

# Testimony by Kee MacFarlane, Director of Children's Institute International

## (Witness for the Prosecution)

August 8, 1988

### **Direct Examination by Prosecutor Roger Gunson:**

Gunson: "What is your occupation?"

MacFarlane: "I am a social worker and a director of the Child Sexual Abuse Center at Children's Institute International," she said. She said she was director of the program focusing on sexual abuse of children, that she received a bachelor's degree in fine arts in Ohio, then decided to discontinue her studies in fine arts and begin working with children. "I applied to graduate school at the University of Maryland and . . . began work with a number of organizations that were involved in services to children. I worked with groups that were studying the court system. . . just trying to get to know people and how the system worked." MacFarlane said she had received her master's degree in social work in 1947.

"I was requested by one of my professors to try my hand at writing federal grant proposals. There was a priority announcement for federal funding for child abuse centers, ten of them in the country. And various universities and other organizations were applying for them, and so I was asked to write a grant proposal which hopefully would allow the University of Maryland to be the source of one of these grants and start a child abuse program.

"The grant was awarded. . . . I helped to organize the people who would run that project." In 1974, MacFarlane said, she went to New Jersey to work at another child sexual abuse program, another of the ten. "It was a major grant. Two of the components of the grant were made into subcontracts of the grant which I was in charge of...."

Gunson: "Where did you go in 1976?"

MacFarlane: "To Washington, D.C. I went to join the staff of the National Center on Child Abuse and Neglect. . . . I was asked to come and be a member of the staff of the national center. My job title evolved into 'child sexual abuse specialist.'

"I oversaw a number of programs that were funded by the federal government. . . . I was in Washington for six years. The United States Congress passed an amendment which provided special emphasis on child sexual abuse . . . and they authorized separate federal funding that would be specifically targeted to child sexual abuse. . . ."

### **Cross-examination by Dean Gits:**

"When [name of girl] says she doesn't remember any [naked games] you said, 'I know 'em all because other kids told me.' Do you think that puts pressure on Melinda to remember games that she might otherwise not remember?"

"Yes."

"Do you think that having naked dolls with anatomical parts tends to suggest to the child naked games, naked people?"

"No, I don't believe that."

"You made the statement, 'Every kid from the preschool came in and told me.' Do you think that statement puts pressure on a child?"

"No."

"You said, 'That's why we wanted to use puppets. We wanted them to get real brave because more than sixty kids have come in and told yucky secrets, and every day more kids come in and tell us what went on down there.' Do you think that statement might put undue pressure on [name of girl] to comply with what other kids said?"

"That statement was true."

"And 'we found out all the scary stuff was just a trick to scare the kids to make the kids think that somebody would hurt their moms and dads or hurt them.' 'We found out!.' Doesn't that tell the child that you know that something happened?"

"Yes."

"In this interview, you are the source of contagion, right?"

"Objection. "

"Sustained. "

" 'All the kids' mommies and dads now know what happened at the school, all the touching, all those sneaky little games.' Do you think by using that statement, and authority figures as sources of knowledge is putting pressure on her?"

"I'm telling her all the parents came to see me and now it's okay."

"Before that did [name of girl] make any statement about touching?"

"I don't really remember. "

" 'Well, I'm glad you're not so dumb, Snake.' Do you think by telling [the interviewed girl] that, you are telling her she's dumb if she didn't agree?"

"No."

" 'The mommies and daddies are so glad the kids are telling.' When you say 'this stuff happened,' are you telling Melinda touching happened at the preschool?"

"I think I'm trying to tell her I know something happened. I use the word, 'stuff,' on purpose."

"Do you believe these statements tell the children you believe molestation happened at the preschool?"

"No."

". . . with the use of grownups and authority figures."

"No."

" 'Now, Snake, I don't think those teachers should still be teaching children, do you?' Do you think that calls for an opinion?"

"Yes, I think it calls for an opinion."

"Don't you think it tells [the interviewed girl] the teachers are molesters?"

"No. Not at all."

" 'Well, Mr. Snake, you and any puppets you want to use can help us figure it out so no more kids will have that yucky stuff happen to them. . . .' Do you think this is one of the most fundamental pressure points? 'All the other kids said it happened.' Parents, Kee, authority figures. Isn't that telling [the interviewed girl] that kids are getting raped and molested? 'Secret police are watching Ray all the time.' Don't you think that statement might influence [the interviewed girl] to believe that Ray is a bad person?"

"Yes. "

" ' . . . and we're gonna make sure that no more kids get hurt.' What did you mean, 'we'?"

"I was referring to myself."

" 'If you have a good memory like all the other kids.' Isn't that putting pressure on [the interviewed girl]?"

"I'm not asking [her] to comply with my statement...."

:" 'I think we should beat up Mr. Ray. . . . What a bad guy! Don't you think he's a bad guy? He's not gonna do this any more to kids, is he?' Did you encourage [the interviewed girl] to beat up the Ray doll?"

"In a manner of speaking, yes."

"Is there a clinical reason for doing that? A therapeutic reason?"

"It can be....."

"Looking back on [this] interview. . . do you think Raymond Buckey ever had a fair chance?"

"The issue of 'fair' may have to be left to the courts to decide."

"No further questions at this time, your honor."

**Cross-examination by Daniel Davis:**

"You indicated you had training from the FBI."

"No, I was the trainer."

"And who trained you before you trained the FBI?"

"I attended numerous workshops."

"Did you ever sit down with police officers and did they tell you what law enforcement needs to do in interviewing a child who may have been molested?"

"Yes...."

"Do you think that by disrobing a doll and exposing a child to what appears to be an erect penis, that that's suggesting things to the child?"

"Well, we worked very hard on the dolls to have them not appear to be an erect, stimulated penis. In fact we tied them down. If you're asking about whether it can ever affect a child, it's one the research of the last five years has been investigating and . . . there's absolutely no evidence in the research that they do that. . . providing incorrect or false information just because they've got these dolls...."

"The reason you used ugly-faced dolls is because you wanted to impress a negative perception of Mr. Buckley. . . and then you go on to use a black doll with funny boobies to represent Peggy Buckley. Right?" .

"I couldn't say. . . for the most part children picked the dolls."

"Do you see any harm in telling a child what other children said?"

"Harm? Well I can see it can become a problematical issue in legal cases but it doesn't have any effect one way or the other. You cannot say that it is harmful. In fact I did it because I saw a potential for children sitting and clamming up. I did it to prevent that."

". . . You can't distinguish whether what the child says thereafter is something they actually experienced or something you're telling them other kids said. Isn't that one of the issues?"

"Objection. Speculation."

"Sustained. "

"Didn't you tell, in the grand jury, that you did not tell one child what the other children said? . . . Combining your telling [a child] that 'naked games were played at the school because all the other kids told us,' and then to say 'the kids really didn't tell us, the puppets told us,' what was the combined effect of that?"

"What I was trying to do in telling her [that] I already knew was to take from her any burden she might have about the repercussions of telling. . . . I was offering the puppets as a medium to communicate. "

"And when you did that, did it occur to you that you might be creating a sort of realm of fantasy in which children might make false accusations in which they believe they're just pretending?"

"No. It's a major issue because there's not any data to show that has ever happened. Any! But because it is consistently raised, all of the studies with the use of anatomical dolls have shown that the use of those dolls does not in any way lead to false reports about abuse, and there are now, because of this case and the many other cases in which these issues have been repeatedly raised in court, we now have research that looks into issues of suggestibility. There are five or

six articles which address these exact issues which you are raising. And they are debunking the idea that by suggesting to children even leading and misleading questions suggestive of child sexual abuse they are debunking the idea that children just pick up and just repeat it. It's information that I didn't have when I did these interviews. Now, five years later, the research is out there. Numerous studies. . . and the resistance of children to these questions is in the ninety-three to ninety-nine percentile. . . . There is now research on the subject."

"My gosh! It sounds like there have been a lot of current studies that really back up your techniques. . . . Could you be a little more specific please? The name of the author, the title, the date of publication?"

"I can't recite that off the top of my head..."

"Just taking the act of a child beating a doll, do you feel there is a difference in interpreting what is going on when a child beats a doll of their own volition, as opposed to a child beating a doll at the suggestion of an adult?"

"It can be different. It can be the same. It depends on the child. . . . It may be the same, whether they're invited to do it or whether they do it on their own."

"To the extent that you adopted this doll-beating technique, you cannot direct us to the identity of any child in the McMartin case that initiated it in their own right-right?"

"Not off the top of my head."

"And did any of these children, of their own volition, initiate the dollbeating?"

"Not that I recall."

"You suggested it to the children?"

"I don't remember."

"Have you ever been tested for your credentials as an interviewer?"

"Not that I can think of. . . . Over the last several years I have been one of the trainers. . . . Several years ago, California changed its licensing requirements for psychologists and required that they be trained in the area of child abuse and. . . I've trained a number of these and I also teach a course at USC which meets the requirements for psychologists...."

"You accept, don't you, that in some of these interviews you urged these little children to beat up on these dolls?"

"Yes."

"And at the beginning of this piece you're introducing the name of a game and the fact it may or may not be a naked game, correct?"

"Correct."

"Don't you feel that that is overly suggestive to a child to tell the child that it's naked?"

"Absolutely not!"

"I'd like to explore a little of what you said about children naming names of other children. . . looking at the names in this piece on 'horsey game.' . . . Is this the context in which the child names names of people who played the games?"

"We asked the children. That's one way we name names. They pick them out of photographs. That's another way. . . There are specific places in these interviews where I ask the child, 'Was this child involved?' or 'Did they get touched?' or 'Were they naked?' And if the child confirms those direct questions, I would generally pass that along."

"You would generally pass that along by telling somebody in the police department, wouldn't you?"

"Yes. We're required to do that."

"As a consequence of this conversation with [the child] about this 'horsey game,' did you suggest [that] he might be stupid? Chicken?"

"If you're referring again to my talking to the puppets, I described that every way I know how..."

""*MacFarlane: All right, Mr. Alligator. Are you going to be stupid?*" And then you introduce in your words, not his, the 'naked movie star' game, correct?"

"Yes."

"And wasn't the essence of what you learned from him that he hadn't seen or heard about this 'naked movie star' game until he heard this song?"

"This chant?"

"Well, that's what he said in this segment."

"And was your response. . . that he was dumb?"

"No. That means you're smart."

"Wouldn't the inevitable impact of this exchange be that any child would figure that you're calling him dumb?"

". . . It was an attempt to reach out [with] the puppets to help the child."

"After he said he didn't see any 'naked movie star' game, you asked him who took pictures for that game, correct?"

"Yeah. I asked him who took pictures of the 'naked movie star' game...."

"When you talk about 'horsey,' you were the one that added the names of those games and descriptions to that interview, weren't you?"

"No. Some of the children said 'horsey game.' "

"Anyone in this case call it 'horsey game' before you mentioned it?"

"I don't recall."

"How about the 'tickle game'? You're the one who put those words, 'tickle,' in , aren't you?"

"No!"

"Isn't it very easy for you to say there are lots of unnamed children out there in other interviews, without identifying the child?"

". . . I did not make up a single game. These all came by children or by information I had beforehand."

"Did you not introduce every one of the games to [the child] in this interview?"

"No. Of course not."

"You introduced the 'naked movie star,' didn't you?"

"I'm not disputing that I introduced games. You asked me if I introduced every single game and I'm saying I referred to 'lookout. ",

"Your technique. . . Miss MacFarlane, is to take perfectly innocent games and convert them, by the insertion of words like 'naked,' and 'yucky' into accusations of crime, isn't it?"

"No, it is not."

"Then how do you justify, after he tells you 'tug-of-war,' the introduction of the word, 'naked'?"

"I don't think we're talking about the same game. I asked him if any games were played and he says, 'tug of war.' "

"*MacFarlane: Mr. Pacman, do you remember any naked, tie-up games like other kids remember?*" The child answers, 'No.' How can you justify inserting the suggestion that there were naked tie up games when he just told you about tug-of-war?"

"I can justify it by dozens of other children who told me they were tied up naked, showed me with the dolls, told their parents. . . ."

"After hearing it from the parents, you'd include it in your tapes, right?..."

"And did you make an effort to force little [name of boy] to make an accusation of oral copulation on my client in that interview?"

"Absolutely not."

"Your sequence in the technique with [the interviewed boy] was to first talk about sexual acts and then attempt to have him demonstrate them-correct?"

"No. . . . The goal was to take it all and show anything significant to the parents."

"What we saw [the boy] doing, demonstrating a little doll with its penis in the mouth of another little doll, do you think that had any pornographic effect?"

"Objection. "

"Sustained.... "

*"MacFarlane: When Ray comes out, what does Ray do? How does something get in that little hole?' [Boy]: 'Well, nothing gets in that little hole.' MacFarlane: 'Remember when we figured all that out? That's already in the secret machine?' [Boy]: 'Do yeah. Lemme think. . . .'*  
*MacFarlane: 'Remember that? How did that get in there? Let's just show how that happened. That'll be easy. And that can be in the secret machine, all gone. How did it happen?' [Boy]: 'Well, Ray kicked him.' Does it seem apparent to you at this time, that. . . he's saying nothing happened to his bottom?"*

"No. It doesn't seem apparent. It seems to me that he's having a hard time with those questions. . . ."

"What you were really trying to do was to get him to demonstrate sodomy with the dolls so you could show it to the parents. Wasn't that really what you were doing?"

"Mr. Davis! I never set out to try to prove to three hundred plus parents that I could make them believe by looking at some segment of tape that their children had been molested! I wanted them to see what I saw because they know their kids better than I did. . . so they could know in their own minds whether something happened to their children...."

"Do you see yourself as a link in the process that led to the children making these accusations?"

"I believe that I enabled children who had not been able to describe things, before they came to me. . . . My job was to uncork the bottle, to see what they had to say, once they had gotten over the fear they had."

### [McMartin Preschool Abuse Trial](http://law2.umkc.edu/faculty/projects/ftrials/mcmartin/macfarlanetestimony.html)