

*The*  
*Evaluation*  
*of*  
Child  
Sexual  
Abuse  
Allegations

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**A Comprehensive  
Guide to Assessment  
and Testimony**



*Edited by*  
Kathryn Kuehnle *and* Mary Connell

# The Evaluation of Child Sexual Abuse Allegations

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A Comprehensive Guide to  
Assessment and Testimony

Kathryn Kuehnle  
Mary Connell



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*We dedicate this book to the memory of our dear  
friend and colleague, Beth Clark.*

## Preface

**T**HE EVALUATION OF children suspected of having been sexually abused is one of the most challenging endeavors in clinical and forensic practice. Research illuminates some aspects of the evaluation and yet the secretive nature of child sexual abuse and the frequent absence of physical evidence leaves researchers stymied in designing studies to compare known sexually abused children to children known not to have been abused. Not only is physical evidence often missing, but there is no clear set of behaviors or symptoms to affirm the occurrence of abuse. Furthermore, children may be unable to tell or may be questioned in ways that compromise their memories.

To assist the mental health evaluator facing the challenges of these assessments, we have compiled a collection of chapters that reflect current knowledge in the field. John Myers provides introductory comments that orient readers to the extraordinary catastrophes that can unfold when children are interviewed with faulty techniques.

In Part I, contributors David Faust, Ana Bridges, and David Ahern, in three interconnected chapters, apply empirically based clinical decision making to child sexual abuse evaluations. The reader is urged to view these chapters as a trilogy.

In Chapter 1, Faust, Ahern, and Bridges provide an overview of well-established empirical findings on decision making and the relationship to false negative and positive errors in cases of alleged child sexual abuse. The authors describe fundamental principles of validity and reliability, their application to clinical assessment, and issues involving data interpretation.

Faust, Ahern, and Bridges, in Chapter 2, explore the difficulties in conducting reliable and meaningful research. Among other research problems, the authors examine the selection of populations for experimental and control groups and how selection criteria may result in seriously flawed groups that do not represent the population of interest.

In Chapter 3, Faust, Ahern, and Bridges consider the problems facing researchers. They recommend changes in research practices to address the current limitations. While these first three chapters may challenge the clinician

who is not immersed in conducting research, they are written to be accessible and to provide vital assistance to understanding the research that guides the work of all well trained clinicians.

In Part II, the contributors explore professional roles and ethics in evaluations of suspected child sexual abuse. In Chapter 4, Charles Clark explores professional roles. Clark describes the legal context, examines contributions made by social science researchers to assessment methodology, considers the use of mental health professionals as consultants, and discusses the distinction between forensic and treatment roles.

Gerald Koocher explores ethical issues that arise specifically in the assessment of child sexual abuse allegations. The author outlines particular areas of ethical vulnerability and provides recommendations for adherence to professional standards and guidelines.

Part III examines children's behavior and the fallacy of symptoms as markers of abuse when child sexual abuse is suspected. In Chapter 6, Debra Poole and Michele Wolfe discuss children's behaviors and the search for indicators of sexual abuse. Research findings on developmental issues arising during childhood, such as the normative development of fears, nightmares, night terrors, toileting problems, eating and sleeping problems, and sexual behaviors, are also explored.

In Chapter 7, Jessica Gurney, Kathryn Kuehnle, and De Kirkpatrick focus on sexually acting out children and how the legal system responds to these children. The authors review the impact of the laws enacted over the past two decades on children with sexual behavior problems.

Contributors to Part IV examine the fundamental memory issues in children's reports of sexual abuse. In Chapter 8, Zoe Klemfuss, Stephen Ceci, and Maggie Bruck explore the development of memory, from infancy through adolescence, and examine lay and professional misconceptions about memory. The authors identify myths not supported by empirical research and describe the implications of developmental changes in memory.

In Chapter 9, LaTonya Harris, Gail Goodman, Else Marie Augusti, Yoojin Chae, and Deborah Alley review the literature and current research trends concerning individual differences in the accuracy of children's memory and disclosure of child maltreatment. The authors discuss research on the associations between age, personality, attachment style, and higher cognitive functioning (including general memory capacity and IQ) and children's accurate memories for and disclosure of their abuse experiences. Additionally, other factors that may affect a child's ability or willingness to disclose abuse are discussed.

In Chapter 10, Andrea Greenhoot and Monica Tsethlikai review research on repressed and recovered memories and retention of traumatic memories across childhood and adolescence. The authors explore the mechanisms that



might underlie failures to remember or disclose memories of traumatic events.

Part V is focused on forensic interviews of children alleged to have been sexually abused. In Chapter 11, Steve Herman addresses the use of structured and semi-structured interview protocols and the risks for false negatives and false positives in efforts to identify children who have been sexually abused.

Lindsay Malloy and Jodi Quas, in Chapter 12, review the literature concerning children's susceptibility to suggestibility. The authors discuss factors that consistently influence children's eyewitness accuracy and suggestibility including age, the types of questions asked, and the context within which children are interviewed. Malloy and Quas explore controversies within the field including repeated interviews, inconsistencies in children's statements, and recantations of sexual abuse allegations.

In Chapter 13, Deirdre Brown and Michael Lamb review interview protocols, including the National Institute of Child Health and Development (NICHD) Protocol, and describe the research on each of the protocols. Brown and Lamb also explore the impact of interviewer training and how well training is reflected, over time, in interviewer practices.

In Chapter 14, David La Rooy, Michael Lamb, and Margaret-Ellen Pipe evaluate the risks and potential benefits of repeated interviewing. Within the legal system, children are frequently interviewed about their experiences more than once, with different information elicited in different interviews. The authors analyze 62 experiments in which children were repeatedly interviewed about personal experiences on multiple occasions. The authors focus their analysis on changes in the amount and accuracy of information elicited across repeated interviews, the accuracy of new information elicited in repeated interviews, and the degree to which suggestibility is exacerbated by repeated interviews.

In Part VI, the contributors explore specific interview aids such as the use of props or play, to determine whether these techniques interfere with or facilitate children's accurate reports of sexual abuse. In Chapter 15, Margaret-Ellen Pipe and Karen Salmon examine the effectiveness of using props, including dolls, drawings, and photographs, to make memory more accessible for verbal reporting. The authors analyzed the research examining both the positive contributions of the use of props in enhancing verbal reporting, and the potential negative impact on accuracy.

In Chapter 16, Daniel Murrie, David Martindale, and Monica Epstein explore the use of projective testing, children's drawings, sand play, and other projective techniques in interviewing and evaluating children suspected of having been sexually abused. The authors explore the use of these assessment methods to discriminate between abused and nonabused children.



Part VII is focused on the Child Advocacy Center movement. In Chapter 17, Mary Connell provides a review of the history and development of the Child Advocacy Center model and of the role of mental health professionals in the multidisciplinary approach to the investigation of CSA allegations. The author explores the ethical challenges and social policy implications of combining investigative, protective, advocacy, and prosecutory goals. In Chapter 18, Mary Connell describes the Extended Forensic Evaluation model, a new interview technique used at some Child Advocacy Centers. Connell reviews the research examining the efficacy of the model and considers strengths and weaknesses of the model.

In Part VIII, the contributors concentrate on expert opinion testimony for the court. In Chapter 19, Daniel Shuman and William Austin explore the controversy regarding experts providing ultimate issue testimony to the court. The authors review statutory law, case law, and psycholegal scholarship illuminating this area.

In Chapter 20, Julie Buck and Amye Warren explore jurors' perceptions of child witnesses. The authors explore jurors' understanding of children's memory and suggestibility and juror's understanding of the impact of interview techniques on children's narration of events.

Michael Lamb graciously prepared a template of the National Institutes of Child Health and Human Development (NICHD) Investigative Interview Protocol for inclusion in the Appendix of this volume.

We gratefully acknowledge the profound debt we owe to the authors who contributed chapters and provided up-to-date, comprehensive treatment of their areas of specialty. This volume is rich because of their generosity in sharing these current, fresh perspectives.

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## INTRODUCTION

# Improved Forensic Interviewing

## The Legacy of the *McMartin* *Pre-school* Case

JOHN E.B. MYERS

**T**HIS BOOK PROVIDES important guidance for professionals working to protect children from sexual abuse. This introductory chapter sets the stage by describing an event that helped shape the modern response to sexual abuse. The event—a child abuse prosecution—was a colossal failure. Yet, this failed prosecution was a major impetus for improvements in the response to sexual abuse. Indeed, much of the valuable information on the following pages can be traced to this doomed prosecution.

Sexual abuse of children has always been a crime in the United States, and offenders have been prosecuted since colonial times (Myers, 2004, 2006). In the late 1970s and early 1980s, societal interest in child sexual abuse expanded significantly (Finkelhor, 1979; Russell, 1983), as did prosecution (Myers, Diedrich, Lee, McCalahan Fincher, & Stern, 1999). As part of the increased emphasis on prosecution, the 1980s witnessed a spate of cases involving allegations of sexual abuse in preschools (Finkelhor, Williams, & Burns, 1998). Although the cases were scattered across the country, and differed in detail, they had common features. The most famous preschool case from this era—infamous to be more precise—was the *McMartin Pre-School* case from Manhattan Beach, California. The description of the *McMartin Pre-School* is drawn from my 2006 book *Child Protection in America: Past, Present and Future*.<sup>1</sup>

Manhattan Beach, California is an easygoing seaside suburb of Los Angeles. In the 1950s, Virginia McMartin founded her namesake preschool

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1. Professor Myers will be inserting an acknowledgment here that the *McMartin* case review is drawn from his book, *Child Protection in America: Past, Present and Future* (2006) published by Oxford University Press.

in Manhattan Beach, not far from the ocean. By 1980, the McMartin preschool was a fixture of the community, popular with middle-class parents. The director of the preschool was Peggy Buckey, Virginia's daughter. Peggy's 25-year-old son Raymond was one of the teachers.

In August 1983, the mother of a 2-year-old McMartin student telephoned the Manhattan Beach Police Department and accused Raymond Buckey of sexually abusing her son. Buckey was arrested, but soon released. The police department sent a letter to parents of past and present McMartin students, stating in part, "Dear Parent: This Department is conducting a criminal investigation involving child molestation. Ray Buckey, an employee of Virginia McMartin's Pre-School, was arrested September 7, 1983, by this Department. . . . Please question your child to see if he or she has been a witness to any crime or if he or she has been a victim. Our investigation indicates that possible criminal acts include: oral sex, fondling of genitals, buttock or chest area, and sodomy." The letter set off panic alarms. Parents interrogated their children. Some rushed their youngsters to therapists. Parents talked to each other, sharing what their children told them. Some parents withdrew their children from McMartin; others rallied around the school and its teachers. Battle lines were drawn.

As the McMartin saga unfolded, social worker Kee MacFarlane was working on a range of sexual abuse issues at Children's Institute International in Los Angeles. At that time—1983/1984—there was little expertise in California or elsewhere on interviewing young children about sexual abuse. MacFarlane was asked by the McMartin prosecutor to interview several of the youngest children, 3-year-olds. Before long, parents as well as the prosecutor were asking MacFarlane to interview children, and within a month more than two hundred children were waiting to be interviewed. Eventually, more than four hundred children were interviewed. MacFarlane was one of the first professionals in the country to videotape interviews, and before long, videotapes were piling up.

Kee MacFarlane and interviewers like her had little understanding of the dangers of asking young children suggestive and leading questions. Although training materials on interviewing existed in early 1980s, the materials said little about suggestibility. Indeed, suggestibility became an issue *because of the McMartin case*. At the time, however, suggestibility was not on MacFarlane's radar screen. Moreover, MacFarlane was a clinician, not a forensic interviewer. Given the state of knowledge in 1983, it comes as no surprise that MacFarlane's videotaped interviews contained suggestive questions that, while they might have been acceptable in therapy, were out of line in a criminal investigation.

The investigation dragged on. In January 1984, the preschool closed, and in February the case hit the media, where it remained for years. In March 1984,

Ray Buckey, his mother, Peggy, his 80-year-old grandmother, Virginia, and four female teachers were charged in a 208-count indictment alleging sexual abuse of 42 children.

A preliminary hearing in a criminal case is a procedure that allows a judge to listen to witnesses and decide whether the prosecution has enough evidence against the defendant to justify a trial. If so, the defendant is "bound over for trial." If not, the case is dismissed. A preliminary hearing typically lasts a few hours or, at most, several days. The preliminary hearing for the *McMartin* defendants lasted 18 months. Fourteen children testified about sexual abuse. Several children described the mutilation and killing of animals, tunnels under the preschool, and participation in satanic rituals. One 10-year-old was on the witness stand 16 days, 15 1/2 of which were taken up by cross-examination by all seven defense attorneys. At the end of this exhausting process, the defendants were bound over for trial on 135 counts of child sexual abuse.

In January 1986, newly elected District Attorney Ira Reiner dropped all charges against five defendants, calling the evidence incredibly weak. Only two defendants remained, Ray Buckey and his mother Peggy. Trial for Ray and Peggy Buckey began in April 1987, 4 years after the investigation started. Given what had happened to children during the preliminary hearing, many parents refused to let their children testify at trial. Children who did testify described acts of abuse, plus more of the incredible events recounted at the preliminary hearing. They described being taken to meat markets and car washes where they were molested. Children described jumping out of airplanes and digging up corpses.

The defense strategy was to attack the videotaped interviews conducted by Kee MacFarlane, arguing that her suggestive questions caused the children to manufacture accusations of abuse that never happened. Defense attorneys also criticized the letter sent by the Manhattan Beach Police Department to parents at the outset of the investigation. The defense argued that frightened parents grilled their children with highly suggestive questions and then called each other on the phone to share information, contaminating the children's stories.

In January 1990, after a trial lasting 2½ years, the jury acquitted Peggy Buckey of all charges. Ray Buckey was acquitted of most charges, but the jury could not reach a decision on thirteen. In a posttrial news conference, many of the jurors said they believed children had been molested at *McMartin*, but the evidence did not prove by whom. In May 1990, Ray Buckey was tried a second time on eight counts. Again, the jury deadlocked, and the matter was finally dropped, more than 7 years after it started.

What really happened at *McMartin Pre-School*? Were children sexually abused? Many of the jurors thought so, although they could not tell who was



responsible. On the other hand, there was not a single conviction in *McMartin*. And what of the children's claims of molestation in meat markets and car washes? Did secret tunnels exist under the preschool? Did children participate in satanic rituals? Were they forced to drink blood and watch animals tortured and killed? It seems incredible. The children's testimony about the bizarre and the improbable undermined their credibility in the eyes of the jury.

In the final analysis, we will never know what happened at *McMartin*. From the outset, the case divided people into true believers and skeptics. Consider the tunnels. Several *McMartin* parents hired an archeologist to excavate under the abandoned preschool. The archeologist issued a 200-page report concluding there probably were tunnels. The tunnels had been back-filled with dirt, but *McMartin* parents pointed out that the defendants had plenty of time to fill in the tunnels to hide the evidence. I read the archeologist's report and came away convinced tunnels existed. Yet, I shared the report with a colleague who was just as firmly convinced the report proved nothing.

The primary reason it is impossible to ascertain the truth about *McMartin* is that the investigation was fatally flawed from the outset. Encouraging parents to interview preschool children about abuse—as the police department did in its letter—is like asking an airline passenger to fly the plane. When frightened parents question young children about abuse, highly suggestive questions are virtually guaranteed, and when seriously defective questions are asked, it can be impossible to find the truth.

Parents were not the only amateur interviewers in *McMartin*. Kee MacFarlane, although an expert on child sexual abuse, had little understanding of the forensic implications of her suggestive questioning style. MacFarlane was not to blame. By training and experience she was a clinician, not an investigator. Moreover, in 1983, no one was fully aware of the dangers of suggestive questions with young children. Nevertheless, MacFarlane's videotaped interviews, along with the parents' interrogations, were ammunition for the *McMartin* defense attorneys, and they made good use of it.

*McMartin* was a tragedy for everyone involved: children, parents, defendants, professionals, and the community. Yet, *McMartin* and cases like it had an important and, on balance, positive legacy. It was *McMartin* that opened people's eyes to the dangers of suggestive and leading questions during forensic interviews. The failure of *McMartin* and similar cases ignited a new era of research regarding children's suggestibility.

Decades before the modern era of research on children's suggestibility, a few researchers examined the issue. Early researchers concluded that children are not to be trusted. In 1910, a German physician opined, "Children are the most dangerous of all witnesses" (Baginsky, 1911). The doctor argued

children's testimony should be excluded from the court record whenever possible. In 1911, a Belgian psychologist asked, "When are we going to give up, in all civilized nations, listening to children in courts of law?" (Varendonck, 1911, as cited in Goodman, 1984). In 1926, an author concluded that children are so suggestible an adult could "create . . . an idea of what the child is to hear or see, and the child is very likely to hear or see what you desire" (Brown, 1926, p. 133). Freud added to the skepticism with his theory that women and girls fantasize sexual contact (Mason, 1984).

Following this early twentieth century interest in children's suggestibility, psychologists abandoned the topic until the 1980s, when *McMartin* and similar cases captivated the media and launched suggestibility onto the national stage (Ceci & Bruck, 1993). Psychologist Gail Goodman led the modern revival of research on suggestibility (1984), and Goodman was joined by other researchers including Maggie Bruck, Stephen Ceci, Michael Lamb, Tomas Lyon, Margaret Ellen Pipe, Debora Poole, Karen Saywitz, and John Yuille, to name a few.

Two decades of psychological research beginning in the 1980s disclosed that although there is no simple relationship between age and suggestibility, preschoolers tend to be more suggestible than older children and adults. Yet, suggestibility on a particular occasion depends on a host of situational, emotional, personality, and developmental factors. One 4-year-old resists suggestive questions, while another 4-year-old goes blithely along with the interviewer's suggestions. To complicate matters, some adults in some circumstances are more suggestible than some children. In short, suggestibility is complex.

Despite heightened suggestibility, even preschoolers can be highly accurate. Modern research exploded the old bromide that children are invariably unreliable. In a case from Denver, Colorado, a 3-year-old girl was abducted in front of her home by a stranger who lured her into his car (Jones & Krugman, 1986). The kidnapper drove to a state park in the nearby Rocky Mountains where he molested the child and dropped her six feet into raw sewage at the bottom of an outdoor toilet. To escape some of the filth, the child built a little platform from sticks she found in the pit. When she stood on the platform, the sewage covered only her feet and ankles. For 3 long days and nights, she stood on her little platform. Finally, hikers heard her crying and rushed to her aid. When a hiker asked why she was there, the child said, "I'm home. I live here."

Following a hospital stay to treat dehydration, immersion, and scratches and bruises, the little girl went home. Five days following her abduction, the child was interviewed by police. She described her ordeal. From a group of photographs, she picked the man the police suspected of the crime, referring to him as a bad man. A few days later, the child sat on her mother's