

## Chapter 5

# Child Sexual Abuse Investigations

*Lessons Learned from the McMartin  
and Other Daycare Cases*

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During the 1980s and early 1990s, American newspaper headlines tracked an epidemic of bizarre sexual abuse cases as it spread across the nation. From California to Massachusetts to Florida, hundreds of young children reported being victimized by their teachers and daycare workers, often in orgies involving sex rings or satanic cults (Jenkins, 1998; Nathan & Snedeker, 1995).

Virtually all early media coverage of these so-called daycare abuse cases was uncritical and sensationalistic. Television programs and magazine stories credulously reported electrifying claims that the nation's preschools had been infiltrated by networks of Satan worshippers, essentially witch covens. However, over time, cautionary investigative articles began to appear (Nathan, 1987, 1988; Rabinowitz, 1990). Skepticism deepened even more after jurors acquitted the defendants in the notorious McMartin daycare case in Los Angeles in 1990 and as sociologists and psychologists began to raise serious doubts about the validity of the allegations in similar cases (Ceci & Bruck, 1993; Victor, 1993; see also Bikel, 1991, 1993a, 1993b). By

1995, after defendants in even more cases were acquitted or had their convictions overturned, the daycare abuse panic was mainly over.

Social scientists now generally agree that, although sexual abuse of children is a real and important social problem, the bizarre allegations that fueled the daycare cases of the 1980s were mainly or entirely false (Bottoms & Davis, 1997; Butler, Fukurai, Dimitrius, & Krooth, 2001; de Young, 2004; Jenkins, 1998; La Fontaine, 1998; Victor, 1998). Scholarly interest has come to focus not on whether the allegations were true but instead on two questions that form the topic of this chapter: What contributing factors created these bizarre cases? What practical lessons can be learned from them to guide child abuse investigations in the present?

In some important respects, these cases may seem remote from the routine sexual abuse cases seen by law enforcement and child protection services (CPS) today. Most important, the daycare cases of the 1980s were characterized by epidemics of false allegations by children, whereas the large majority of sexual abuse allegations made by children to police and CPS today are probably true and reliable. In addition, the community hysteria and investigative excesses seen in the 1980s are only rarely encountered today, thanks largely to changes in forensic and interviewing procedures that have been made during the intervening years. However, although the daycare cases of the 1980s are not typical, they can teach a great deal about the problems that can engulf children and communities even today when the necessary factors converge.

### WHAT FUELED THE GREAT DAYCARE ABUSE CASES?

Commentators have identified several contributing factors that fueled the false allegations and daycare abuse cases of the 1980s. Three receive in-depth attention in this chapter: the "satanic panic" that was sweeping across some segments of American society during those years, the suggestive interviews of children by police and child protection investigators, and the "witch hunt" mentality that was ignited in some communities.

#### Factor 1: Satanic Panic

It is surprising to realize that the last major witch hunts on North American soil occurred not in Salem, Massachusetts, in 1692 but in communities such as Los Angeles, California, and Maplewood, New Jersey, in the 1980s. During the Middle Ages and well into the modern period, Europe periodically spawned persecutions in which tens of thousands of innocent people were accused of belonging to witch covens and participating in satanic rituals

known as "Sabbats" or "Sabbaths," which included human sacrifice, cannibalism, incest, and orgiastic sex (Cohn, 2000). In the 1600s, witch fever infected England's American colonies, giving rise to the Salem trials and other similar episodes (Hill, 1995; Kittredge, 1929). However, by 1750, the witch persecution had burnt itself out, so that two centuries later, in the era of moon landings and nuclear reactors, few observers would have predicted its revival.

The unexpected outbreak of witch fever in late 20th-century America was inaugurated with the 1980 publication of *Michelle Remembers*. This book, by Michelle Smith and her psychiatrist, Lawrence Pazder, told the story of Smith's childhood in Victoria, Canada, where she was purportedly reared in a satanic cult and forced to participate in devil worship, mutilation of corpses, and cannibalistic rites. Although Smith's lurid autobiographical account was exposed as false about a decade after its publication (Allen & Midwinter, 1990; Nathan & Snedeker, 1995), during the intervening years it became a minor best-seller and its portrayal of devil-worshiping sex abusers and "ritual abuse" (a term coined by Pazder) was accepted as true by many influential religious leaders.

*Michelle Remembers* would probably have had little lasting effect had it not appeared at a critical moment in the very beginning of the 1980s when a broad movement of fundamentalist and evangelical Christians was expanding its social and political influence across the United States. Many fundamentalist and conservative leaders of the time believed in satanic conspiracies and saw satanist influences in school textbooks, rock music, and games like *Dungeons and Dragons* (Jenkins, 1998; Victor, 1993). During the 1980s, the percentage of Americans who believed in the devil increased, and a substantial number of isolated "rumor panics" occurred in which entire communities became electrified by false rumors of local satanic activity, such as the ritualistic murder of animals or the kidnapping of blond teenage girls for sacrifice as virgins (Victor, 1993).

In the context of this broader "satanic panic," certain segments of American society were primed to accept the underlying premise of *Michelle Remembers*: that well-organized cults of devil worshipers had infiltrated Canada and the United States. Some law enforcement trainers, often from conservative Christian backgrounds, set themselves up as experts in satanism and provided workshops to police across the country (Hicks, 1991). When these so-called experts were consulted in prominent sexual abuse cases, children sometimes began to produce allegations involving satanic abuse, thus lending greater credibility to the belief that ritual abuse was a genuine phenomenon.

Many mental health professionals were also swept up in the panic. For example, a substantial number of feminist psychotherapists came to believe in the repressed memories of patients who described having been ritually

abused as children (Ofshe & Watters, 1994; Pendergrast, 1996). Similarly, prominent experts on multiple-personality disorder (now known as dissociative identity disorder) claimed that the condition was frequently the result of horrendous childhood abuse by satanic cults (Acocella, 1999).

Only after more than a decade did America's 20th-century witch fever subside. Several factors contributed to its demise. First, as already noted, several criminal prosecutions of alleged satanic abusers collapsed in the early 1990s as defendants were acquitted by juries or released by appellate courts. Second, a growing number of journalists, academics, and members of law enforcement questioned the reality of ritual abuse and the validity of the allegations in prominent daycare cases (e.g., Bikel, 1991, 1993a, 1993b; Ceci & Bruck, 1993; Bottoms & Davis, 1997; Bottoms, Shaver, & Goodman, 1996; Lanning, 1991; Nathan & Snedeker, 1995; Victor, 1993). Third, in several well-publicized lawsuits, mental health professionals were successfully sued for having induced false memories of ritual abuse in their clients (e.g., Bloomberg, 2000).

## Factor 2: Suggestive Interviewing

Because virtually all allegations of organized satanic crime during the past several hundred years have been false, prosecutors of these cases have generally been unable to find reliable legal evidence to convict accused witches in court. For this reason, witch hunters from earlier periods (and modern-day satanist hunters) have inevitably depended on types of evidence that, in retrospect, can be recognized as seriously flawed. For instance, in the great European witch hunts, defendants were routinely convicted and burned based on unreliable confessions that had been extracted by torture (Wood, 2005).

In the daycare abuse cases of the 1980s, unreliable evidence came in many different forms, including poorly validated medical tests, coerced confessions, and the testimony of "jailhouse snitches" (Nathan & Snedeker, 1995). However, the crucial evidence in most cases was the testimony of the alleged child victims, which tended to be compelling given the commonly held assumption at the time that "children don't lie about abuse."

When several children testified, as was often true in daycare cases, disbelief in their allegations seemed impossible. Yet as these cases proceeded through the legal system, a substantial number of juries and appeals courts declined to accept the prosecution's claims. They did so not because of an ill-founded distrust of the children's honesty or testimonial competence, but because it became clear that the allegations had been elicited by suggestive and manipulative interviewing techniques. Scientific research over the past 20 years has further confirmed that suggestive interviewing played a crucial

role in these cases. In fact, without suggestive interviewing, it is unlikely that any of the major daycare cases of the 1980s would have proceeded to trial. The following sections describe two highly publicized daycare cases from that era and the suggestive interviewing techniques used in them.

### *The McMartin Preschool Case*

The McMartin Preschool case was the first daycare case in the United States to receive national media attention (for a detailed history, see Butler et al., 2001). In 1983, seven teachers at the McMartin Preschool in the affluent Los Angeles suburb of Manhattan Beach were accused of kidnapping children and flying them to an isolated farm, where children saw animals tortured and were forced to engage in group sex. Charges were eventually dropped against five of the teachers. The remaining two defendants, Peggy McMartin Buckey and her son Raymond Buckey, were tried in the longest criminal case in U.S. history. Peggy Buckey was acquitted on all charges and Raymond on most charges. Jurors failed to reach a decision on the remaining counts against Raymond, and prosecutors eventually dropped all charges in 1990. By then, Raymond had already spent 5 years, and Peggy nearly 2 years, in the Los Angeles County jail because of their inability to raise bail, which was set at more than \$1.5 million (Reinhold, 1990). After the trial, jurors publicly criticized interviewers in the case for coaxing children into making allegations against the defendants (Reinhold, 1990; Wilkerson & Rainey, 1990). The McMartin case was later dramatized in *Indictment*, an Emmy award-winning television movie that was highly critical of the prosecutors and interviewers.

The McMartin interviews have been the subject of considerable commentary and scientific research (e.g., Nathan & Snedeker, 1995; Butler et al., 2001; Garven, Wood, & Malpass, 2000; Garven, Wood, Malpass, & Shaw, 1998). This section focuses specifically on a study by Nadja Schreiber and her colleagues (2006) that was carried out in the laboratory of James M. Wood. Schreiber et al. compared interviews from the McMartin case and the Kelly Michaels case (which is described later in this chapter) with a sample of sexual abuse interviews from a CPS agency in the southwestern United States. These CPS interviews were chosen as a standard of comparison because, in an earlier study, they had been shown to be highly similar to CPS interviews collected in another part of the United States (Warren, Garven, Walker, & Goodall, 2000) and could be assumed to be fairly typical of CPS interviews in general.

Schreiber and her colleagues (2006) found that, compared with the CPS interviews, the McMartin interviews were characterized by the use of four highly suggestive techniques. The first of these techniques—Positive Consequences—was defined as (1) giving or promising praise or

other rewards to a child or (2) indicating that the child could demonstrate helpfulness, intelligence, or other good qualities by making a statement to the interviewer (more detailed operational definitions can be found in Schreiber et al.). For instance, interviewers in the McMMartin case used Positive Consequences by saying things like, "Oh, you're so smart. I knew you'd remember" and "So I bet if you guys put on your thinking caps, you can help remember it. Now let's make a test of your brain and see how good your memories are."

As can be seen, Positive Consequences involves the use of positive reinforcement—praise, rewards, or the promise of praise and rewards—to shape children's behavior. Schreiber and her colleagues (2006) found that this technique was substantially more common in the McMMartin interviews than the CPS interviews. Specifically, the researchers divided each interview into numbered exchanges, with each exchange consisting of one turn by the interviewer and one turn by the child, and then counted the number of exchanges in which the interviewer used the suggestive technique. The results of this analysis showed that the Positive Consequences technique was used in 18% of the exchanges in the McMMartin interviews but in only 7% of the exchanges in the CPS interviews (a statistically significant difference, considered in this chapter to be  $p < .005$ ).

These percentages can be put in context by realizing that the McMMartin interviews tended to be very long (usually more than 1 hour) with an average of 575 exchanges, whereas the typical CPS interview lasted only about 21 minutes with an average of 164 exchanges. Because of the difference in interview length, the Positive Consequences technique was used approximately 103 times (18% of 575 exchanges) in a typical McMMartin interview but only 12 times (7% of 164 exchanges) in a CPS interview. Compared with the McMMartin interviewers, the CPS interviewers not only used Positive Consequences far less frequently, but they also tended to use the technique in a manner that was relatively innocuous and nonsuggestive, such as complimenting the child during the early rapport-building stage of an interview or thanking a child at the very end of an interview for the child's earlier cooperation.

The second suggestive technique used by the McMMartin interviewers—Other People (Schreiber et al. (2006)—involved telling the child that the interviewer had talked with other people regarding the topics of the interview or telling the child what other people had supposedly said. Here is an example from a McMMartin interview:

"You see all the kids in this picture? Every single kid in this picture has come here and talked to us. Isn't that amazing? ... These kids came to visit us and we found out they know a lot of yucky old secrets from that old school. And they all came and told us the secrets. And they're

helping us figure out this whole puzzle of what used to go on in that place. ..."

As can be seen, the Other People technique pressures a child to conform and go along with what other people have supposedly said. Schreiber and her colleagues (2006) found that CPS interviewers virtually never used this technique (specifically, it occurred in less than 1% of exchanges). In contrast, the McMMartin interviewers used this technique in 7% of exchanges, a statistically significant difference. Applying the same arithmetic as previously, the average number of exchanges in which a McMMartin interviewer told the child about what other people said was approximately 40 (7% of 575).

The third suggestive technique—Inviting Speculation—involved asking the child to guess, speculate, pretend, or imagine what had happened. Here is an example from a McMMartin interview:

INTERVIEWER: Now, I think this is another one of those tricky games. What do you *think*, Rags?

CHILD: Yep.

INTERVIEWER: Yes. Do you *think* some of that yucky touching happened, Rags, when she was tied up and she couldn't get away? Do you *think* some of that touching that—Mr. Ray *might* have done some of that touching? Do you *think* that's *possible*? Where do you *think* he *would have* touched her? Can you use your pointer and show us where he *would have* touched her? [emphasis added]

The technique of Inviting Speculation encourages children to guess, speculate, or pretend rather than simply report what they have observed. Schreiber and her colleagues (2006) found that the McMMartin interviewers used the Inviting Speculation technique eight times more frequently than the CPS interviewers did (8% of exchanges vs. 1%), a statistically significant difference. Using the same arithmetic as before, this means that McMMartin children were invited to guess or pretend approximately 40 times per interview.

The fourth suggestive technique—Introducing Information—involved introducing new negative, violent, or sexual information into an interview that was not previously mentioned by the child. Here is an example from a McMMartin interview:

INTERVIEWER: How about Naked Movie Star? You guys remember that game?

CHILD: No.

INTERVIEWER: Everybody remembered that game. Let's see if we can figure it out.

As can be seen, the technique of Introducing Information involves what lawyers call "leading" or "suggestive" questioning. Of course, if a child already feels pressured to make false allegations, Introducing Information indicates precisely what kind of allegations are expected. It should be noted that Introducing Information is very broadly defined and can overlap with other suggestive techniques. For instance, in the example just given, the interviewer also uses the Other People technique ("Everybody remembered that game") and Inviting Speculation ("Let's see if we can figure it out").

Schreiber and her colleagues (2006) found that CPS interviewers used the Introducing Information technique in only about 3% of exchanges. Because the typical CPS interview contained only 164 exchanges, on average the number of exchanges involving Introducing Information was about five (3% of 164). In contrast, the McMartin interviewers used Introducing Information in 18% of exchanges, significantly different from the CPS interviews. Given the greater length of the McMartin interviews, this works out to more than 100 exchanges per interview. Clearly, the McMartin investigators were injecting many negative, violent, and sexual ideas into the interviews.

Later in this chapter we discuss how the interviewing techniques used in the McMartin case affect children's accuracy. However, before doing so, we briefly discuss the second daycare case studied by Schreiber et al. (2006).

### *The Kelly Michaels Case*

In 1988, Kelly Michaels, a 26-year-old daycare worker in Maplewood, New Jersey, was convicted and sentenced to 47 years in prison for sexually abusing 20 preschool children (for a detailed history, see Nathan, 1988; Rabinowitz, 1990). Children alleged that, over a period of 7 months, Michaels repeatedly raped them with spoons, forks, and Lego blocks; compelled them to swallow her urine and feces; and forced them to lie naked in the shape of a satanic pentagram.

Following Michael's conviction, the fairness of her trial was questioned by investigative articles in the *Village Voice* (Nathan, 1988) and *Harper's Magazine* (Rabinowitz, 1990). In 1993 Michael's conviction was reversed by the Appeals Court of New Jersey (*State v Michaels*, 1994), which ruled that the children who testified against her were interviewed in a manner so suggestive as to render their statements unreliable (Nathan & Snedeker, 1995).

Taking the same approach as with the McMartin case, Schreiber et al. (2006) studied interviews from the Michaels case and found that they were

characterized by two suggestive techniques. First, the Michaels interviewers used the Introducing Information technique in 18% of exchanges, which was the same percentage as in the McMartin interviews but substantially higher than the 3% in CPS interviews, a statistically significant difference. Put another way, new negative, sexual, or violent information was introduced 34 times in a typical Michaels interview (18% of 190 exchanges) compared with five times in a typical CPS interview.

The second suggestive technique used by the Michaels interviewers—Negative Consequences (Schreiber et al., 2006)—involved criticizing or disagreeing with a child's statement or otherwise indicating that the child's statement was not fully believed. The following is an example from a Michaels interview:

INTERVIEWER: Were you ever afraid of Kelly?

CHILD: No.

INTERVIEWER: No?

CHILD: No.

INTERVIEWER: Would you tell me if you were afraid of her?

Like Positive Consequences, Negative Consequences is a form of reinforcement. Whereas Positive Consequences gives the child praise or other rewards for statements, Negative Consequences conveys disapproval or disbelief. Schreiber and her colleagues (2006) found that the Michaels interviewers used Negative Consequences in 15% of exchanges—about 28 times per interview—compared with 4% for CPS interviewers, a statistically significant difference. Put another way, the Michaels interviewers often conveyed disbelief and doubt when children failed to say what the interviewers were expecting.

### *Impact of Suggestive Techniques on Children*

The foregoing discussion has identified five suggestive techniques that were applied in the McMartin and Michaels cases and in other similar cases not discussed here. This chapter does not present a full scientific review of these techniques and their impact on children because good reviews are already available (Poole & Lamb, 1998; Melnyk, Crossman, & Scullin, 2007; Myers, Saywitz, & Goodman, 1996). However, four points are worth noting not only because they shed light on the daycare cases of the 1980s but because they provide insights relevant to child interviewing practices in the present and future.

1. All five of the suggestive techniques discussed here have been shown to exert a negative effect on children's accuracy in interviews. For this rea-

son, all five techniques should be avoided in child sexual abuse interviews (for a summary of relevant research, see Schreiber et al., 2006). A total elimination of suggestive techniques may sometimes be impractical; for instance, even the CPS interviewers studied by Schreiber and her colleagues occasionally used the Introducing Information technique. However, all the techniques should be kept to a minimum, and some, such as Other People or Inviting Speculation, are so rare in ordinary CPS work that their appearance in an interview can be a red flag indicating a seriously flawed interview.

2. *Younger children are especially vulnerable to the negative suggestive effects of Introducing Information.* Of the five suggestive techniques identified here, the most thoroughly researched has been Introducing Information, which is often called “postevent misinformation.” Research summarized in the reviews that we have cited indicates that the negative impact of postevent misinformation is age related. Specifically, postevent misinformation (1) can somewhat reduce the accuracy of some witnesses over a wide age range, including adults, (2) has a greater negative impact on children younger than 10 than on older individuals, and (3) has the strongest negative impact on very young children (4 years or younger).

3. *Interviewing techniques that involve reinforcement—that is, Positive Consequences and Negative Consequences—can have an especially powerful and swift suggestive influence on children, including children as old as 7 years.* In the McMartin and Michaels interviews, frequently children initially denied abuse but then were induced to change their stories a few minutes later. Results from a study that examined the effects of McMartin interviewing techniques on a nonabused community sample of children suggest that Positive Consequences and Negative Consequences were probably responsible for the children’s swift turnabout. Specifically, Garven et al. (2000) found that when first- and second-graders were questioned using Positive and Negative Consequences in interviews lasting less than 5 minutes, about 50% of children could be induced to make false allegations (based on the McMartin case) that a man had flown them away from their school in a helicopter and taken them to a farm.

Research by Garven et al. (2000) and Finnila, Mahlberg, Santtila, Sandnabba, & Niemi (2003) supports the conclusion that the suggestive impact of the McMartin and Michaels interviews was due mainly to two factors. First, the interviewers *motivated* or *pressured* the children to make accusations by using Positive Consequences and Negative Consequences. Second, the interviewers *obliquely informed* the children what the accusations should be by Introducing Information. Thus, the total suggestive impact on children depended on a combination of both *motivational* and *informational/cognitive* components.

4. *The suggestive influence of Positive Consequences and Negative*

*Consequences often persists over time.* In the McMartin case, some children who were pressured into making false allegations later recanted them. However, other children persisted in their allegations and apparently came to believe, or internalized, them. Research by Garven et al. (2000) sheds light on this phenomenon. After inducing children to make false allegations in an initial interview using reinforcement (Positive and Negative Consequences), the investigators returned about a week later and questioned the children a second time, this time *without* reinforcement. Surprisingly, the children continued to make false allegations at the same rate that they had previously. That is, the effects of the reinforcement from a week before continued to shape the children’s answers. The investigators then pointedly asked the children whether their allegations were based on what they had seen personally or if instead they were just describing what they had heard from other children. Even under this pressure, about half the children who had already made false reports insisted that their allegations were based on firsthand observation. For example, approximately 25% of children (about half of the original 50%) insisted that they had, in fact, been flown away from their school to a farm. Such findings are sobering because they suggest that under some circumstances it can be difficult or impossible to “undo” the negative effects of using reinforcement during an interview (although for a study in which suggestive influences were partially reversed following a 2-year period without reinforcement, see Huffman, Crossman, & Ceci, 1997).

### Factor 3: Community Panic and Contamination

Although suggestive child interviews played a central role in the daycare cases of the 1980s, there were also powerful social and emotional forces operating outside the interviewing room to pressure children into making false allegations. The McMartin case illustrates how a rumor panic (or “mass hysteria”) can surge through a community and set off a cascade of false accusations.

The first accusations in the McMartin case were made in August 1983 by a woman named Judy Johnson, who alleged that her 3-year-old son and other children had been tied up and sodomized by Raymond Buckey (Nathan & Snedeker, 1995). As later events would show, Johnson was exhibiting the early symptoms of a psychotic illness complicated by alcohol dependence. Over the next 3 years, her condition would steadily worsen and her allegations would grow ever more bizarre, until her death in 1986 from alcohol-induced liver damage. However, when Johnson first raised her allegations, they were accepted at face value by a medical intern and then by police. Soon afterward, in a letter mailed to more than 200 families, police urged parents of former or current McMartin students to question their children about whether they had been fondled or sodomized by Ray Buckey.

Not surprisingly, the letter set off a full-scale panic. Parents began questioning their children, sometimes for several days in a row. When children said nothing had happened, parents often refused to believe the denials and continued to ask questions. When children eventually reported abuse—no matter how strange or self-contradictory their descriptions of what had happened—the allegations were relayed by phone to other parents, who then questioned their own children.

Within weeks, as allegations multiplied, families began to create an informal network that guaranteed contamination, that is, the sharing of rumors, genuine information, and misinformation. Bizarre new accusations began to surface, including descriptions of satanic rites, and children began to name not only Raymond Buckey as a perpetrator but also his mother and several other women who taught at the school. In the families of the supposed victims, emotions ranged from intense grief over their children's supposed victimization to equally intense rage and threats of violence toward the accused.

In this explosive atmosphere, there was little room for cool appraisals of the evidence. Although many of the children's allegations contradicted each other or were inconsistent with known facts, the inconsistencies were ignored by parents and the law enforcement community. Indeed, the legal authorities and media were also swept up in the panic and contributed to the spread of misinformation. For instance, an assistant district attorney announced to the press that there were "millions of child pornography photographs and films" of the victims, even though, in fact, no such photographs were ever found. Similarly, the press was "plunged into hysteria, sensationalism ... and a 'lynch mob syndrome'" (Shaw, 1990).

More than 20 years later, in 2005, one of the alleged McMMartin victims, Kyle Zirpolo, came forward to recant his accusations and explain why he had lied. His account, published in the *Los Angeles Times* (Zirpolo & Nathan, 2005), provided a rare inside picture of the way that the panic and contamination in the McMMartin case affected the children. Besides describing the suggestive techniques used by interviewers in the case, Zirpolo told how, with good intentions, his parents pressured him to make accusations against his teachers:

My parents asked if the teachers took pictures and played games with us. Games like "Naked Movie Star." I remember my mom asking me. She would ask if they sang the song, and I didn't know what she was talking about, so she would sing something like, "Who you are, you're a naked movie star." I'm pretty sure that's the first time I ever heard that: from my mom. After she asked me a hundred times, I probably said yeah, I did play that game.

My parents were very encouraging when I said that things happened. It was almost like saying things happened was going to help get these

people in jail and stop them from what they were trying to do to kids. Also, there were so many kids saying all these things happened that you didn't want to be the one who said nothing did. You wouldn't be believed if you said that. (Zirpolo & Nathan, 2005, pp. 1.12–1.13)

As can be seen, Kyle Zirpolo's parents naively resorted to some of the same suggestive techniques discussed earlier in this chapter: Introducing Information, Other People, Positive Consequences, and Negative Consequences. In retrospect, their intense questioning may have been even more problematic than the official investigative interviews because it lasted for weeks and left no record of what was said.

### WHAT PRACTICAL LESSONS CAN BE LEARNED FROM THE DAYCARE ABUSE CASES?

The daycare cases of the 1980s, tainted with witch-hunt fever and the fear of ritual abuse, can seem so strange that it is natural to wonder whether they offer any lessons for the everyday work of law enforcement and child protection agencies. Exotic though they were, however, these cases have proven to be a rich source of insights regarding child witnesses and the investigation of sexual abuse cases. For example, much that has been learned about child suggestibility in the past 25 years was discovered by researchers who set out to understand what went wrong in the McMMartin and similar cases. This new knowledge has had an enormous impact on the way child testimony is presently viewed in legal settings.

The remainder of this chapter discusses three other areas in which valuable practical lessons can be learned. The lessons will be framed as recommendations, some of which are already widely accepted, whereas others are offered here for the first time in hope of sparking future discussion.

#### Improving Child Forensic Interviews

When prominent daycare prosecutions began to unravel in the early 1990s, many participants in the legal system came to recognize the need for procedures that would minimize suggestive influences in child forensic interviews of children. The following two recommendations are, therefore, widely accepted and frequently adhered to.

##### *Recommendation 1*

Child forensic interviewers should receive specialized training. The instructional curriculum should include lessons not only on how to conduct inter-

views but also on the types of suggestive techniques and the reasons to avoid them. Strong preference should be given to approaches that are based on research and have been empirically tested in peer-reviewed scientific studies, such as the National Institute of Child Health and Human Development (NICHD) interviewing protocol developed by Lamb and his colleagues (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007; for review, see Saywitz & Camparo, Chapter 6, this volume). Supervisors should regularly monitor interviews to ensure that they are conducted properly. Occasional quality checks of randomly selected interviews by outside qualified experts might also be desirable.

### *Recommendation 2*

All forensic interviews of children, including but not limited to sexual abuse interviews, should be audiotaped or videotaped, with the tapes retained as evidence. Recording serves two purposes: (1) to create a detailed, objective record of the child's statement and (2) to verify that the interview was conducted in a nonsuggestive manner. To accomplish these purposes, it is essential that *all* investigative interviews be recorded, not just the final interview in the investigative process.

### **Identifying Possible Sources of Contamination**

In a surprising number of daycare cases in the 1980s, the original false allegations did not freely emerge from children but instead were elicited under pressure by a fearful or even delusional adult (e.g., Judy Johnson). Once a community panic was set in motion, additional false allegations arose as a result of suggestive questioning by parents or therapists, as with Kyle Zirpolo in the McMartin case.

Contamination of children's statements was particularly pervasive in the daycare cases but can also be a problem in some ordinary sexual abuse cases seen by CPS and police. Although fairly uncommon, contamination can have extremely serious consequences, for example when children are unnecessarily removed from their parents on the basis of false allegations or when criminal charges are filed against innocent adults. The authors of this chapter, therefore, offer two recommendations that can help identify contamination of children's statements when it occurs.

### *Recommendation 3*

When a child makes allegations of abuse or other wrongdoing during a forensic interview, the interviewer should systematically inquire about possible contaminating influences that might have affected the child's statement.

A particularly good example of such an inquiry can be found in the NICHD protocol developed by Lamb et al. (2007, pp. 1229–1230), which includes a section entitled "Information about the Disclosure." Coming near the end of the interview, this section includes several open-ended questions about the disclosure process and possible contamination: "Now I want to understand how other people found out about [the last incident of alleged abuse]. Who was the first person besides you and [the perpetrator] to find out about the [alleged abuse]? Tell me everything about how this [first person] found out . . . Tell me everything you talked about."

In addition to the questions about the disclosure process included in the NICHD protocol, we recommend that inquiries be made about other possible sources of contamination. For example, the investigator might inquire, "Have you heard about [the alleged perpetrator] doing bad things to other people? How did you hear? Tell me everything you heard."

### *Recommendation 4*

Before being interviewed by CPS or police about sexual abuse or other wrongdoing, many children have previously discussed the allegations with a trusted confidante: a parent, caretaker, or friend. We recommend that investigators always conduct an interview with the person we call the "first confidante," that is, the first person with whom the child discussed the allegations (also sometimes called the "outcry witness"). The interview of the first confidante should be conducted early in an investigation, if possible on the same day that the child is first interviewed, and should be audio- or videotaped. In the interview, the investigator should determine, among other things, how the allegations arose and what the child told the confidante.

Most CPS and police investigators already routinely interview the first confidante. Thus, our recommendation involves only two slight modifications to current practice. First, we suggest that this interview always be recorded to ensure that all relevant information is preserved. In our experience, written summaries are often unsatisfactory because they tend to be overly terse and omit valuable information. Second, we suggest that the interview of the first confidante should routinely explore the possibility that the child's statement has been contaminated. Here are some questions that might be helpful for this purpose: "Has the child made any statements to you regarding inappropriate touch or other wrongdoing? When was the most recent time that the child made these statements? How did the subject come up? Please start at the beginning and tell me everything you can remember about the conversation, including what you said and what the child said."

Other helpful lines of questioning might include the following: "Did you ever have prior conversations with the child about inappropriate touch-



ing? Please tell me about those conversations, including what you said and what the child said. Have you ever talked with someone else besides this child about inappropriate touching or other wrongdoing by this perpetrator? Before the child told you about the inappropriate touching (or other wrongdoing), did you have suspicions that the child had been victimized? Why?"

### Preventing and Managing Community Panics

The previous recommendations apply to all child forensic interviews. Those that follow, in contrast, are relevant only to cases that have a high potential for setting off a community panic, that is, cases involving multiple alleged perpetrators or multiple victims or in which the alleged perpetrator is a teacher, daycare worker, or someone with extensive contact with children.

Unless managed carefully, such panic-prone cases can sometimes turn into legal and public relations disasters, much like the daycare cases of the 1980s. They have the potential to divide communities into angry factions, tarnish investigators' and prosecutors' reputations, and erode the already-strained budgets of child protection agencies and district attorneys' offices (for a recent example, see Moran, 2008). The following recommendations are intended to help decision makers manage these difficult cases.

#### *Recommendation 5*

Panic-prone cases typically begin with an initial allegation from a single child, such as a report of sexual abuse by a teacher. Before widening the scope of the case, for instance, by conducting mass interviews of the child's classmates, investigators should carefully consider an important question: How strong is the evidence that supports the initial allegation of abuse? In cases that later turn into disasters, the initial allegation is typically very weak. For example, the allegation may have come from a very young or mentally disabled child who failed to provide a coherent, detailed description of the abuse. Or the allegation may have been extracted under pressure from a child by an overanxious or even delusional adult. Before launching a wide-reaching investigation that risks setting off a community panic, decision makers need to examine the available evidence with a critical eye and ask themselves whether it is strong enough to justify such a risk.

#### *Recommendation 6*

After careful consideration, investigators in a case of this type may decide to press forward and conduct mass interviews of children. For example, if a

child has accused a teacher of inappropriate touching at school, a decision may be made to interview all children in the teacher's class one by one to identify other possible victims. The decision to conduct dozens of interviews is a serious one because it may well create a rumor panic among the students in the school and their parents. At present, there is no well-established, "off-the-shelf" protocol for conducting mass interviews of schoolchildren. Therefore, our suggestions are offered tentatively.

First, if mass interviews are considered necessary, we suggest that they be carried out and completed as soon as possible, preferably within 1 or 2 days after the initial allegation is received. Speed is necessary to ensure that the interviews are completed before community panic sets in, with the inevitable cross-contamination among children and their parents.

Second, although speed is necessary, so is adherence to sound interviewing procedures. Specifically, interviewers should be well trained, strictly adhere to standard interviewing procedures, and scrupulously avoid suggestive techniques. All interviews should be conducted individually rather than in groups and should be recorded either on audiotape or videotape. Deviations from good practice should be firmly resisted because of their potential to generate false allegations and fuel community panic.

Third, parents should be notified after the interviewing process has begun (e.g., in a letter sent home from school at the end of the first day of interviewing). However, until all interviews are completed (preferably within the first or second day of interviewing), no information should be released regarding the nature of the allegations or the identity of the alleged perpetrator. Parents should be assured that additional information will be available as soon as interviewing is completed.

#### *Recommendation 7*

At some point, investigators will probably need to provide information to the media and families. However, such a step greatly increases the probability of panic, cross-contamination, and false allegations. For this reason, release of information should generally be delayed until all interviewing of children has been completed.

Information provided to the media and families should be accurate but conservative. For example, information can be provided regarding the name of any charged suspect and the legal charges (such as indecency with a minor). However, it is unwise to provide specific details about the allegations, such as the type of illicit touching or the circumstances under which it occurred. Potentially inflammatory information should also be avoided (such as the claim in the McMartin case that there were pornographic pho-

tos). The release of specific details or inflammatory information is undesirable because it can intensify community panic and contaminate the subsequent reports of children in the case.

Releases of information to the media and families should be accompanied by statements that discourage parents from questioning their children, such as the following: "We strongly urge parents *not* to question their children. We have already interviewed children in the school about the case and contacted their parents as appropriate. If you believe that your child needs to be questioned further, please do not do so yourself. Instead, call the following number. We will be glad to discuss your concerns and, if appropriate, arrange for your child to be reinterviewed by a trained professional." Such a statement may not be heeded by all parents, but it can still have a beneficial effect by reducing the amount of amateur interviewing to which children are exposed.

### Recommendation 8

In panic-prone cases, it is likely that a substantial number of children will eventually be exposed to contaminating information and that a smaller number will be subjected to suggestive questioning by adults. Under these circumstances, the probability of false allegations substantially increases. Thus, when evaluating the allegations made by individual children, decision makers need to take into account any possible effects of contamination. The timing of the allegations is particularly important. Specifically, allegations made *before* there has been media publicity or community panic can generally be viewed with much more confidence than allegations made *after* media publicity or contamination. This is an important reason why we recommend that mass interviews, if deemed necessary, should be carried out very early in the investigative process.

## CONCLUSION

We note that the study of extreme and bizarre events can often teach valuable lessons that can be applied under ordinary circumstances. For example, studies of the Black Plague that ravaged Europe during the late Middle Ages and Renaissance have suggested ways to combat the AIDS epidemic in the 21st century. Similarly, studies focusing on the strange daycare cases of the 1980s can teach us today how to better conduct child interviews and manage community panics. We hope the recommendations offered here are helpful to CPS workers, police, and prosecutors and that they generate discussion, feedback, and new ideas.

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