

Creating a Child Molester

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Writing 50

Professor Genova

December 2, 2009

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The fact that child molestation is a terrible crime, one that needs to have ramifications, is undisputable. Yet, the due process regarding the prosecution of child molesters is problematic. When a molestation report is filed, a psychological examination of the child is immediately conducted. This first step is where the problem arises: namely, psychologists in the past have been found to engage in leading question during their evaluations of the child—the child is *led* to answer questions in certain ways (Gottfried, personal communication, November 1, 2009). This phenomenon is regarded as false memory syndrome, whereby the child is led to develop a false memory of having been sexually abused. The *McMartin* preschool trial is a prime example of improper questioning, leading to false memory syndrome, and resulting in false accusations of molestation (Newman & Lindsay, 2009). As in this “Great American Trial,” many allegations against child molesters turn out to be false, merely children’s stories made up along the path of psychological examination. This “Great American Trial” is a prime example of improper questioning, leading to false memory syndrome, and resulting in false accusations of molestation (Goldberg, 1998). Aside from what actually happens, a psychologist is arguably the second-most influential factor on a child’s testimony in court. As such, psychologists must exercise extreme caution in their examination of children to avoid facilitating false memory syndrome. Given the outcome of the *McMartin* preschool trial—which corroborates the above—

psychologists have revised the way they examine children to prevent false memories from developing and entering into testimony.

History of the *McMartin* Trial

The *McMartin* preschool trial is a tragedy for both the children on the prosecution side as well as the defendants; it exemplifies the harmful effects false memory syndrome can have upon a trial. This trial began in 1984 and lasted for another 7 years, costing \$15 million (Linder, 2007). It was the most expensive trial of its time. Because it was such a high profile case, anyone following any sort of mass media had a personal opinion about the case—independent of the juries' final verdict. Although the public was kept unaware of exactly what went on in the courtroom, the public at least knew who it involved, what the alleged crime was, and that it was taking the jury a long time to reach a verdict.

Ray Buckey, a day-care provider at the preschool, was accused of child molestation and forced to spend five years in jail while he waited for a verdict. A total of forty-eight children were involved in this accusation. These children were brought in for questioning and psychological examinations. During these examinations, psychologists retrieved claims of child abuse; these claims were admitted into testimony for use against the accused. However, abuse was not the only thing the children brought up; they talked about satanic rituals and “insist[ed] that they were taken into underground tunnels” (Gardner, 2009). Although tunnels were eventually discovered, it was unclear whether it was mere coincidence, false evidence planted by angry parents, or the actual tunnels Ray Buckey used as a place to molest children. Because the

evidence was so ambiguous, much of the discussion on tunnels was left out during the trial (Gardner, 2009). The process psychologists went through to evaluate their clients was causing the problem. The court went through three hung juries because the stories told by the children were bizarre, unlikely, and inconsistent with the evidence.

The truth finally came out when the supposedly molested children began to confess that their stories were make-believe. Their stories of “participat[ing] in bizarre ceremonies with Satanic overtones” had absolutely nothing to do with the alleged molestation (Schreiber, Bellah, Martinez, McLaurin, Strok, Garven, & Wood, p. 2). These elaborate stories were completely made up, with the influence of the psychologists conducting the interviews. At the end of the trial, it was concluded that all of the day-care workers were wrongly accused of molestation and all charges against them were dismissed.

Ray Buckey as a “Free Man”

Although Ray Buckey was in fact dismissed of all charges, the effects of the trial stayed with him forever. In his line of business, even being accused of molestation will keep mothers from sending their precious children to him. He will never again be trusted to take care of anyone’s child.

Public Opinion	Percentage
Adults had heard of the case	96%
Adults who felt Ray Buckey was guilty	97%

Adults who felt Peggy McMartin (Ray's mother) was guilty	93%
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Table 1.1 Public Opinion of the *McMartin* Trial (Robinson, 2005)

Causes of False Memory Syndrome

Before evaluating the causes of false memory syndrome, it is important to have a clear understanding of what this is. False memory syndrome is defined as “the experience of seeming to remember events that never actually occurred”; additionally, “these pseudomemories are often quite vivid and emotionally charged, especially those representing acts of abuse or violence committed against the subject during childhood” (*False Memory Syndrome*, 2009). In the case of molestation, a child is forced to go through psychological examination. It is common for them to get scared during their interviews and merely answer however they believe the psychologist wants, or expects them, to answer. Psychologists are “likely to (a) introduce new suggestive information into the interview, (b) provide praise, promises, and positive reinforcement, [and] (c) express disapproval, disbelief, or disagreement with children” (Schreiber et al., 2006, p. 2). The children are not given the opportunity to explain a situation as it was in their mind.

Leading Questions

Dr. Gottfried, a child psychologist at California State University of Fullerton who has extensive experience working with children during child custody hearings, was able to demonstrate that parents and psychologists are capable of nearly convincing an innocent child

that they have been sexually abused. By asking specific yes or no questions, for instance, psychologists are suggesting what the answer should be (Schreiber et al., 2006, p. 7). In doing so, their answer gets positively reinforced and they begin to think it is actually true. This phenomenon of leading questions being used to produce a statement indicating abuse is a common theme throughout the *McMartin* preschool trial. Kee MacFarlane was the social worker responsible for psychologically examining the children involved in the *McMartin* trial. Her methods of questioning were all but open-ended (*Testimony by Kee MacFarlane*, 1988). By using leading questions to get the children to tell her about being molested, MacFarlane compromised the integrity of her clients' statements.

Anatomical Dolls

Anatomical dolls are extremely suggestive to children involved in a molestation investigation. These dolls are supposed to aid a child in telling the psychologists where they were touched; the child will nearly always point to genital areas. Whether or not that is in fact true is the subject up for debate. As Dr. Gottfried indicated, children are curious by nature and are more inclined to point out the genitals, making their statements unreliable (Gottfried, personal communication, November 1, 2009). During the *McMartin* trial, such dolls were used to assist the children in telling their stories (Coleman, 1989). As a result, it is difficult to determine whether the stories of being molested are true, or whether they merely reflect the child's natural curiosity regarding the genital region.



Image 1.1 Anatomically Correct Dolls Source: www.teach-a-bodies.com/.../lg9681.jpg

Incentives

False memories are not only developed by leading questions and dolls, but also by using rewards to get an expected answer from the child. A child will tell the psychologists anything if they are going to get a treat out of it. The psychologists are then happy because they get the answer that they expected to hear from the children, and feel that they are making progress in the case. However, the answers are not necessarily the truth. These methods were used quite often before it became clear how much influence they had, as seen in the *McMartin* case. During the aftermath of the trial, Zirpolo, one of the children who originally claimed to have been molested said, "I thought they wanted me to help protect my little brother and sister who went to *McMartin*" (Robinson, 2005). It is clear that his accusations towards Ray Buckey were not true, and that they were derived from inappropriate questioning. He, among others, was convinced that telling a lie would help other children.

Solutions for Prevention

These controversial methods of questioning were used quite often before it became clear how much influence they had on the subjects, as shown in the *McMartin* case. Because

psychologists now know how harmful these false memories can be, there is currently a higher standard of questioning that psychologists must adhere to—especially when involving a court case. In short, psychologists today have reversed nearly all methods used for examination during the *McMartin* trial.

Open Ended Questions

Prior to the *McMartin* trial, leading questions were commonly and acceptably used as part of a psychological examination, since their adverse effects had not yet surfaced. However, with the events of this trial, it is clear that using leading questions is an inappropriate way to question children. “Open-ended questions are deemed desirable because they are less likely to be suggestive than other forms of questions and are more likely to be answered accurately by children” (Schreiber et al., 2006, p. 5). To prevent false memories from developing, psychologists must leave it to the children to open up and tell their story. Using suggestive questioning must be prevented, giving the children the opportunity to tell the truth. Seeing that psychologists are now aware of the terrible affects false memories can have, they must take this into consideration when questioning their patients in order to prevent terrible trials such as the *McMartin* trial from reappearing in the future.

Higher Standards

Additionally, because court cases are based on facts and hard evidence, only certain tests are admitted as evidence by the court. Even the tests allowed in court are not used as proof, but merely to show possibility, or perhaps a reason for something. These tests must hold the Daubert standard, meaning that they hold the highest scientific standard to be presented as evidence in a court room (Gottfried, personal communication, November 1, 2009). As discussed above, anatomical dolls are extremely suggestive to children involved in a molestation investigation. Due to their suggestive nature, these dolls are deemed impermissible for use in a court of law. By keeping suggestive material separate from a trial, psychologists can eliminate the possibility of aiding the development of false memory syndrome.

Successful Solutions

To confirm that the methods of examination have indeed been revised, it is necessary to examine a trial subsequent to the *McMartin* preschool trial. This more recent trial took place in 2002, and involved a Catholic Priest raping an altar boy. Rev. Robert Gale was arrested when an altar boy, Michael Corbett, had the courage to discuss the filthy acts his priest allegedly attempted to engage in (Roy, 2004). The boys involved in these trials came forth of their own accord; they were not coerced into telling someone that they had been molested. Without the opportunity for psychologists to taint his memory, Corbett's witness testimony is credible and undoubtedly believed by the jury. Just a few days before the trial, Rev. Robert Gale changed his plea to guilty and confessed his numerous acts of molestation (Robinson, 2002). Because this case was so clear cut, it was easy to convict Rev. Robert Gale of child molestation and send him

to jail for up to five years. Had psychologists continued to question molestation victims in the same manner as the *McMartin* trial, it is possible, and probable, that a jury would not have convicted Rev. Robert Gale—especially if any creative memories were discovered. After psychologists changed their methods, not only did a successful trial result, but the new ways of examining children have actually prevented false memory syndrome from becoming a problem in court.

Impacts on Society

Now that it is clear how false memories are created and how they can be prevented, it is also important to make note of how these false memories impact society. As a result of the *McMartin* trial, it became clear to people that witness testimony is not always accurate, or even true. This made people more skeptical of accusations following the *McMartin* trial. The public is more aware of the possibility of false memories and the possibility of sending an innocent person to jail because of a made-up story. These combined concerns may make it harder to convict someone of molestation. Although this skepticism will help to prevent another questionable trial like *McMartin*, it also presents the possibility of letting guilty child molesters roam, free of consequence.

Conclusion

False memories were the significant aspect of the *McMartin* preschool trial that made it so long and public. During their psychological examination, the children were led to think they

had been molested. This caused the children to bring false allegations against their day care providers. These false allegations held terrible implications for the legal system — namely, the possibility of sending an innocent man to jail. Although all charges were eventually dropped, the children were not able to completely distinguish truth from fantasy. With the ability to explain the harmful effects of leading questions and how psychologists in child molestation cases can be a great influencing factor on what a child alleges occurred, the possibility of preventing this problem becomes a reality. Although false memories were so prevalent throughout the *McMartin* trial, once new methods were used, psychologists did not have the same hindering effects on newer trials (especially those involving Catholic Priests accused of raping their altar boys). With this knowledge, and the given outcome of the *McMartin* trial, present psychologists must be extremely careful not to engage in leading questions, for fear of assisting or encouraging fabricated stories, as well as the prospect that they can scar a child for life.

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- Testimony by Kee MacFarlane, Director of Children's Institute International*. (1988, August 8). Retrieved November 23, 2009, from <http://www.law.umkc.edu/faculty/projects/ftrials/mcmartin/macfarlanetestimony.html>

Annotated Bibliography

Allen, J. J. B., & Mertens, R. (2009). Limitations to the Detection of Deception: True and false Recollections are Poorly Distinguished using an Event-Related Potential Procedure. *Social Neuroscience*, 4(6), 473 - 490. Retrieved from http://pdfserve.informaworld.com/821999_770849120_793399583.pdf

This article is highly scientific. It discusses the possibility of detecting false versus true memories via brainwaves. The article goes into detail about how to conduct the brain tests. Although how the tests are conducted is not important for my research, the fact that these tests exist is important. If these tests are used by a court to determine if a child has really been molested, the possibility of false convictions is slim to none, which is drastically different from the methods used during the McMartin trial.

Coleman, L. (1989). Learning from the McMartin Hoax. *Institute for Psychological Therapies*, 1. Retrieved from http://www.ipt-forensics.com/journal/volume1/j1_2_7.htm

This article discusses the methods used by the psychologist during the McMartin trial, specifically the use of anatomical dolls. This will be useful when I talk about how influential the dolls can be on a child's account of what happened to them.

Day-Care Owner Is Convicted of Child Molesting. (1992, April 23). *The New York Times*, p. A16. Retrieved from http://www.lexisnexis.com/us/lnacademic/results/docview/docview.do?docLinkInd=true&risb=21_T7821053986&format=GNBFI&sort=RELEVANCE&startDocNo=1&resultsUrlKey=29_T7821053989&cisb=22_T7821053988&treeMax

This article gives a brief background of the trial itself. It does not go into any detail about false memory syndrome. This article is useful to help describe the trial. This is an article that the public would have read when the trial first came about. This gives an idea about how much the public knows about this trial.

False memory syndrome. (2009). Retrieved October 20, 2009, from Dictionary.com Web site:
<http://dictionary.reference.com/browse/false+memory+syndrome>

This website gives me the definition of false memory syndrome. This will help explain what the problem is that I will be discussing throughout my paper.

Gardner, B. (2009). McMMartin Preschool Case – What really happened and the cover up.

SMART- Ritual Abuse Pages. Retrieved from

<http://ritualabuse.us/ritualabuse/articles/mcmartin-preschool-case-what-really-happened-and-the-coverup/>

This article gives a lot of detail on the order of events. It then focuses a lot on the tunnel aspect of the trial. The order of events will be useful, but the tunnel information is a bit redundant.

Goldberg, Carey. (1998, September 8). Getting to the Truth in Child Abuse Cases: New

Methods. *The New York Times*, p. F1. Retrieved from

http://www.lexisnexis.com/us/lnacademic/search/focusSearch.do?risb=21_T7820979436&pap=results_listview_Listview&formStateKey=29_T7820979441&format=GNBLIST&returnTo=20_T7820979437

This article briefly discusses the McMMartin preschool trial. It then goes on to describe another trial where the same methods were used to interview children. This article gives

specific examples of methods that should no longer be used when interviewing a child.

The article describes how influential these methods are when used on a child.

Hochman, A., & Gregg, S. (1984, November 10). The Dilemma of Day Care;. *The Washington Post*. Retrieved from

http://www.lexisnexis.com/us/lnacademic/results/docview/docview.do?docLinkInd=true&risb=21_T7821078794&format=GNBFI&sort=RELEVANCE&startDocNo=1&resultsUrlKey=29_T7821079503&cisb=22_T7821079502&treeMax

This article is discussing the impact of not being able to screen employees of daycare centers. Since child molestation is a concern of parents sending their children to daycare centers, this article explores the effects of not being able to do background checks on future employees. Although this article is a bit old, it may be useful to describe why the McMartin trial occurred.

Linder, D. (2007). The McMartin Preschool Abuse Trial. *Social Science Research Network*.

Abstract retrieved from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1030559

This abstract gives a good background of the trial. It could be useful because it talks more about Ray Buckey and his mother, and what they went through during the trial.

Lyon, T. (1999). The New Wave in Children's Suggestibility Research: A Critique. *Cornell Law Review*, 84(1004), 1-84. Retrieved from

<http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=thomaslyon>

This article discusses how psychologists are beginning to question whether the methods they use are inappropriately influencing their patients. Although this is a critique of these ideas, it could be useful for finding information that they are critiquing.

McMartin preschool trial. (n.d.). Retrieved October 16, 2009, from Wikipedia:

http://en.wikipedia.org/wiki/McMartin_preschool_trial

This article just gives a brief idea about the facts of the McMartin trial. Although it does not go into great detail this article can be used as a reference for other information to research. I do not recommend using this source in the final paper because it is not extremely reliable; it should just be used as a starting point for research.

Newman, E. J., & Lindsay, S. (2009). False Memories: What the Hell are They For? *Applied Cognitive Psychology*, 23(8), 1105-1121. Retrieved from

<http://www3.interscience.wiley.com/cgi-bin/fulltext/122604448/PDFSTART>

This article discusses the purpose of false memories and how they can be brought about. This article does not discuss anything about molestation. However, the information about false memories from this article can be used to explain how false memories may be brought about in a situation of molestation. This article discusses why people have false memories, and how they sometimes help people.

Robinson, B. A. (2005, October 29). "McMartin" ritual abuse case in Manhattan Beach, CA.

Retrieved from Religious Tolerance Web site:

http://www.religioustolerance.org/ra_mcmar.htm

This website gives some statistics that could be useful in my paper. Additionally, it has a few quotes from one of the children involved in the McMartin molestation trial. This can be used to describe the children's perspective.

Robinson, W., & Ranalli, R. (2002, August 22). Priest faces charges of raping altar boy. *The Boston Globe*. Retrieved from

http://www.boston.com/globe/spotlight/abuse/stories3/082802_priest.htm

This newspaper article gives an in depth background of the case. It discusses the history of the accused priest, and how he has sexually abused many other boys before this current trial. This will be helpful in giving background information on the second trial for my paper.

Roy, J. (2007, July 20). Priest who raped altar boy gets 4 to 5 years in jail. *The Dedham Transcript*. Retrieved from <http://www.dailynewstranscript.com/news/x491961956>

This article discusses the molestation trial involving a Catholic Priest and his altar boy. This article will be a useful comparison trial. With this trial in mind, I can explore what methods of questioning were used to find out this information.

Schreiber, N., Bellah, L., Martinez, Y., McLaurin, K., Strok, R., Garven, S., et al. (2006). Suggestive interviewing in the McMartin preschool and Kelly Michaels daycare abuse cases: A case study. *Psychology Press*, 1-32. Retrieved from http://digitalcommons.utep.edu/cgi/viewcontent.cgi?article=1014&context=james_wood

This article evaluates the way psychologists evaluated the children of two child molestation cases, one of which is the McMartin preschool trial. It is useful for discussing the types of questions psychologists actually asked during the trial.

Testimony by Kee MacFarlane, Director of Children's Institute International. (1988, August 8). Retrieved November 23, 2009, from <http://www.law.umkc.edu/faculty/projects/ftrials/mcmartin/macfarlanetestimony.html>

This website gives the witness testimony for the psychologist that the prosecution used to examine the children. This will be useful to see what kind of questions she actually asked the children while she was evaluating them.

Wyatt, J. (2002). What was under the McMartin preschool? A review and behavioral analysis of the “tunnels” find. *Behavior and Social Issues*, 12(29), 1-11. Retrieved from <http://firstmonday.org/htbin/cgiwrap/bin/ojs/index.php/bsi/article/viewFile/77/96>

This article discusses the tunnels that were supposedly under the preschool. It talks about how the tunnels were never found, and why people were convinced the tunnels exist.

This will not be helpful for my paper because I am focusing more on the questioning of the children, not the particulars about the trial.