads an area chapter of Victims of Child Abuse Laws, a national group that is critical of child abuse laws, was charged in 1985 and convicted during a trial in May. That verdict was overturned because of errors in the first trial.

Brooks, who worked for the Department of Social and Rehabilitation Services in 1985, interviewed the child three times. In two of those interviews, she said, the boy implicated Cosgrove. Brooks testified, however, that recording equipment malfunctioned during both interviews.

Under cross-examination by defense attorney Donna Manning, Brooks ac-

knowledged that several questions she asked the boy could be considered "leading."

Manning specifically noted questions in which Brooks asked whether the boy remembered certain details of the abuse, without leaving the questions open for him to provide details.

Brooks also said she could not recall making certain statements that Manning contended were in transcripts of the interviews.

Manning has said she will call into question the validity of testimony by children, contending they sometimes lie to please adults.

Assistant District Attorney Richard G. Guinn asked Brooks whether it was unusual that the boy did not talk about the abuse until a year after it allegedly occurred.

"It's not at all unusual for a child to hold something like that inside," Brooks said. "Sometimes they don't say anything until they're adults."

KC STAR 4-28-87
p. 2A

Reserv

By Steve Kraske
staff writer

Several office Police Department say the projected by Monday training requirements.

The Kansas City Commissioners in requirement Monday 600 hours. Volunteer six hours a week, same amount of time colleagues.

Police Chief Lar missioners the increase new recruits reserve officers disa

"There's no question absolutely kill Hugh L. Mills, who officer for four year

Charles A. Eddy,

Astron

By The Associated Press

Houston—Danie has been named astronaut, the shuttle era of Am to hold that key assign

Brandenstein, a 44-tain, replaces John Y been named special Johnson Space Cente

Area news

Memory loss feared in child

By Kate Miller

staff writer

A social worker who handled the case of a boy who allegedly was sodomized testified today in Johnson County District Court that the child's psychologist was concerned that the boy's memory would fade before the trial.

Mary Ann Granger testified in the trial of Elisa M. Cosgrove, 31, of Raytown, who is charged with the aggravated sodomy three years ago of a 4-year-old boy.

The case is being tried for the second time. Cosgrove was convicted in May, but a judge cited trial errors and overturned the verdict.

Cosgrove leads the area chapter of Victims of Child Abuse Laws, a national group that contends adults sometimes are falsely accused of abuse.

Granger was a social worker for the Kansas Department of Social and Rehabilitation Services in 1984 when she first met with the victim, she said. A year later, allegations of sexual abuse arose.

While the boy was in counseling with child psychologist Bill Graham, Granger said, criminal proceedings against Cosgrove were slowly evolving. Granger said Graham once expressed concern that the proceedings were taking too long.

Cosgrove took the stand in her own defense today and Wednesday, testifying that the abuse did not occur. She said the allegations arose during a bitter divorce from Charles Cosgrove, who filed false reports about her.

Charles Cosgrove, who is serving a 3- to 10-year prison sentence on unrelated child abuse charges, has since recanted his allegation.

and they act like it.

"But if you find something they

a note to their parents when t' do a good job.

... they deserve to be accepted as full members of the community."

Child tells of sexual abuse

By ANDY HOFFMAN

Daily News Reporter

A 7-year-old boy Tuesday told a Johnson County jury his mother sexually abused him when he was 4 years old.

The curly-haired child was testifying during the second day of Elisa Cosgrove's trial. The 31-year-old Raytown woman is accused of aggravated criminal sodomy.

During questioning by Richard Guinn, an assistant district attorney, the child said his mother had abused him when they were living in an apartment in Merriam.

Guinn is trying to convince the eight-woman, four-man jury that Cosgrove did abuse her son on several occasions in 1984.

But defense attorney Donna Kaser Manning claims Cosgrove is innocent and the charges are the result of a conspiracy between police, social workers and the foster parents now caring for the child.

The child has lived in the same foster home since 1984 when his parents became involved a divorce and subsequent custody battle over the two children. Cosgrove's parental rights were permanently severed following a seven-day jury trial in Johnson County District Court last fall. Cosgrove's ex-husband, Charles, is serving a 3-to-10-year prison term on unrelated child abuse

charges involving a niece.

On the witness stand, Guinn asked the boy several questions to determine if he was old enough to know right from wrong and the truth from lies. During that period of questioning, Guinn asked the child if he knew the difference between a natural child and a foster child.

"Yes, I'm a foster child," he said, as Cosgrove's family and friends could be seen wiping tears from their eyes. Elisa Cosgrove showed little emotion during her son's testimony.

The second day of the trial was cut short when a juror became ill. Jones excused the jury at 3 p.m. The trial is expected to resume at 8 a.m. today.

Also called to the witness stand Tuesday was Pam Brooks, a social worker who initially investigated the child abuse charge.

The incidents authorities claim Cosgrove committed occurred in February and March of 1984, but the accusations of child abuse did not surface for more than a year and charges were not filed until the summer of 1985.

During cross-examination by Manning, Brooks said she didn't see any real problem in the lengthy period between the time the crime was alleged to have occurred and the first time the child mentioned it to anyone.

"No, it did not," she said. "It's not at all unusual for a child to

hold that inside and not say anything ... some never say anything until they are adults."

Manning attempted to discredit Brooks' initial questioning of the child by saying Brooks used leading questions to get the child to say his mother committed the sex acts.

Brooks admitted some of the questions were leading, but said the specific information about the sex act was volunteered and not coerced.

Authorities first became aware of the accusations when a small girl who was in foster care with the boy told her mother he had stuck crayons up her body and placed his penis in her mouth.

The girl's mother notified authorities who then interviewed the child.

On the witness stand Tuesday, the child was asked by Guinn if he had done those things to the little girl. When the boy said yes, Guinn asked why.

"Because my mom and dad did it," he said.

The defense claims the boy was constipated and had to have enemas and suppositories. They claim the child was acting out having suppositories administered to him when he placed the crayons in the girl's body.

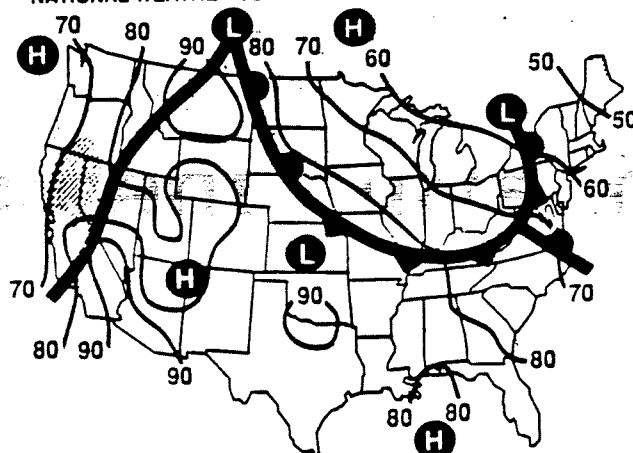
When the trial resumes today the boy's foster mother is scheduled to testify.

Cosgrove remains free on bond.

OLATHE DAILY NEWS 4-29-87 p. 3A

The weather

NATIONAL WEATHER SERVICE FORECAST TO 7 PM EST 4-29-87



Olathe weather

Yesterday

High temperature
78 degrees.....6:29 p.m.

Low temperature
41 degrees.....6:29 a.m.

Peak wind gust
19 mph.....5:43 p.m.

Pollen count
407.....per cubic meter

The forecast

Sunny and warm today was a

The panelists all agreed that the Constitution remains an important and flexible document 200 years after it was framed, but they sometimes disagreed on the role of state and federal government.

"State and local governments make most of the decisions that concern people's daily lives," Blackmar said.

Blackmar said that the tension that sometimes exists between state and federal governments is part of the system set up by the framers of the Constitution.

Bolling praised the wisdom of the founding fathers who foresaw the

Webster said the growth in federal power came about in part because the states were unable or unwilling to take on the responsibility of providing services. But states are beginning to be more active in providing services, he said.

Eagleton strongly disagreed with the idea that states have become more active in providing services, and said state governments have an attitude of inaction.

"I do not await the renaissance of the states," Eagleton said. "How do we as activists have the states been in delivering quality education for all their citizens?"

Boy testifies that woman abused him several times

By Andre A. Jackson
Of the Metropolitan Staff

A 7-year-old boy told a Johnson County District Court jury on Tuesday that a Raytown woman had sodomized him on several occasions.

The boy testified during the trial of Elisa Cosgrove, who is charged with aggravated sodomy. She is accused of committing a sex act with the boy in February or March 1984, when he was 4 years old.

The boy testified that the woman had sodomized him on several occasions at a house and apartment in Johnson County.

Cosgrove has denied ever sexually abusing the boy.

Cosgrove has been active with an area chapter of a national organization that is critical of child abuse laws. VOCAL, or Victims of Child Abuse Laws, contends that adults are sometimes unjustly charged with child abuse.

The boy admitted that he had been involved in two sex acts with a 3-year-old girl while the two were

staying at a foster home. The boy was in the home because of his parents' acrimonious divorce proceedings.

The boy said that one of the sex acts he performed with the girl had been done to him by Cosgrove.

While on the witness stand, the boy said he had been hostile around the time that he was sexually abused because he had been treated for bowel problems with enemas.

Cosgrove's attorney, Donna Kaser Manning, has indicated that the defense will challenge the validity of child testimony.

Cosgrove was charged with aggravated sodomy in 1985 and was convicted during a trial last May.

That conviction was overturned by District Judge Robert Jones, who also is presiding over the second trial.

Jones ordered the new trial after citing errors in the first one.

The trial recessed about two hours early Tuesday after a juror became ill.

Arms dealer's bond is revoked

Continued from Page B-1

aware he was carrying two conflicting sets of customs documents on the system when he was arrested in 1984.

Assistant U.S. Attorney John Osgood contended at a hearing Friday that Gregg was desperate to recover the navigation system because he had sold it for \$215,000 to a Japanese customer but had been unable to deliver it. The government presented evidence in the trial that Gregg had obtained the system through fraud in the first place.

In his order, Stevens found that the latest indictment was sufficient evidence of probable cause to believe that Gregg had committed a crime while on bond. The judge also

found that Gregg was unlikely to abide by any condition or combination of conditions of release. He said Gregg had been found guilty of attempting to illegally export the system and has exhibited a history of efforts to obtain the system by unlawful means.

The inference to be drawn is that the defendant remains intent on obtaining the system "by whatever means, including unlawful ones, available to him," the judge said.

Missouri Lottery

Tuesday night's winning numbers in the Missouri Lottery's Daily Pick 3 game: 3-9-9.

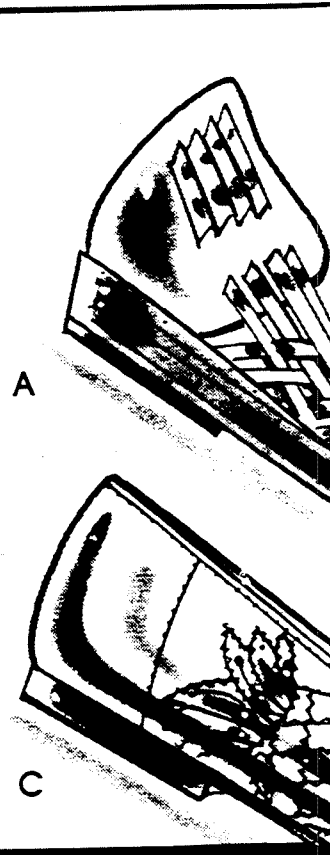
There were 32 straight-play winners, who collected \$336 each; 84 box-play winners got \$112 each.



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Cosgrove testifies for herself

By ANDY HOFFMAN

Daily News Reporter

Elisa Cosgrove took the witness stand in her own defense Wednesday and denied she sexually abused her son or went "skinny-dipping" with him in their backyard pool.

"No, I did not. I swear to God I never have," Cosgrove said when asked by her attorney if she had ever performed oral sex on her son.

Cosgrove also denied during cross-examination that she had often swam nude with her son when they lived in the Quail Valley subdivision in Overland Park.

"I have never been skinny-dipping with my son, ever," she angrily responded to the question by Richard Guinn, an assistant district attorney.

Her son, who is now 7, testified Tuesday his mother performed oral sex on him several times when he was 4 years old. He also said she often took him swimming nude.

According to testimony at the trial, Cosgrove's ex-husband, Charles, also told social workers he had witnessed his wife committing sex acts with his son. He has since recanted his story, saying he lied about it during a bitter custody battle over the children.

Charles Cosgrove, who is serving a 3-to-10 year prison sentence on unrelated child abuse charges involving a niece, is expected to testify for the defense this week.

The 31-year-old Raytown woman is being tried in Johnson County District Court on a charge of aggravated criminal sodomy. The crime is alleged to have occurred between February and March of 1984 while Cosgrove was living with her two children in a Merriam apartment.

In a related matter, Johnson County District Judge Robert Jones denied a request from the defense to dismiss the charges against Cosgrove. Donna Kaser Manning, Cosgrove's attorney, made the motion at the end of the state's case Wednesday morning.

(Continued to page 2)

4-30-87 OLATH DAILY NEWS

by young attorneys with less than extensive experience in the utilities field.

Scott Stockwell, 28, took over the utilities director post after serving three years as Henley's administrative assistant, a position he took after graduating from

same expertise that Don had when he left," Henley said. "But I have no reservations at all about Scott serving in that position. He's very intelligent, and a very quick study."

NEXT: Hayden: Pro-consumer or pro-utility?

Cosgrove testifies

(Continued from page 1)

Jones ruled enough evidence had been presented to allow the jury to make the decision.

Cosgrove spent about two hours on the witness stand Wednesday afternoon and will resume testifying when the trial enters its fourth day at 8:30 a.m. today.

During direct examination by Manning, Cosgrove said she often became involved in "heated conflicts" with state social workers for their handling of her children and the state's refusal to return the children to her custody following her divorce.

Cosgrove said she often argued with the psychologist who treated the boy, with her son's foster mother and with various members of the Kansas Social and Rehabilitation Services (SRS) during the last three years.

The defense is claiming the charges against Cosgrove are the result of an effort by police, social workers, the psychologist and the boy's foster parents to keep Cosgrove from ever regaining custody of her children.

Her parental rights were severed by Johnson County juvenile court authorities following a seven-day trial last fall. Her two children, now aged 11 and 7, have been in foster care since 1984.

Cosgrove has already been convicted of the charges by a Johnson County jury, but that verdict was set aside when Jones ruled there was an "accumulation of errors" in the first trial.

The charges were filed in the summer of 1985 after authorities say her son engaged in sexual activities with a 5-year-old girl living in the same foster home. Both children told authorities the boy stuck crayons inside the girl's body and also had her perform oral sex on him.

When authorities asked the boy why he did those things, he told investigators his mother had done that to him.

Cosgrove testified Wednesday

she had been ordered by doctors to give her son enemas and suppositories because of bowel problems. She also said her son's knowledge of sexual activities may have arisen because he saw his parents performing similar acts in their bedroom at home.

"There were a few times when he came in and saw my husband and I in intimate relations — intimate acts," she said, saying she was extremely embarrassed to admit it Wednesday.

Dressed in a cream-colored jacket and printed skirt, Cosgrove's emotions ranged from sadness to anger during the two hours on the witness stand.

Wiping back tears, Cosgrove testified she had a great relationship with her children prior to the divorce and subsequent custody battle with SRS.

"I was my little girl's Sunday school teacher and Brownie leader," she said. "I was a room mother for both of my children."

Also testifying Wednesday was Dr. Bill Graham, the psychologist who has been treating the boy since 1984. Graham conducted the interview of the child when the boy first told authorities about his mother's alleged sexual abuse. Graham is considered a key witness to the state's case.

Manning cross-examined Graham for about two hours Wednesday, spending most of her time concentrating on his qualifications and methods of questioning children involved in sexual abuse.

Manning is expected to call several expert witnesses in the field of child abuse investigations in an attempt to discredit the methods used by Graham.

Graham, who is licensed in Missouri, admitted he handles cases for the state of Kansas despite not being licensed in the state. He first said he came into contact with the Cosgroves when Kansas social workers referred the child to him.

City faces sewer costs

(Continued from page 1)

Once rain water enters

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Ex-husband says he lied about wife

By ANDY HOFFMAN

Daily News Reporter

Elisa Cosgrove's ex-husband testified Thursday he lied to authorities in 1984 when he told them he saw his wife performing oral sex on their infant son.

Charles Cosgrove's testimony came in the fourth day of his ex-wife's trial in Johnson County District Court on charges of aggravated criminal sodomy.

"I was very upset over the divorce and I wanted some way to get back at Elisa," Charles Cosgrove testified. "I called them (authorities involved in the case) in September 1984 and said I had seen her (performing oral sex) on my son when he was in diapers."

During cross examination by Richard Guinn, an assistant Johnson County district attorney, Cosgrove admitted he stayed with his original story for two years, but only changed it last October after he re-established communication with his ex-wife.

The couple were married for 12 years but were divorced in 1984 following a violent and hostile separation and custody battle.

The first time Cosgrove changed his story about the sexual abuse occurred during a trial last October in which Johnson County authorities were trying to permanently sever Mrs. Cosgrove's parental rights. Following the 7-day trial, the district judge permanently denied her access to her two children.

Prosecutors say Charles Cosgrove's accusations of sexual abuse are not directly related to the charges the woman is now facing. Authorities said by the time Cosgrove told authorities in 1984 of the abuse, the two-year statute of limitation had expired.

However, defense attorneys claim his allegation was the springboard that eventually led authorities to charge the woman with sexual abuse.

When Charles Cosgrove made the original accusations he said

the sex acts occurred while the boy was still in diapers. Prosecutors say the charges for which Elisa Cosgrove is now on trial occurred in February and March of 1984, when the boy was about 4 years old, but did not come to light until the spring of 1985.

The charges against the woman were filed in July 1985 after the boy asked a 5-year-old female playmate to perform oral sex on him. The little girl told her mother, who notified authorities. When investigators asked him why he had done those things, the boy told them that is what his mother did to him when they lived in a Merriam apartment in 1984.

Charles Cosgrove also testified for the first time Thursday the boy had walked into the couple's bedroom on at least two occasions while the couple was involved in intimate sex acts.

The defense claims the boy was simply acting out activities in which he saw his parents involved.

When Guinn asked Cosgrove why he hadn't testified about that at several other hearings on the charges, Cosgrove answered that no one had asked him.

During Charles Cosgrove's testimony, two uniformed Johnson County Sheriff's deputies sat in the courtroom. Cosgrove is serving a 3-10 year prison term at the Kansas State Penitentiary in Lansing on unrelated sexual abuse charges involving a niece.

Also testifying Thursday were two psychologists who treated the boy in 1984 and early in 1985. They both testified there were no "red flag indicators" of child abuse, but admitted during cross-examination that children can often suppress or hide signs of child abuse for months or years.

If convicted of the charge, a class B felony, Cosgrove could be sentenced to a prison term of 5 years to life.

The trial is to resume 8:30 a.m. before Johnson County District Judge Robert Jones.



Photos by Dave Kaup

tonight's show.



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The pope appeals for religious freedom. Page 14.

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Daily News

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OLATHE DAILY NEWS 5-5-87

Jurors acquit VOCAL leader

By ANDY HOFFMAN
Daily News Reporter

Elisa Cosgrove was found not guilty Monday of sexually abusing her 4-year-old son.

The eight-woman, four-man jury deliberated about four hours before deciding the 31-year-old Raytown woman had not performed oral sex on her son, as prosecutors had claimed.

It is Cosgrove's second trial on the charges. Last May a Johnson County jury convicted her of the crime, but District Judge Robert Jones set that verdict aside because there was an "accumulation of errors" in the first trial.

When the verdict was announced about 4:45 p.m. Monday, Cosgrove embraced her court-appointed attorney Donna Manning then turned and smiled at several supporters who had attended the trial.

Cosgrove is the Missouri coordinator for Victims Of Child Abuse Laws (VOCAL) and has been active in support of people who believe they have been unjustly accused of child abuse. Several members of that group attended Cosgrove's six-day trial.

As supporters gathered around her in the courtroom, Cosgrove told reporters how she coped with the two-year battle.

"Words can't adequately describe my feelings," a smiling Cosgrove said. "I believe that as long as you believe and continue to fight for what you believe in,

nothing is impossible."

Manning was more emotional than Cosgrove. When the verdict was announced Manning turned, embraced Cosgrove and began crying.

"I have never been more emotionally or personally involved in a case," Manning said as her co-counsel, Donald Smith, looked on. "I am just so thrilled for Elisa. I really admire her."

Johnson County District Attorney Dennis Moore, who has been an advocate in the area of child abuse for several years, issued a prepared statement after the verdict was announced.

"We are disappointed by the jury's verdict, although we believe the jury gave careful consideration to all admissible evidence," Moore said in the statement. "Unfortunately, successful prosecution of a case seldom improves with the passage of time. This alleged incident of sexual abuse took place more than three years ago, in February 1984."

Richard Guinn, the assistant district attorney who prosecuted the case, could not be reached for comment.

However, Manning was elated with the jury's decision.

"Do I have a comment?" Manning responded to reporters. "I don't know where to start ... There was just so much doubt in every aspect of the case."

Manning said she believed the

(Continued to page 3)



Photo by Scott Smith

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host

enjoying himself, said executive director of Olathe. The ministry has to have

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Photo by Dave Kaup

Elisa Cosgrove embraces her attorney, Donna Kaser Manning, as her other attorney, Donald Smith, looks on after the not-guilty verdict was announced late Monday afternoon.

Jurors acquit VOCAL leader

(Continued from page 1)
difference between the verdicts in the two trials centered on the witnesses called by the defense. In the first trial, Cosgrove's attorney, David Gilman, did not call any psychologists and experts in the field of child abuse as Manning did in the second trial.

"In the first trial, there wasn't any evidence presented from experts," Manning said.

Throughout the second trial, Manning presented witnesses who questioned the way police, social workers and psychologists con-

ducted the investigation into the case. She accused those people of conspiring against Cosgrove.

During closing arguments Monday, Manning told the jury the state's witnesses were "over zealous" in their investigation and prosecution of the case.

"The misreporting of sexual abuse can happen even when people have the best intentions in the world," Manning said. "They just got over zealous."

Cosgrove said she doubted Monday's verdict would have any impact on a recent Johnson Coun-

ty juvenile court decision to permanently sever her parental rights.

"It will take a miracle for me to get my children back," Cosgrove said, adding the juvenile court's decision "simply shows a lack of due process."

Cosgrove's two children, now ages 11 and 6, have been in foster care since 1984.

Cosgrove was charged with aggravated sodomy in July 1985 after her son, who was then 5 years old, told authorities his mother had performed oral sex on

him about 16 months before.

From the day she was first charged, Cosgrove has maintained her innocence.

Cosgrove's ex-husband, Charles, who testified for her during the trial, is serving a 3-to-10 year prison term on unrelated sex abuse charges.

During the second trial Charles Cosgrove testified he lied in 1984 when he first told authorities she was sexually abusing her son because he wanted to discredit her during their divorce.

OLATHE DAILY NEWS 5-5-87 P.3

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Metropolitan

Tuesday, May 5, 1987 ★

The Kansas City Times

City to bring study for

By James Kuhnenn
Of the Metropolitan Staff

Kansas City officials on Monday agreed to continue financing a \$500,000 study for a Latin American cultural and trade center in the city despite delays and the resignation of a key figure in the project. The decision came after officials with the U.S. Hispanic Chamber of Commerce, the sponsor of the project, supplied the city with a detailed work program and assurances that the study would be completed within the new deadline.

Though the 18-month grant was supposed to expire last Thursday, city officials said that to date the chamber had only spent \$83,000. The \$500,000 study would identify markets that could be served by

the chamber had selected consultants Jerry Jaramillo, a member, had resigned as coordinator for the project. The decision was the product of "contracts," Vaughn said. The delays in the study stemmed from the chamber should select to perform all the work or make consultants on different assignments. The chamber should select to perform all the work or make consultants on different assignments. The chamber should select to perform all the work or make consultants on different assignments.

Woman acquitted of sodomy charge

By Mike Kennedy
Of the Metropolitan Staff

A Raytown woman who has been an outspoken critic of child abuse laws was acquitted Monday in Johnson County District Court of sodomizing a boy.

Elisa M. Cosgrove, 31, had been charged with aggravated sodomy for allegedly committing a sex act with a 4-year-old boy in February or March 1984 when Cosgrove lived in Merriam.

After Judge Robert Jones announced the jury's verdict, Cosgrove's friends and supporters broke into applause, and Cosgrove tearfully embraced her attorney, Donna Kaser Manning.

"I feel like I just got married, it

feels that good," Cosgrove said. "I believe that as long as you believe and you continue to fight for what you believe in, anything is possible."

Cosgrove had been charged in 1985 and was convicted after a trial in May 1986, but Jones threw out the conviction, citing trial errors. For the last two years Cosgrove has led a local chapter of Victims of Child Abuse Laws (VOCAL), a national group that contends that investigations and prosecutions of child abuse cases often trample upon the rights of adults.

The boy, now 7, testified last week that Cosgrove sodomized

See RAYTOWN, B-6, Col. 1

Jetmore Elementary School sec- were other kids so he told me to - scing. This is a small town

Raytown woman acquitted of sex charge

Continued from Page B-1

him on several occasions. He said that he had been involved in sex acts with a 3-year-old girl while in a foster home. At the time, the boy told the girl that Cosgrove had done one of the same acts with him.

Cosgrove has denied ever abusing the boy. In her defense, Cosgrove and Manning contended that the boy was traumatized by his parents' bitter separation and divorce.

Manning also raised concerns about the "leading" questioning of the boy during the investigation. She said in opening statements that under questioning by adults a child can be convinced that an event that did not take place actually occurred.

"There was just so much doubt on every aspect of this case," Manning said. "We have certainly made some points. I'm so thrilled for Elisa."

After the accusations against her, Cosgrove permanently lost custody

of her two children in Court proceeding. She said verdict that she doubted tal would have any effect case.

"It will take a miracle to back," she said. "I feel it lack of due process. I've tears. I miss my children."

Cosgrove said she would to be active in fighting the child abuse laws.

Aid for Hispanic center study to continue

Continued from Page B-1

on his reasons for leaving.

"I'd rather keep that just between me and my client," he said.

But Barreto said Jaramillo had asked to coordinate the project from his own office rather than chamber headquarters. Barreto said the chamber's board turned Jaramillo

Barreto said the international trade component of the study will be carried out by Victor Rivera, a consultant and former assistant administrator of the federal Agency for International Development in charge of the Latin America and Caribbean Bureau. Rivera also was director of the Minority Business Development Agency in the U.S. Department of Commerce.

Barreto said, "was that build this project with Jaramillo) or without Jerry, without me, with the city the city."

ADVERTISING
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Woman hails acquittal as a boost for group

By Kate Miller

staff writer

Elisa Cosgrove believes her acquittal on an aggravated sodomy charge Monday will lend credibility and strength to a group that contends adults are victimized by child abuse laws.

But Johnson County prosecutors and social workers say they fear any added credibility could further endanger children in troubled environments.

"My trial was an education to this courthouse and to the public as a whole," Cosgrove, a 31-year-old Raytown resident, said after the verdict. "Those jurors have seen how a family and a whole community can be torn apart by false accusations of child abuse."

In 1985 Cosgrove was charged in Johnson County District Court with performing oral sex on a 4-year-old boy. She was convicted of the charge in May 1986, but because of errors in the trial the verdict was overturned.

Since the charges were filed against her, Cosgrove has coordinated the area chapter of Victims of Child Abuse Laws, a national group that works to strengthen investigations and laws to protect adults as well as children in suspected abuse cases.

Dennis Moore, Johnson County district attorney, said today that the verdict disappointed him, particularly after winning in the first trial.

"I think probably the most unfortunate aspect of this verdict may be some credibility it gives to an organization which tries to discredit child victims," he added.

"Children have been at the mercy of adults forever," Moore said. "In the past few years there

have been some small changes in the criminal justice system which recognizes the vulnerability of children and that they have rights to be protected."

Cosgrove said she understands the need to protect children's rights, but contends the process by which social service agencies carry out investigations often traumatize children.

"I think the verdict does show that our children are our most precious resource, and that they shouldn't be abused by their parents or the system," she said.

Specifically, Cosgrove said, investigating agencies should videotape initial interviews with children who could be victims of child abuse, and that all family members, friends, perhaps even employers, should be interviewed.

Care already is given to protect innocent adults, said Bonnie Walz, supervisor of the child protection unit in the Johnson County office of the Kansas Department of Social and Rehabilitation Services.

Walz said today her agency examines each report of child abuse individually, determining whether the charges appear to be valid or malicious. Careful interviews are performed, she said, and parents are interviewed if that is deemed necessary.

"I certainly think there are some errors that have occurred on both sides," Walz said. "But we are more liable by not investigating than we are by investigating and proving a claim is false."

45 Kansans Get Chance to Chat With Governor

By Ramona Jones
Of Our Topeka Bureau

TOPEKA — Helen Uman of Kansas City had a few things to tell Gov. Mike Hayden about the way a state agency treats her grandchildren, who are in foster care.

"It's really horrible," she said. "Grandparents have no rights to visit their grandchildren."

Uman's grandchildren were placed in foster care by the Kansas Department of Social and Rehabilitation Services, and she wanted Hayden to look into the problem.

Uman was one of 45 people who came

sleeves, sipping on a soft drink, Hayden flipped through a notebook filled with names and problems that he'd been scribbling down during the sessions.

"We had several state employees," he said. "Their problems varied. One was concerned about the freeze in hiring in the corrections department. She said her unit is already overworked and asked if those vacancies couldn't be filled."

A couple of people were looking for jobs, Hayden said. Some others supported cuts in state spending Hayden and the Legislature are working on.

"One felt we were spending too much

to the Capitol Monday to chat with Hayden during his second "Tell the Governor" program. Hayden spent four hours talking to people about their jobs or lack of jobs, state spending, education, performance of state agencies or recreational facilities.

"He didn't comment on anything," said Kathy Heck of Olathe, who also came to Topeka to talk to Hayden about SRS. "But he's been given a lot of information he didn't have before."

Hayden said the five-minute visits give him a chance to know what people out in the state are concerned about. Unlike his first Tell the Governor program on a

on elementary and secondary education," Hayden said.

She suggested students who ride buses be charged a fee, Hayden said, just as students are charged for lunches they buy in the school cafeterias.

About 20 of Hayden's visitors, including Uman and Heck, were with a group called VOCAL — Victims of Child Abuse Laws.

Several members of the group said they told Hayden about abuse their children had suffered in foster care and problems SRS allegations had caused the parents.

"Once people are labeled child

snowy day in February when most visitors were from Topeka, this session attracted people from across the state.

The next session will be in Wichita in June, said Hayden's press secretary Kathy Peterson, although the exact date and location have not been chosen.

"The beauty of these sessions," Hayden said, "is that, except for the rare cases, these people are not lobbyists. They talk to you in a personal way. They may represent a particular group, but they're not doing it as professionals. They're doing it unsolicited. It gives you a great sense for what the man on the street is feeling."

Sitting behind his desk in his shirt

Governor's Door Open For 4 Hours

abusers," said Elisa Cosgrove of Kansas City, who currently is facing trial on child abuse charges, "to try to prove your innocence is virtually impossible."

Cosgrove said Hayden listened to all the group's problems.

"For Gov. Hayden to allow the whole state to talk to him," she said, "I think he's really concerned about what people are saying. I think something will get done."

Hayden said he doesn't promise anybody anything, but he assigns staff members to check into the problems.

Some came to talk about particular legislation. Larry Ross of Wichita wanted to know if anything could be done to move a bill on bicycle traffic regulations out of committee.

Jayne Garcia of Topeka wanted to talk to him about funding cuts in the Low Income Energy Assistance Program.

And four Washburn law students just wanted a picture with Hayden for a special presentation.

"We have a faculty roast at the end of the week," said Carol Bell.

And Hayden played along.

Eagle Beacon April 14/87

● HAYDEN, 4D, Col. 1

Hayden hears concerns about abuse accusations

By John Petterson
Topeka Correspondent

TOPEKA — Members of an organization that thinks adults sometimes are falsely accused of abusing children urged Gov. Mike Hayden on Wednesday to support changes in the state's child abuse laws.

One of those meeting with Hayden for about 30 minutes was Elisa Cosgrove of Raytown, regional coordinator for Victims of Child Abuse Laws.

"What we addressed in this meeting was the urgency that is needed for a place for parents to go to or individuals to go to who have been falsely accused and for someone who can oversee what is going on with the social services," Cosgrove said.

She said she wanted the Legislature to establish the position of ombudsman so that persons accused of child abuse could tell their side of the story to someone not involved with the Department of Social and Rehabilitation Services, which investigates child abuse complaints.

"I think the fact he sat down with us to address this issue shows that he has a great concern, and he asked us to put together some concrete ideas for him and his aides," she added.

Kathy Peterson, Hayden's press secretary, said Cosgrove was told that if she had specific changes in mind, she should direct them to the new secretary of social and rehabilitation services when one is appointed.

ed.

In 1986, Cosgrove was convicted in Johnson County of sodomizing a 4-year-old boy, but the verdict was set aside and a new trial ordered. In May, at her second trial, the jury found her not guilty of abusing the child.

"There's like a scar on my face that I will carry for as long as I live," Cosgrove said in an interview after she met with the governor. "People that don't know me will always wonder, 'Well, did she or didn't she?' There's absolutely no way of proving your innocence."

"VOCAL in no way, shape or form is trying to eliminate child abuse laws," Cosgrove said. "We know we need child abuse laws, but, my gosh, somebody's got to get control of what's going on. It's so out of control."

Last Friday, Dennis Moore, the Johnson County district attorney, met with the governor to brief him on the legal history of Cosgrove's cases and to give him the prosecutor's side of the story.

Moore said that he offered to provide the information and that Hayden's office asked him to meet with the governor.

Wednesday's meeting was requested by Cosgrove and was her second with Hayden. The first was in April during a "Tell It to the Governor" program under which individuals can meet with the governor for up to five minutes without an appointment.

Kansas Lottery official named

From the Topeka Bureau

TOPEKA — A former official of the Missouri Lottery was named director of marketing for the Kansas Lottery on Wednesday.

Dennis Kiliany, who left the Missouri Lottery on Tuesday, began his new job Wednesday by meeting with corporations and individuals interested in selling Kansas Lottery tickets.

Larry Montgomery, executive director of the Kansas Lottery, said: "I am thrilled to get Dennis on board, especially with his knowledge of start-up operations for lotteries. This addition to the staff will ensure that short- and long-term marketing objectives are fulfilled."

At the same time, Montgomery announced that the lottery's western regional office would be in Great Bend.

Other regional offices will be in Wichita and in the Kansas City, Kan., area. Specific sites have not been determined.

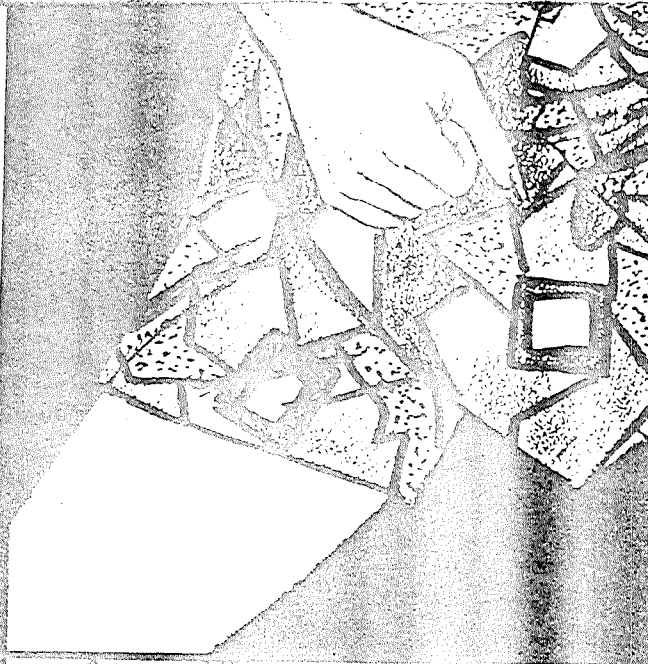
In Missouri, Kiliany, 40, was the Kansas City regional manager for the lottery. About a year ago, he was promoted to state field sales manager.

His annual salary in Missouri was \$47,720, plus an incentive plan that allowed him to earn up to an additional 18 percent of his salary. His new post pays \$48,684 a year.

Kiliany is a graduate of the University of Notre Dame with a degree in business administration.

The first Kansas Lottery tickets are to be sold at the end of September.

Missouri Lottery



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Sold elsewhere



For little league,
girls softball

—Sports/11

Women
in Rotary

Editorial/4

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call 454-9660)

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Friday may be the most dangerous day, the afternoon is the most dangerous time.

Think positive

More from the medics. Most of us are aware that it's physically possible to die of a broken heart, and that people who have no will to live will have a tougher time pulling through a medical crisis. Well, it turns out the reverse is true as well. Studies show that positive thoughts can trigger the brain into pumping chemicals that fight disease. In other words, patients with a good attitude get well quicker. Well, it makes sense. So cheer up!

Racial relations concern students

Raytown Area Church Alliance members say their invitation to local high school students to discuss racial problems wasn't prompted by the recent rape of a high school teacher.

It's been a topic that members have found themselves talking about before.

"We don't want this to be viewed as a reactionary meeting by any means," said Jane Fislser Hoffman of the Southwood United Church of Christ. "This is meant to be a family discussion.

"We're family in a lot of ways. A church family. The family of the Raytown community."

But there seems to be the potential for trouble since the incident occurred — at least in the Raytown C-2 School District "family" — according to the four students who discussed the issue of race relations at the Alliance's luncheon gathering last Thursday. About 30 attended.

"I feel like it's the 60's again, not the 80s," said Tanya Robey, a senior at Raytown South High School. "Sometimes it feels like we're not going forward, we're going backward.

"It's not out in the open, it's still under cover, you can't see

She's getting VOCAL

By TODD RECTOR
Staff Writer

Elisa Cosgrove lives her life in constant turmoil, searching for a past life that she knows she'll never regain.

The 32-year-old Raytown woman considers herself a fighter — a person who fights with emotions, but searches for facts.

Cosgrove leads the Kansas City area chapter of VOCAL, or Victims of Child Abuse Laws. She started the area branch of this national group

in 1985.

At times she was the only one present at the meetings. But since VOCAL's beginning, the monthly sessions have grown, with as many as 50 persons attending.

Each person there has a special concern about the touchy subject of child abuse, she said, and the rights of the child versus the rights of the accused abuser.

Some have been charged with child abuse and found not guilty, as is the case with Cosgrove. They find their lives

in disarray, she said, being separated from their children and forced to live with the stigma of being a child molester.

Cosgrove, convicted in Johnson County of sodomizing a 4-year-old boy in 1986, was acquitted of that charge in May after a new trial. But having the decision overturned by no means ended her ordeal, she said.

Cosgrove has been trying to reinstate her own parental rights, which were severed

□ VOCAL, Page 3

□ VOCAL

Continued from Page 1

by a court order in 1984 during a divorce. She hasn't seen her two children since June 1985. And her attention now is focused on getting the children — ages 7 and 11, and in foster care — back in her custody.

"Life just never will be the same," said Cosgrove. "It won't be for the children, either."

Cosgrove stresses that VOCAL doesn't seek to remove the rights of the child, but rather to maintain the rights of due process for the parents.

Her main complaints are with the Division of Family Services in Missouri, and the Social Rehabilitation Service in Kansas — groups she believes to be too arbitrary in

decision-making.

"A child is going to say what he thinks will make an adult happy," said Cosgrove. "Once you've been labeled a child abuser, that label sticks."

VOCAL would like to see the state install a group whose sole purpose is to address grievances. Cosgrove said this group should be separate from state family services and would seek to produce factual information.

VOCAL members also believe that the initial interviews between the child and counselor should be videotaped, or at least tape recorded.

"The first meetings are crucial," said Cosgrove. "The child may be asked misleading questions. These counselors

need to be taught better interviewing techniques."

VOCAL members hope to form a network of attorneys and other persons who are aware of their concerns and are willing to work for changes in the system.

"By no means do we want to do away with child abuse laws," said Cosgrove. "We know we need child abuse laws. But someone has to get control of what's going on, because it is out of control."

Cosgrove said that most people who come to VOCAL meetings are hungry for advice.

"They want to know how to get their kids back and clear up their names," she said. "We're a good support group. And believe me, it's good to talk with someone

who has lived it or is still going through it."

Cosgrove is concerned about children in "foster care limbo," living a life that she says never gives them a true identity.

"The laws aren't half as bad as the mindset we're up

against," said Cosgrove, who later this month will have her case reviewed by the same judge who made originally severed her parental rights.

"I'm going to see some laws changed and have my kids back if it kills me."

VOCAL meets on the second

Tuesday of each month at the Plaza branch of the Mid-Continent Public Library. The group is also spearheading a candlelight vigil Friday night at Volker Park in Kansas City, honoring children being who won't be with their dads on Father's Day.

□ CAR

Continued from Page 1

The Cadillac, which was not disposed of by customs officials, was offered to the police department about six months ago in exchange for its role in the raid. Transferance was made to the department in February under provisions of the Comprehensive Crime Control Act of 1984 and the Tariff and Trade Act of 1984.

Because the department had no use for the Cadillac, Turnbow put the car up for bid: "It was a case where we were able to

benefit directly from the fruits of crime," he said, noting that the book value of the car was \$2,025.

A city ordinance stipulates that a request for sealed bids be published for two consecutive weeks in a designated local weekly newspaper. Records show the car was advertised once.

"It was something that went through our department and we missed it," said Bob Reis,

city clerk and finance director, about the bid request publication. "Theoretically it's something we should have known."

Walters hopes to tie up all the loopholes regarding the city's bidding procedures with new ordinances. In the meantime, he's still looking for explanations.

"There's no real black and white, right or wrong involved here," said Walters. "There seems to be a lot a shades of gray."

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Abuse Meeting Gets Unexpected Visitors

By Lisha Gayle
Of the Post-Dispatch Staff

A state-sponsored conference on preventing child abuse was infiltrated last week by some unexpected guests.

Their remarks peppered the usual conference fare with mistrust — and sometimes hostility — toward the chief host, the Missouri Division of Family Services. The division is a primary investigator of child-abuse complaints.

The unexpected guests — numbering about 20 — were advocates for adults who say they have been falsely accused of abusing children. The conference drew about 800 people and was held at the Holiday Inn Executive Center in Columbia.

At a session Wednesday morning, Rep. Kaye Steinmetz, D-Florissant, ended her speech with a warning about an "alarming" trend.

"In Missouri, there's now a growing movement of people who would remove the child abuse reporting law," Steinmetz said.

She mentioned a group called VOCAL — Victims of Child Abuse Laws — and said, "Some of those people have been harmed by the system and have truly been hurt. Others believe that children are the property of parents, who can do as they see fit."

Almost immediately, a woman standing in the back of the room raised her hand and objected to Steinmetz's characterization of VOCAL. Elisa M. Cosgrove of Kansas City, a VOCAL member, said her group didn't want to eliminate child abuse laws — only to stand up for the rights of people who are falsely accused.

Steinmetz apologized, saying that she had met Cosgrove and believed that Cosgrove truly cared about protecting abused children. But Steinmetz added that she had recently got some hate mail that she suspected was from someone associated with VOCAL.

The exchange between Steinmetz and Cosgrove was tame compared to descriptions of what had happened at a session Tuesday afternoon.

An unidentified man — described as a "heckler" — videotaped the session and asked "belligerent" questions afterward, participants said. The man identified himself as one who had been falsely accused of child abuse.

To avoid an uglier scene, the session abruptly adjourned.

In an interview, Cosgrove said the man with the video camera wasn't a member of VOCAL. She said that she was sympathetic to his plight but that she abhorred his tactics.

Cosgrove and the unknown man were among about 20 people at the conference whose sympathies lie with adults who are falsely accused, said Terry Gannon, who heads the St. Louis chapter of VOCAL. Of the 20, about 15 were members of VOCAL, Gannon said.

A few eruptions of hostility at the conference may have been inevitable.

On one side were social workers for private agencies, social workers for the Division of Family Services, prosecuting attorneys and hospital authorities. Many of them spend their careers dealing with horrors such as an infant's fractured ribs or a second-grader's torn genitals.

On the other side were people from various backgrounds who exchanged stories about vengeful women who smear their ex-husbands with false accusations or about teen-agers who accuse their parents of abuse just to "get even" for refusing to yield the car keys.

The children's advocates "think they're doing the right thing," Cosgrove said, "but they believe everyone who's accused of being a child abuser really is one. And they're going to prove it, no matter what."

Members of VOCAL may cite case after case of false accusations that tarnish reputations and tear apart families. But a leading official in the Division of Family Services said, "We frequently have a very different story to tell than you hear from the quote-representatives-unquote from VOCAL."

The official, Melody A. Emmert, said she was frustrated because the division cannot refute allegations VOCAL makes in specific cases. Law requires that the cases be kept confidential.

VOCAL appears to have become a focus for criticism by children's advocates. Yet — as the man with the video camera showed — not all attacks on the current system can be traced to VOCAL.



Rep. Kaye Steinmetz
"A growing movement"

Steinmetz — one of the Legislature's outspoken advocates for children's rights — said she was unable to determine the source of the hate mail she got.

A letter, postmarked April 7, referred to "the whores of Missouri's child abuse industry" who make money from state agencies that investigate sexual abuse of children. Steinmetz said that the letter had implied that she was "a state pimp" — one who is blind to the anguish of adults who are falsely accused.

Cosgrove said VOCAL had printed no such letter. In an interview, she said she had felt slandered by Steinmetz's remark and was grateful that the legislator had apologized.

Although VOCAL members might not be the only ones speaking out for the rights of the falsely accused, the group appears to be the only organized advocate. VOCAL came to Missouri about a year ago and has started at least four chapters, Cosgrove said.

She said that one of the most active chapters is in St. Louis. Gannon, the local chapter head, said the group had been meeting about once a month at her home in north St. Louis County. Typically, the meetings draw about 20 members, but Gannon said that she has a mailing list of more than 50 people.

Gannon said that VOCAL acted as a "support group" for people who are distraught by allegations against them. The group also works for changes in the law to bolster the rights of the falsely accused, she said.

Probably the most frequent target of the group's criticism is the Division of Family Services. The division sponsors the child abuse hot line — a toll-free phone number to dial when reporting abuse.

State Called Lax On Aiding Abused Children

Lisha Gayle
Post-Dispatch Staff

COLUMBIA, Mo. — Missouri is failing to accept its responsibility to protect abused children, state Rep. Kaye Steinmetz said Tuesday.

In many cases, the state's system to protect children is up causing more trauma, Steinmetz, D-ssant.

Steinmetz recently received on a committee researching children's needs.

The committee heard testimony from around the state. The testimony was very disturbing, Steinmetz said. "We heard over and over again that we weren't doing enough for the families to get them



Steinmetz

back together successfully."

Reuniting families should be the state's main goal in many child abuse cases, she said.

"The very best child welfare is good family welfare," she said.

Steinmetz made the remarks in a speech to a state-sponsored conference on preventing child abuse. The conference ended Wednesday.

Providing good services to families is cost-effective in the long run, Steinmetz said.

"If we can treat families and preserve the family unit, we can avoid long-term foster care and long-term residential care" for children, she said.

Steinmetz asked her audience to work to pass two bills that are pending before the Legislature.

"The bills that become laws in Missouri are the ones that legislators hear about (the need for) most often," she said.

One of the bills would require agencies serving children to develop a long-term plan for each child. Currently, planning often leaves out important professionals, such as teachers and psychologists, Steinmetz said.

"The more people involved in the planning, the more likely you are to have a good plan," she said.

That bill would also require training for foster parents and would provide care for children while foster parents get away for brief periods. In addition, the bill would give juvenile court judges the power to order specific treatment for abused children.

The bill would cost the state \$16 million, Steinmetz said. Although the bill is cost-effective, its price tag makes it unlikely to pass, she added.

On the other hand, the second bill she is supporting will probably pass, she said. It would cost the state \$250,000, Steinmetz said.

That bill would allow the testimony

of child abuse victims to be videotaped for hearings in juvenile court. Currently, such testimony is allowed only at hearings in criminal courts.

The bill would also require fast court action on cases involving abused children. And the bill would give judges the power to issue protective orders for children, much as judges can now issue protective orders to stop adult abuse.

Steinmetz was critical of how the state operates under existing laws.

"Currently, children are going untreated because of budget freezes," she said. "Within the immediate future, the state of Missouri will file itself in a lawsuit, and I think we will lose — and I pray that we will lose," she said.

She said that when the state takes on the responsibilities of a parent, it should provide the services recommended, rather than just putting children on a waiting list.

Region

Expert Stresses Efforts To Prevent Child Abuse

By Lisha Gayle
Of the Post-Dispatch Staff

If professionals working with child abuse concentrate all their efforts on treating the abused children, the abuse will never stop, a national expert said Monday.

Anne Harris Cohn, executive director of the National Committee for Prevention of Child Abuse, called on nearly 800 social workers to become "change agents" willing to devote some of their time and skills to preventing child abuse so that some day they would have fewer abused children to treat.

Cohn compared treating abused children to pulling babies, one by one, out of the Mississippi River and breathing them back to life.

Saving the babies is an admirable and necessary task, she said.

But "unless some of us go upstream and find out why those babies are falling in the river, there's never going to be an end to the cases that crowd our caseloads," she said.

Cohn gave the opening address at Missouri's eighth conference on child abuse and neglect. The conference is being held in Columbia, Mo. Cohn's organization is based in Chicago.

The National Committee for Prevention of Child Abuse has set a goal of reducing child abuse and neglect by 20 percent in the next three years, Cohn said.

Among steps to reach that goal, the committee wants to end corporal punishment in all public schools, she said.

"We ought not allow the physical punishment of children at school because it teaches children that hitting is OK," Cohn said.

8A
Tues., Apr. 14, 1987

ST. LOUIS POST-DISPATCH

She encouraged adults to find other, more effective measures to discipline children.

Also in schools, all children should go through programs teaching them how to keep from being sexually abused, Cohn said. Children should learn how to say no to improper touching, then tell a trusted adult what happened, Cohn said.

Some states require sexual abuse prevention programs in schools, she said.

To prevent physical abuse of children, Cohn said, "we need to blanket the public with messages" that help people be better parents.

For example, social workers should use the press to tell people, "It's not easy to be a parent and it's OK to seek help," she said.

Missouri has a "Parental Stress Hot Line." It is one of the state's efforts to help parents resist using violence to discipline their children. The toll-free number is (800) 367-2543.

The conference will continue through Wednesday at the Holiday Inn Executive Center in Columbia.

**MISSOURI
CHILD ABUSE AND NEGLECT LAW**

**CHAPTER 210, RSMo 1986
CHILD PROTECTION AND REFORMATION**

CHILD ABUSE

210.110. Definitions.—As used in sections 210.110 to 210.165, unless the context clearly indicates otherwise, the following terms mean:

(1) **“Abuse”**, any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for his care, custody, and control except that discipline including spanking, administered in a reasonable manner shall not be construed to be abuse;

(2) **“Child”**, any person, regardless of physical or mental condition, under eighteen years of age;

(3) **“Director”**, the director of the Missouri division of family services;

(4) **“Division”**, the Missouri division of family services;

(5) **“Neglect”**, failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for his well-being; and

(6) **“Those responsible for the care, custody, and control of the child”**, those included but not limited to the parents or guardian of a child, other members of the child’s household, or those exercising supervision over a child for any part of a twenty-four hour day.

(L. 1975 H. B. 578 § 1. A. L. 1982 H. B. 1171, 1173, 1306 & 1643. A. L. 1985 H. B. 366, et al.)

210.115. Reports of abuse or neglect, who shall make.—

1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital and clinic personnel (engaged in examination, care or treatment of persons), and other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child care worker, juvenile officer, probation or parole officer, teacher, principal or other school official, Christian Science practitioner, peace officer or law enforcement official, or other person with responsibility for the care of children, has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to

6. Any person appointed to perform guardian ad litem duties shall have completed a training program in permanency planning. A nonattorney volunteer advocate shall have access to a court appointed attorney guardian ad litem should the circumstances of the particular case so require.

(L. 1975 H. B. 578 § 11, A. L. 1982 H. B. 1171, 1173, 1306 & 1643, A. L. 1985 H. B. 366, et al.)

210.165. Penalty for violation.—1. Any person violating any provision of sections 210.110 to 210.165 is guilty of a class A misdemeanor.

2. Any person who intentionally files a false report of child abuse or neglect shall be guilty of a class A misdemeanor.

3. Every person who has been previously convicted of making a false report to the division of family services and who is subsequently convicted of making a false report under subsection 2 of this section is guilty of a class D felony and shall be punished as provided by law.

4. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

(L. 1975 H. B. 578 § 12, A. L. 1982 H. B. 1171, 1173, 1306 & 1643, A. L. 1986 S. B. 470)

210.166. Medical neglect of child, who may bring action—procedure.—1. As used in this section, the following terms mean:

(1) **“Interested person”**, the division of family services, any juvenile officer, any physician licensed under chapter 334, RSMo, any hospital or other health care institution, and any other person or institution authorized by state or federal law to provide medical care;

(2) **“Medical neglect”**, the denial or deprivation, by those responsible for the care, custody, and control of the minor, of medical or surgical treatment or intervention which is necessary to remedy or ameliorate a life-threatening medical condition;

(3) **“Those responsible for the care, custody, and control of the minor”**, includes but is not limited to the parents or guardian of a minor, other members of the minor’s household, or those exercising supervision over a minor for any part of a twenty-four-hour day.

2. Any interested person may bring an action in the circuit court in the county where any child under eighteen years of age resides or is located, alleging the child is suffering from medical neglect. A petition filed under this section shall be expedited by

TESTIMONY IN SUPPORT OF SENATE BILL 566

Submitted by: James Robertson
CSE Administrator
Department of Social and
Rehabilitation Services
296-4188

SECTIONS 1 & 2: URESA Jurisdiction and Venue

Summary: Amendment of K.S.A. 23-460 and 23-461, part of the Uniform Reciprocal Enforcement of Support Act (URESAs), to clarify jurisdiction and venue in certain interstate support cases.

Background: The existing statutes have not been amended since their adoption in 1970. Because of changes in the administration of interstate support enforcement, the provisions have become a stumbling block to speedy, efficient enforcement.

The proposed amendment consolidates the jurisdiction and venue provisions into one statute. The amendment first vests jurisdiction, the power to hear URESA cases, generally in the district courts, then outlines the rules of venue to be followed. With jurisdiction and venue clearly distinguished, a URESA action prosecuted in the wrong county would not be void for lack of subject matter jurisdiction.

Conflicts between the statute's present wording and existing case law have caused injustice in several cases. In two cases, an incoming URESA petition was transferred back and forth between the county of the parent's residence and the county of the divorce, (resulting in no support order), because each court believed that only the other court had the power to act on the support petition. Consequently the child received no support at all, a result clearly contrary to the purpose of URESA.

The proposed venue provisions are very similar to existing rules of civil procedure; K.S.A. 60-603 allows defendants to be sued in either the county of residence or of employment. Allowing initiation of the URESA case in either the petitioner's county of residence or employment would reduce the inconvenience and expense to working custodial parents, whose resources are often limited, without burdening the defendant in the responding state.

Fiscal Impact: This amendment would reduce litigation expenses concerning the issue of jurisdiction, and would reduce court administrative expenses by eliminating duplication of cases. Increased collections brought about by faster, more efficient initiation of cases would result in higher federal incentive payments based upon interstate collections. Metropolitan courts could experience an slight increase in the numbers of petitions filed, if obligees are permitted to file in the county of their employment.

Att. III

SECTIONS 3 through 7: Interstate Income Withholding

Summary: Amendments to the Interstate Income Withholding Act (K.S.A. 1987 Supp. 23-4,125 et seq.) adding procedures for enforcement in Kansas of out-of-state orders on behalf of Kansas residents, adding a presumption that photocopied documents are true and authentic copies, and eliminating inconsistent terminology.

Background: The Interstate Income Withholding Act has proven to be a fast, effective tool for enforcing out-of-state orders on behalf of children in other states. Because the act does not specifically provide procedures applicable when Kansas is both the requesting and responding state, it has not been used as effectively on behalf of Kansas families as it might be. The proposed amendment would clarify those procedures, encouraging use of the act on behalf of Kansas children.

One of the purposes of the act is to provide a speedy enforcement remedy for out-of-state orders; this purpose is severely hampered by the statutory requirement that nearly all documents be certified. Experience has shown that a significant number of cases are delayed because people in other states overlook or do not understand the certification requirement, and it is often a lengthy and costly process to obtain certified copies. The solution offered by the proposed amendment is to eliminate the routine requirement, substituting a presumption that photocopies provided by the state are true and authentic copies unless the accuracy or authenticity of a document is questioned or unless a certified copy is requested.

Inconsistent language in K.S.A. 23-4,129(b)(2) is eliminated.

Fiscal Impact: Expanded application of the act will result in increased support collections, (and federal funding based on those collections), at lower administrative cost. Eliminating the certification requirement will allow cases to be initiated faster, increasing collections and resulting in higher federal incentive payments. It will reduce both SRS' and the courts' administrative expenses of having orders copied and certified, and of obtaining certified documents from other states.

SECTION 8: CINC (Child in Need of Care) Paternities

Summary: Clean-up amendment of K.S.A. 38-1516, (code for care of children), which bars use of the Kansas Parentage Act to determine parentage of a child in need of care.

Background: The Kansas Parentage Act, K.S.A. 38-1110 et seq., was enacted in 1985 and provides that proceedings concerning the parentage of a child "shall be governed by this act...." No exception is made for proceedings under the code for care of children. The former paternity statute had also been found in article 11 of chapter 38, before its repeal in 1985.

The code for care of children was enacted before the Kansas Parentage Act, and in K.S.A. 38-1516 it broadly prohibits application of article 11 to paternity determinations in CINC (child in need of care) proceedings. The apparent rationale was that the old paternity action had to be initiated by the mother and allowed her to recover birth expenses, neither of which was always appropriate in CINC proceedings. Amendment of K.S.A. 38-1516 will eliminate the conflict between the statutes.

Fiscal Impact: This amendment is not expected to have any significant fiscal impact.

SECTION 9: Dormancy

Summary: Amendment to K.S.A. 60-2403 to toll application of the current five year dormant judgment statute in child support cases until the child turns 18 or is legally emancipated.

Background: Case law in Kansas has traditionally upheld the principal that child support is a right that belongs to the child. Further, the courts have uniformly held that a parent may not waive or take any action which would compromise the child's right to receive support. Other statutes of limitation generally do not apply to eliminate children's rights until after they become an adult. Therefore, child support judgments should not be allowed to become dormant or void until after a child has the capacity to enforce his or her rights as an adult.

Current Kansas dormancy laws are among the shortest and most confusing in the nation. The majority of states either have no statute of limitations which prevent the enforcement of child support or have a much longer period before dormancy applies. In addition, existing Kansas case law requires courts to apply the dormancy statutes strictly and forbids the use of equitable powers to ameliorate harsh results. It is patently inequitable for the mere passage of time to absolve a parent of a debt owed to a child who is legally incapable of protecting his or her rights.

Fiscal Impact: The proposed amendment would increase state revenues substantially by allowing CSE to collect greater amounts of past due support which have been assigned to the State. Passage of this legislation will provide projected revenues of one half a million dollars the first year and \$5.5 million over the next three to five years. Furthermore, collections on behalf of Non-ADC families would result in higher federal incentive payments, as well as preventing public assistance expenditures for those who might otherwise be forced to draw assistance. Increased collections on behalf of other states' IV-D agencies would also result in higher federal incentive payments.

SECTION 10: Payments From the Department of Corrections

Summary: Amendment of K.S.A. 75-5268(c), authorizing Dept. of Corrections to send payments for dependents receiving assistance directly to the court which ordered support, or to SRS when there is no order.

Background: When an inmate's dependent receives public assistance, the existing statute requires the Dept. of Corrections to send payments for the dependent's support directly to the dependent, notifying SRS of the payment. However, because the dependent's support rights have been assigned to SRS, the dependent is required to turn the payment over to SRS or risk prosecution for fraud. This applies whether there is a support order or not.

If the Dept. of Corrections sent payments to the court which ordered support, existing procedures would insure that payments were sent to SRS while support rights were assigned, and then sent to the dependent when the assistance case closed. Furthermore, most courts order support to be sent to the court for posting on the official payment record. When payments are sent directly to the dependent, the inmate does not receive credit on the court payment record until the dependent reports the payment or until the discrepancy is discovered.

The proposed amendment would simplify the Dept. of Corrections' responsibilities by eliminating the need to separately notify SRS when a payment is made and by eliminating the need to change the payee's address whenever the dependent moves or the assistance case closes. For cases in which there is no court order, the proposed amendment would allow the Dept. of Corrections to transmit the payments en masse directly to SRS via interfund voucher, eliminating the need for separate warrants.

Fiscal Impact: The proposed amendment would reduce the incidence of fraud caused by recipients' failure to turn in support received, reduce delays in collecting support payments after notice from Dept. of Corrections, and reduce administrative expenses for the Dept. of Corrections.

SECTION 11: Replacement for 39-718a

Summary: New statute, replacing K.S.A. 39-718a, to clarify SRS' authority to collect reimbursement of assistance and to codify reimbursement rights of similar agencies of other states.

Background: The wording of the existing statute has led to repeated litigation over the meanings of "absent parent," "dependent child," and "complied fully with the terms of the court's order." The proposed amendment would establish the right to reimbursement in very general language and then spell out the exceptions using terms already defined in Chapter 38.

The amendment would codify existing practices in computing the child's share of assistance and in computing liability and applying payments when an existing court order has been complied with in some months but not others. Codification would assure uniform application.

URESAs (Uniform Reciprocal Enforcement of Support Act, K.S.A. 23-451 et seq.) allows another state to file a petition for reimbursement from a parent who lives in Kansas, however, the duty of the parent to reimburse that state is not codified under Kansas law. Other states must now rely on Kansas common law as the basis for reimbursement, but there are no appellate cases directly on point and the treatment of these petitions varies widely among both prosecuting attorneys and judges. Codification of other states' rights will assure more uniform treatment for both Kansas residents and for other states seeking reimbursement.

Fiscal Impact: This amendment would reduce SRS' litigation expenses by more clearly defining who is liable for reimbursement. The codification of other states' reimbursement rights would encourage and simplify enforcement of those rights, resulting in higher federal incentive payments based upon higher interstate collections.

0193 videotape, shall be forwarded by the clerk of the court to the
0194 requesting court or agency.

0195 (g) A person within this state may voluntarily testify by
0196 statement of affidavit in this state for use in a proceeding to
0197 obtain income withholding outside this state.

0198 Sec. 6. K.S.A. 1987 Supp. 23-4,135 is hereby amended to
0199 read as follows: 23-4,135. (a) *Except as provided in subsection*
0200 *(c), the agency, upon receiving a certified copy of any amend-*
0201 *ment or modification to a support order entered pursuant to*
0202 *K.S.A. 1985 1987 Supp. 23-4,129 and amendments thereto, shall*
0203 *initiate, as though it was were a support order of this state,*
0204 *necessary procedures to amend or modify the income withhold-*
0205 *ing order of this state which was based upon the entered support*
0206 *order. The court shall amend or modify the income withholding*
0207 *order to conform to the modified support order.*

0208 (b) If the agency determines that the obligor has obtained
0209 employment in another state or has a new or additional source of
0210 income in another state, it shall notify the agency which re-
0211 quested the income withholding of the changes within five
0212 working days of receiving that information and shall forward to
0213 that agency all information it has or can obtain with respect to the
0214 obligor's new address and the name and address of the obligor's
0215 new employer or other source of income. The agency shall
0216 include with the notice a certified copy of the income withhold-
0217 ing order in effect in this state.

0218 (c) *If the copy of the amendment or modification of the*
0219 *support order is defective, the agency shall notify the requesting*
0220 *agency of the defect and may require the requesting agency to*
0221 *provide a copy of the amendment or modification.*

0222 Sec. 7. K.S.A. 1987 Supp. 23-4,136 is hereby amended to
0223 read as follows: 23-4,136. Any person who is the obligor under a
0224 support order of another jurisdiction may obtain voluntary in-
0225 come withholding by filing with the court a request for a with-
0226 holding order and a certified copy of the support order of the
0227 other jurisdiction. The court shall issue an income withholding
0228 order, as provided in subsection (g) of K.S.A. 1985 1987 Supp.
0229 23-4,107 and amendments thereto, which shall be honored by

certified

0267 (b) The provisions of subsection (a) shall not apply to child
0268 support judgments until after the child for whom support was
0269 ordered attains age 18 or is emancipated pursuant to K.S.A.
0270 38-101 and amendments thereto. The provisions of this subsec-
0271 tion shall apply only to those child support judgments which
0272 have not become dormant or void as of July 1, 1986

1988.

0273 Sec. 10. K.S.A. 75-5268 is hereby amended to read as fol-
0274 lows: 75-5268. Any inmate who is allowed to participate in such
0275 paid employment or in such job training or paid employment for
0276 which a subsistence allowance is paid in connection with such
0277 job training shall pay over to the secretary or the designated
0278 representative of the secretary all moneys received from such
0279 paid employment or job training except that, pursuant to rules
0280 and regulations adopted by the secretary of corrections, the
0281 inmate shall retain a stipulated reasonable amount of the money
0282 as the secretary or the designated representative of the secretary
0283 deems necessary for expenses connected with the employment
0284 or job training. The balance of the moneys paid to the secretary
0285 or the designated representative of the secretary shall be dis-
0286 bursed for the following purposes:

0287 (a) A designated minimum amount of that money paid to the
0288 secretary shall be returned to the state general fund or to the
0289 political subdivision, federal government or community-based
0290 center for such inmate's food and lodging or, if the inmate is
0291 participating in a private industry program other than work
0292 release, the minimum amount collected shall be deposited to the
0293 correctional industries fund;

0294 (b) transportation to and from the place of employment at the
0295 rate allowed in K.S.A. 75-3203 and amendments thereto;

0296 (c) if any of the dependents of the inmate are receiving
0297 public assistance, a reasonable percentage of the inmate's net
0298 pay after deduction of the above expenses shall be forwarded to
0299 the spouse or the guardian of any dependents with immediate
0300 notification of some court which ordered support for the depen-
0301 dent or, if there is no order, to the secretary of social and
0302 rehabilitation services;

0303 (d) if subsection (c) is not applicable, then a reasonable

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding S.B. 547

1. Title

An act concerning children; providing for criminal remedy for false reporting of allegation of child abuse and neglect; amending K.S.A. 1987 Supp. 38-1522 and repealing the existing section.

2. Purpose

The purpose of this bill is to provide a criminal sanction for those persons who knowingly make false reports of suspected child abuse, neglect or sexual abuse.

3. Background

The problem of false reporting of child abuse, neglect or sexual abuse is a growing concern in Kansas as well as nationally. Such reports cause unwarranted stress to families and diverts time and services from legitimate child protection activities.

False, malicious and harassing reporting is most often the result of family squabbles and divorce custody cases in which one estranged spouse accuses the other of child abuse in order to inflict revenge or to use as a weapon in gaining custody. Such reports have an additional cost to society by eroding public trust of the protective agencies and weakening the laws designed to protect children.

During FY-1987, SRS investigated 9098 cases that resulted in a determination that abuse, neglect or sexual abuse was not present nor was there evidence that the child was at risk of future harm. The vast majority of these reports were made in good faith by people who had a genuine concern for the welfare of the child and who were willing to speak up in behalf of that child. We want to do nothing that would diminish these reports. But, if only 5% of the unfounded reports were falsely made this would represent over 450 unnecessary investigations last fiscal year. If it takes an average of four hours to determine the report was unfounded and to perform the associated documentation and reporting, this is equivalent to 53 weeks (or in excess of one year) of a full time social worker's time.

Even in instances where previous contacts with the reporter have resulted in investigations of incidents that were unfounded once there is no reason to suspect that the current report is valid, valuable time is taken up in receiving such reports, with little hope of stopping future groundless reports.

Att. IV

4. Effect of Passage

This amendment would provide a mechanism for holding the person who makes false, malicious or harassing reports accountable for his or her costly action. Though this bill has no direct fiscal impact, its passage would allow some relief to already overextended child protection staff.

5. Recommendation

SRS recommends passage of this bill.

Winston Barton
Office of the Secretary
Social and Rehabilitation Services
(913) 296-3271

2-15-88
REC

FEB 10 1988

LAW OFFICES OF
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AREA CODE 913
(KANSAS CITY)

February 9, 1988

Mr. Ron Smith
KBA Legislative Counsel
Kansas Bar Association
1200 Harrison
Post Office Box 1037
Topeka, Kansas 66601

Re: SB 547 and SB 566

Dear Ron:

The following are my comments regarding the proposed legislation:

SB 547:

This amendment might slow down the practice of making known false allegations of child abuse for harassment purposes, especially in custody disputes. However, I am concerned that it may have a chilling effect on someone reporting a suspicion of child abuse or neglect when the reporter is not positively sure that the child is abused or neglected, but suspects that something is wrong (e.g. a concerned neighbor, grandparent or teacher). In balancing the harms, I would rather see false reports than abuse continuing unchecked. The better answer to the problem would be to provide more funding to SRS so that allegations could be more quickly and thoroughly investigated in order to substantiate the allegations, before charges are filed against the alleged perpetrator.

On the other side, one of my law partners (Barry D. Martin) believes that there is an "hysteria" concerning child abuse which is creating a backlash of false and/or unsubstantiated reports of child abuse and neglect being prosecuted. He believes that making such an allegation "known to be false" should be a Class C felony, and that prosecutors who prosecute unsubstantiated allegations ought to be subject to a Class E felony. (Of course, he has defended a couple of these "false" charges. I, on the other hand, usually represent a concerned parent who thinks that their spouse or ex-spouse is abusing or neglecting the children, but cannot prove it without the assistance of an investigation.)

Att. VI

Frank J. Yeoman, Jr.

ATTORNEY & COUNSELLOR AT LAW

JAYHAWK TOWER, SUITE 803
700 JACKSON
TOPEKA, KANSAS 66603
(913) 233-2265

RECEIVED

DATE: Feb 9, 1988

FEB 10 1988

TO: Ron Smith, KBA Legislative Counsel

KANSAS BAR
ASSOCIATION

FROM: Frank J. Yeoman, Jr.

Re: SB 547

I would suggest that the language of the statute should be

"Any person who knowingly and willfully reports an allegation of child abuse or neglect knowing at the time of the making of the report that the same is false, shall be guilty of a class B misdemeanor."

Critics may contend that this provision would discourage reporting where abuse or neglect is "suspected." I would not agree. The statute, if properly drawn, makes it clear that the falsity of the report has to be known at the time of making.

There are those alienated spouses or vindictive neighbors who may use the reporting as a means of causing trouble for someone. I do not believe it is prevalent but it does occur on occasion.



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KANSAS BAR
ASSOCIATION

CHAMBERS OF
G. JOSEPH PIERRON
DISTRICT JUDGE
COURT NO. 3

DISTRICT COURT OF KANSAS
TENTH JUDICIAL DISTRICT
JOHNSON COUNTY COURTHOUSE
OLATHE, KANSAS
66061

OFFICERS:

MARILYN ZELLER
ADMINISTRATIVE ASSISTANT

GLENDA C. READ, C.S.R.
OFFICIAL COURT REPORTER

(913) 782-5000, EXT. 472

February 9, 1988

Mr. Ron Smith
KBA Legislative Counsel
1200 Harrison
P. O. Box 1037
Topeka, Kansas 66601

Dear Mr. Smith:

I have reviewed SB 547 which would make it a crime to report an allegation of child abuse and neglect "known to be false". I think it is a very bad idea for practical reasons. It's hard enough to get some doctors and school administrators to report suspected child abuse and neglect. Throwing the possibility of a criminal accusation in will only make it harder.

I am confident that most county and district attorneys will not let this statute be abused by persons who may or may not have been falsely accused, but it creates the possibility for mischief. This also might cause confusion as to report possible abuse or neglect requires only that the person reporting have "reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse. . ."

We presently have a statute to cover malicious false reporting of a crime under K.S.A. 21-3818. Child abuse and neglect is sometimes hard to pin down. That is why the reporting statute is so broad. This gives a person who is concerned the opportunity to express the concern to someone who can check up on it. It needlessly introduces a problem to hold the possibility of criminal prosecution over the head of someone who may guess wrong. I am aware that the statute talks about knowingly making a false complaint and that this should provide protection for good faith reports. However, the negative impact of such a law will far outweigh any possible positive benefits.

Sincerely,

G. Joseph Pierron

GJP:mz

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KANSAS BAR
ASSOCIATION

February 10, 1988

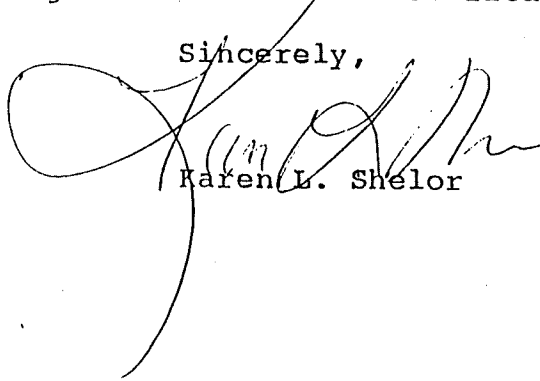
Mr. Ron Smith
KBA Legislative Counsel
Kansas Bar Association
1200 Harrison
P.O. Box 1037
Topeka, Kansas 66601

Re: SB 547 and SB 566

Dear Ron:

Please be advised that the Family Law Committee of the Wyandotte County Bar Association reviewed the above referenced bills and recommended passage of such legislation without modification.

Sincerely,


Karen L. Shelor

KLS:jk

Mr. Ron Smith
February 9, 1988
Page 2

SB 566:

Section 1(b). I have no problem with broadening the jurisdiction in URESA cases. However, the statute really is discussing "venue," not "jurisdiction." Subsection (a) is establishing jurisdiction. Subsection (b) is establishing venue and should so state, rather than continue to confuse the two legal theories.

Section 2. Okay.

Sections 3, 4, 5, 6, 7 and 8. I am strongly opposed to deleting the requirement for "certified" documents to be used in URESA proceedings. Certification, or at the very least attestation, of documents from a foreign jurisdiction to establish that they are true copies of the foreign court's records is an important safeguard. In registering any other type of foreign judgment, Kansas law requires that you obtain "authenticated" copies. (See K.S.A. 60-3002.) "Authenticated," under Acts of Congress, is a more complicated process than "certification." Requiring just "certified" copies in URESA proceedings is already weakening the safeguards.

I have personally been in URESA cases where the documents forwarded from the foreign jurisdiction were incomplete, incorrect copies (portions deleted or blacked out) or did not contain the most current orders of the foreign court. It is only fair that if a collection case is brought here from another jurisdiction that the documents relied upon be true and substantiated. We must have the requirement that the documents be certified, if not authenticated. I would urge strengthening the present requirement to authentication or a verification process, rather than weakening the requirement.

Mistakes can be made in itemizing payments due and payments made. It happens frequently. Because mistakes are frequent, even the federal Fair Debt Collections Practice Act at 15 U.S.C. 1692g contains a process whereby the debtor can request verification of the debt, including the amount, before suit can be brought to collect the debt.

Please remember that many litigants in these cases (both obligor and obligee) are representing themselves and are not sophisticated about the law. If in the proceedings the enforcement officer states to the Court that the documents are true, the pro se party is probably

Mr. Ron Smith
February 9, 1988
Page 3

too inexperienced or intimidated to challenge that allegation or simply does not know to question the validity and accuracy of the documents forwarded from the previous jurisdiction.

Most of the enforcement officers handling URESA cases have large caseloads and do not take the time to examine the documents. I am sure their large caseload is why they want to expedite the process and eliminate the requirement for certification. However, fair due process is more important here than expediency. I am strongly in favor of stiff enforcement of child support obligations and easing unnecessary barriers to enforcement. Certification, however, is a necessary safeguard.

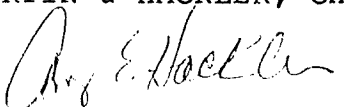
Section 9. Excellent amendment. Child support judgments should not become dormant until after the child attains 18 or is emancipated. You may want to better correlate the "attains 18" with the provisions of K.S.A. 60-1610(a)(1), as amended. Too often child support judgments become dormant when the child is still a minor, because the obligor cannot be located or because the custodial/support recipient parent cannot afford legal counsel to advise them of their legal rights and remedies.

Section 9(b) needs clarification as to whether the judgment becomes dormant immediately when the child attains 18 years or if it is 5 years from the 18th birthdate or 5 years from the last execution and attains 18. The language as it is now is subject to several interpretations and I foresee litigation over this issue, if not more clearly stated.

Ron, I would be willing to answer questions, if the committee has any. Thank you for the opportunity to review this proposed legislation.

Very truly yours,

HACKLER, LONDERHOLM, CORDER,
MARTIN & HACKLER, Chartered


Amy E. Hackler
Attorney

AEH/sl

Re: SB 566

This bill seems to have, as its main purpose, the removal of requirements for establishing reliability of purported court records. I would oppose the changes.

My experience is that insufficient attention to detail is given to the making of copies of Court orders for there to be a reasonable basis for the suggested presumption. Copies are made and mailed to other attorneys or clients before the original is ever even submitted to the Judge for approval. In the vast majority of cases "filed" stamped copies of court orders do not bear the Judges signature or facsimile or the seal of the Court. And frequently are incomplete as to certain detail.

FJY:dmh

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**KANSAS BAR
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February 10, 1988

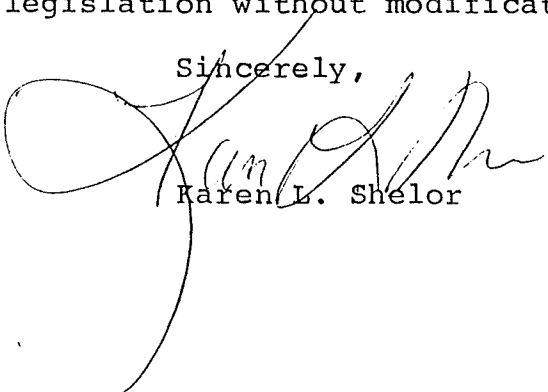
Mr. Ron Smith
KBA Legislative Counsel
Kansas Bar Association
1200 Harrison
P.O. Box 1037
Topeka, Kansas 66601

Re: SB 547 and SB 566

Dear Ron:

Please be advised that the Family Law Committee of the Wyandotte County Bar Association reviewed the above referenced bills and recommended passage of such legislation without modification.

Sincerely,


Karen L. Shelor

KLS:jk

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FEB 1 1 1988

**KANSAS BAR
ASSOCIATION**

February 8, 1988

Mr. Ron Smith
K.B.A. Legislative Counsel
1200 Harrison
P. O. Box 1037
Topeka, KS. 66601

Re: SB566

Dear Mr. Smith:

As requested by your memorandum dated February 5, 1988, the following are my comments regarding SB566, which proposes amendments relating to Support and Determination of parentage.

I find only one proposed amendment curious and objectionable, that being in Section 9 of the Bill, proposing new part (b) of K.S.A. 1987 Supp. 60-2403. That new part (b) provides that the period for computing dormancy of child support judgments would not commence running until the child for whom support is owed reaches 18 years of age. The proposal also states it would apply only to judgments not yet dormant or void as of July 1, 1986.

The clause precluding dormancy until after the child reaches 18, even without any attempt to execute, seems oppressive. The agency or the parent or guardian to whom support is owed is not put to an excessive burden by being expected to execute on the judgment with successive five-year periods in order to prevent dormancy. Even an attempted execution on an obligor who cannot be found has the desired effect.

The proposal also reads such that I am uncertain as to which of my two possible interpretations is correct. My versions, in question form are: (1) Does this section mean that when the child reaches 18 and for five years thereafter all past-due child support can be claimed, clear back to the time of the original order; or, (2) Does it mean that when the child reaches 18, only those obligations less than five years past due can be collected, and all those prior to that are then dormant? (Both questions assume no attempt(s) to execute on the obligations).

Mr. Ron Smith
February 8, 1988
Page 2

I would gladly try to answer any questions any legislators may wish to ask me. My thanks for advising us of this Bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "P. C. Nelson".

Paul C. Nelson

PCN:dml