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# ALASKA BAR

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A S S O C I A T I O N



## Child Sexual Abuse: What Family & Children's Lawyers Need to Know

Wednesday, March 4, 1998

9:00 AM - 3:45 PM

Centennial Hall

Juneau, Alaska

### Supplemental Materials

**CLE #98-03**

**5.5 CLE CREDITS**

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**Alaska Bar Association**

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The following materials were submitted by Anchorage attorney Sue Ellen Tatter as a supplement to the course materials for the original program held November 14, 1997 in Anchorage.

**EVIDENTIARY BASIS FOR CHILDREN'S TESTIMONY:  
INCLUSION OR EXCLUSION**

First complaint -- Caselaw: Greenway v. State. Not excessive detail or probing about i.d.

Excited utterance hearsay exception -- Alaska Rule of Evidence Rule 803(2): "He just hurt me," but not "Grandpa touched me at Christmas."

Prior inconsistent statements -- if child says "I forget" or can't testify because she is subject to mental illness or physical disability. A.R.E. 804(a)(3)(4)

Prior consistent testimony - to rebut charge of recent fabrication. A.R.E. 801(d)(B) (See Rule 403)

Former testimony -- if child unavailable. Must have been subject to cross-examination. (e.g., depo okay, not grand jury.) A.R.E. 804(b)(1)

"Unavailabilty" can invoke catch-all hearsay exception with guarantees of trustworthiness (e.g., video) but dangerous under Idaho v. Wright.

Depositions - Criminal Rule 15

Motion for Forensic Interview or Psychological Interview Braham v. State -- Privacy issues for subject.

Statements for purpose of diagnosis and treatment if truly in aid of medical purpose, e.g., "That's where they hurt me," but not forensic interviews. A.R.E. 803(4)

Verbal Act or non-hearsay: "We had a talk about her problem and then we immediately ran to the emergency room to get a pregnancy test."

The following copies of overheads were submitted by Prof. David Raskin as a supplement to the course materials for the original program held November 14, 1997 in Anchorage.

**FACTORS THAT INCREASE  
INACCURACY AND  
INVALID STATEMENTS**

Prof. David Raskin  
11/14/97

## *GENERAL FACTORS*

- 1. YOUNG CHILD**
- 2. PSYCHOLOGICALLY DISTURBED CHILD**
- 3. MOTIVES TO ACCUSE**
- 4. TIME SINCE ALLEGED INCIDENT**
- 5. INFLUENCE OF SIGNIFICANT ADULTS**
- 6. EDUCATIONAL PROGRAMS  
AND MATERIALS**
- 7. PEER PRESSURE AND INTERACTIONS**
- 8. THERAPY**

# *INTERVIEW CHARACTERISTICS*

- 9. HIGH STATUS, BIASED INTERVIEWER**
- 10. PRESSURE, INDUCEMENTS, THREATS**
- 11. SELECTIVE REINFORCEMENT  
OF RESPONSES**
- 12. NEGATIVE STEREOTYPING OF ACCUSED**
- 13. EMOTIONALLY-TONED INTERVIEW**
- 14. DOLLS AND PROPS**
- 15. ANATOMY LESSONS**
- 16. GOOD TOUCH/BAD TOUCH, ETC.**
- 17. EARLY, DIRECT QUESTIONING**
- 18. REPEATING QUESTIONS**
- 19. LEADING AND SUGGESTIVE QUESTIONS**
- 20. INJECTION OF INFORMATION  
AND MISSTATEMENTS**
- 21. APPEAL TO AUTHORITIES  
AND OTHER SOURCES**
- 22. MULTIPLE INTERVIEWS**



## **Suggested Reading List**

**Reprinted with Permission**

## SUGGESTED READING LIST<sup>1</sup>

Ceci, S. & Bruck, *Jeopardy in the Courtroom*. American Psychological Assn. (1995).

Kuehnle, K., *Assessing Allegations of Child Sexual Abuse*, Sarasota, FL: Professional Resource Press (1996).

Herman, J., *Trauma and Recovery*, NY: Basic Books (1992).

VanderKolk, B., *Traumatic Stress*, NY & London: Guilford Press (1996).

### BOOKS WRITTEN FOR CHILDREN AND TEENAGERS\*

Ageton, S. *Facts About Sexual Assault: A Research Report for Teenagers*. Rockville, MD: NIMH, U.S. Dept. of Health and Human Services, 1985. Factual data based on survey of teenagers. Includes sections on aftermath of sexual assault and reporting, as well as tips on prevention. Very good section on advice to males.

Anderson, D., & Finne, M. *Margaret's Story: Sexual Abuse and Going to Court*. Minneapolis, MN: Dillon Press, 1986. \$9.95. This is a straightforward, informative, and reassuring book about Margaret, a black child, who is molested by a neighbor. It deals openly with the range of Margaret's feelings and shows her mastering the experience of testifying. The book should be helpful to any child who must testify in court, and to parents of victims as well. It is very nicely illustrated. An appendix contains some basic information about child sexual abuse, a glossary of relevant sexual and legal terminology, and a list of people a child might turn to for help.

Bateman, P. *Acquaintance Rape: Awareness and Prevention for Teenagers*. Alternatives to Fear, 101 Nickerson, Suite 150, Seattle, Washington 98109. This guide is intended to help teenagers identify a potential acquaintance rape situation.

Beaudrey, J., & Ketchum, L. *Carla Goes to Court*. New York: Human Sciences Press, 1983. \$12.95. A sensitive, well-written book that deals with a young child's fears and confusions about going to court as a witness to a crime. It emphasizes her ability to master the experience while also explaining court procedures.

Berenstain, S., & Berenstain, J. *The Berenstain Bears Learn about Strangers*. New York: Random House, 1985. \$1.95 (paper). Teaches toddlers that strangers are not all good and not all bad and to use common sense.

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<sup>1</sup> Includes excerpts by author's permission from Child Sexual Abuse, D. Schetky & A. Green, Brunner/Mazel Publishers (1988)

Boegehold, B. *You Can Say No*. Golden Books. Racine, WI: Western Publishing Co. \$4.95. Written for preschoolers. Teaches them how to say no in situations involving both strangers and family members.

Channing, L. *What Every Child Should Know About Sexual Abuse and You're in Charge*. So. Deerfield, MA: Bete Co., Inc., 1986. \$8.00. Coloring and activity booklets for the young child. Emphasis is on education and teaching the child to say no.

Dayee, F. *Private Zone*. New York: Warner Books, 1984. \$2.95. Designed to be read by parent to the young child. Criticized by some as silly and alarmist but contains useful information, such as suggestions to parents on what to do if a child is sexually assaulted.

Fay, J., & Flerchinger, B.J. *Top Secret: Sexual Assault Information for Teenagers Only*. Renton, WA: Network Publishing. King County Rape Relief, 1984. \$11.95. Useful information for adolescents with emphasis on self-protection.

Flynn, K. *Some Questions You May Ask About Going to Court*. Hennepin County Public Affairs Dept., Minnesota. Simple but useful information for the child going to court on what happens at a trial and what happens to the offender and victim afterwards. Suggests counseling as a helpful means of dealing with feelings about abuse and trial. Black-and-white photos.

Hubbard, K., & Berlin, E. *Help Yourself to Safety*. Edmonds, WA: Chas. Franklin Press, 1985. \$3.50 (paper). Written for school-age children and intended to help them avoid dangerous situations with friends and strangers. Good illustrations and list of safety tips for children and their parents.

Mackey, G., & Swan, H. *Dear Elizabeth*. Children's Institute of Kansas City, 9412 High Dr., Leawood, Kansas 66206. Fictitious account of the sexual abuse of an adolescent presented in the form of a diary. Useful in therapy or in prevention programs.

Marvel Comics Group & NCPA. *Spider Man and Power Pack*. 1985. Available from National Commission for Prevention of Child Abuse, 332 So. Michigan Ave., Suite 1250, Chicago, Illinois 60604-4357. Stock No. B-84-325, \$1.00 each. Even Spider Man experienced sexual abuse as a child. In this episode he helps a young boy tell his parents about an abusive babysitter and counsels a runaway to confide in a trusted adult about an abusive father. Emphasis is on the facts that the child is not to blame and is not helpless.

Playmore Publishers. *It's O.K. to Say No*. New York. \$1.95. Coloring book for children ages 2 to 6 and activity book for children ages 6 to 11. Gives children the message that it's all right to say no to adults who make them feel uncomfortable.

Polese, C. *Promise Not to Tell*. New York: Human Sciences Press, 1985. \$13.95. Designed for readers ages 8 and up, this well-written novel deals sensitively and honestly with the topic of sexual abuse. Information conveyed is both preventive and therapeutic. Attractive illustrations.

Ruzicka, J. *Kids Go to Court, Too*. Hennepin County Public Affairs Dept., Minnesota. Factual pamphlet on testifying in court with almost no attention to the child's feelings. Stark black-and-white photos.

Wachter, O. *No More Secrets for Me*. Boston: Little, Brown, 1983. \$4.95. Four stories about children in a variety of sexually abusive situations.

Williams, J. *Red Flag, Green Flag People*. Fargo, N.D.: Rape and Abuse Crisis Center, 1980. \$4.00. A coloring book for young children focusing primarily on potentially dangerous strangers.

Williams, J. *Annie: Once I was a Little Bit Frightened*. Fargo, N.D.: Rape and Abuse Crisis Center. \$2.50. A simple booklet for ages K-8 urging children to tell if an adult is hurting them. Booklet remains vague as to what sort of hurt and avoids explicit sexual references. The obvious problem is that the young child may not associate sexual touching with being hurt.

### BOOKS WRITTEN FOR PARENTS

Adams, C., & Fay, J. *No More Secrets: Protecting Your Child From Sexual Assault*. San Luis Obispo, CA: Impact Publishers, 1981. \$4.95. Excellent book with focus on prevention and dialoging with children. Recognizes that children are most likely to be abused by someone they know.

Adams, C., Fay, J., & Lorren-Martin, J. *No Is Not Enough: Helping Teenagers Avoid Sexual Assault*. San Luis Obispo, CA: Impact Publishers, 1984. \$6.95. A parents' guide to help teenagers avoid victimization. Includes advice on what to say and when.

Ageton, S. *Facts About Sexual Assault: A Research Report for Adults Who Work with Teenagers*. Rockville, MD: NIMH, U.S. Dept. of Health and Human Services, 1985. Surveys a nationally representative sample of teenagers and presents data on female victims and some offenders. Discusses aftereffects of sexual assault and preventive measures.

Bulkley, J., Ensminger, J., Fontana, V., & Summit. *Dealing with Sexual Child Abuse*. National Commission for Prevention of Child Abuse, 1982. NCPA Publishing, 332 Michigan Ave., Suite 1250, Chicago, IL 60604-4357. Booklet deals with legal, medical, and social aspects of child sexual abuse.

Division of Child Protection, Children's Hospital National Medical Center has the following booklets available:

*A Message to Parents About Child Sexual Abuse*. \$.75.

*Public Concern and Personal Action: Child Sexual Abuse*. \$.75.

Phone 202-745-5685 or send requests to Education and Training Specialist at Division of Child Protection, Children's Hospital National Medical Center, 111 Michigan Ave., N.W., Washington, D.C. 20010.

Fay, J. *He Told Me Not to Tell*. Renton, WA: King County Rape Relief, 1979. Useful guideline for parents on how to talk to their children about child sexual abuse.

National Center on Child Abuse and Neglect. *Sexual Abuse of Children: Selected Readings*. Rockville, MD: U.S. Dept. of Health and Human Services, 1980. DHHS Pub. No. (OHDS) 78-30161. Contains a variety of writings covering most aspects of sexual abuse, including articles written by victims. A good overview. Listing of treatment programs is by now dated.

Planned Parenthood. *How to Talk with Your Child About Sexuality: A Parent's Guide*. New York: Doubleday, 1986. \$7.95. This helpful guide covers facts for preschoolers through teens, while also addressing values and how to talk with children about sexuality. One chapter discusses how to protect children from sexual abuse. There is a helpful appendix which includes a glossary of sexual terms and facts about contraception and sexually transmitted diseases.

Renshaw, D. *Sex Talk for a Safe Child*. Chicago, IL: American Medical Association, 1984. Order Dept. OP-234/5, P.O. 10946, Chicago, Illinois 60610.

Sanford, L.T. *Come Tell Me Right Away: A Positive Approach to Warning Children About Sexual Abuse*. New York: Ed-U Press, 1982. (P.O. Box 583, Fayetteville, N.Y. 13066.) Emphasizes exploitative and nonsexual aspects of abuse as well as sexual. Discusses dangers of teaching blind obedience. Provides guidelines on how to talk with children about sexual abuse.

Sanford, L.T. *The Silent Children: A Parent's Guide to Prevention of Sexual Abuse*. New York: McGraw-Hill, 1982.

U.S. Dept. of Health and Human Services. *Child Sexual Abuse: Incest, Assault and Sexual Exploitation*. Rockville, MD, 1981. DHHS Pub. No. (OHDS) 81-30166. Provides overview of child sexual abuse, prevention, and treatment.

U.S. Dept. of Health and Human Services. *Child Sexual Abuse Prevention. Tips to Parents*. Rockville, MD, 1984. Useful pamphlet for waiting rooms. Includes sections on listening to your children, choosing a preschool or child care center, and physical and behavioral signs of sexual abuse.

The following booklets are available through the National Committee for Prevention of Child Sexual Abuse Publishing Dept., 332 S. Michigan Ave., Suite 1250, Chicago, IL 60604-4357:

May, G. *Understanding Sexual Child Abuse*. ISBN 0-937906-05-0. Stock No. b-78-303. \$3.50 each. The booklet gives an overview of sexual offenses against children with detailed discussion of incest.

Summit, R. *Dealing with Sexual Abuse*. ISBN 0-937906-06-9. Stock No. B-78-304. \$3.50 each. Explains roles of those individuals involved in various aspects of the investigation and treatment of child sexual abuse.

*Basic Facts about Sexual Child Abuse*. 1982. ISBN 0-937906-08-5. Stock No. P-78-401. \$1.25 each. Pamphlet answers basic questions about child sexual abuse and discusses factors contributing to incest as well as behavioral and physical symptoms in sexually abused children and what to do if abuse is suspected.

### GENERAL

National Committee for Prevention of Child Abuse. *Child Sexual Abuse Prevention Resources*, 1984. ISBN 0-937906-42-5. \$2.00 each. Contains references on audio-visual materials, live performance and theater groups, school curricula, games, dolls, prevention programs, and reading materials for children and adults. Available from NCPA (address listed above).

#### *Inservice Training, Lectures, Workshops, Consultation*

Division of Child Protection, Children's Hospital National Medical Center, Washington, D.C., offers Professional Training Programs including speeches, presentations, and workshops for professional and lay audiences. Contact: Education and Training Coordinator, Division of Child Protection, Children's Hospital National Medical Center, 111 Michigan Ave., N.W., Washington, D.C. 20010.

Dr. Nicholas Groth, Forensic Mental Health Association, 29 Lynwood St., Webster, Massachusetts 01570.

Plummer, A. *Preventing Sexual Abuse*. Learning Publications, Inc., 1985. \$19.95 (Box 1326, Dept. BA 5678, Holmes Beach, Florida 33509). A resource book for youth workers and educators designed to help develop prevention programs.

Dr. Suzanne Sgroi, New England Clinical Associates, Suite 209, 970 Farmington Ave., W. Hartford, Connecticut 06107.

Simrel, K.O., Lloyd, D.W., & Kanda, M. *Medical Corroborating Evidence in Child Sexual Abuse/Assault Cases*. Available from Division of Child Protection, Children's Hospital National Medical Center, 111 Michigan Ave., N.W., Washington, D.C. 20010. Attn.: Education and Training Specialist. This useful small booklet covers the physical exam and laboratory tests and has a section on sexually transmitted diseases.