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Archives

The Longest Trial - A Post-Mortem; Collapse of Child-Abuse Case: So Much Agony for So Little

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The case of the Virginia McMartin Preschool began six years ago with lurid news reports of children being raped and sodomized, of dead rabbits, mutilated corpses and a horse killing, and of blood drinking, satanic rituals and the sacrifice of a live baby in a church.

In the end, it was all swept away by a Los Angeles County jury that with the patience of Job and an almost majestic disregard for the controversy swirling around them, rejected nearly all the child-molesting counts against the two defendants, Raymond Buckey and his mother, Peggy McMartin Buckey, after a 30-month trial.

Correct or not, the verdict left open the question of how such a case could have gone so far, costing the taxpayers an estimated \$15 million, and produced so little. Lael Rubin, the co-prosecutor, said after the verdict for the defendants on Thursday: "The system worked well for them. They were lucky."

Second-Guessing Mounts

But an examination of the tortuous history of the McMartin case, which produced the longest trial in American criminal history, suggests it was more than just bad luck that doomed the prosecution's case.

Those involved say that much of the evidence was unconvincing from the outset; that there were also mistakes by the prosecution, too many charges, questionable techniques to elicit accusations from the children, inordinate delays by Mr. Buckey's lawyer, Danny Davis, political pressures and public hysteria fanned by gullible initial news reports.

The verdict - not guilty on 52 counts, deadlocks on 13 others - enraged many, particularly the children's parents. Even some jurors said that they were not fully convinced of Mr. Buckey's innocence, but that the prosecution had failed to mount sufficient evidence. Others saw a grave miscarriage of justice for Mr. Buckey, who spent five years in jail before raising bail, and his mother, who spent nearly two years in jail and lost the family-owned school in suburban Manhattan Beach.

The verdict represented something of an embarrassment not only for the prosecution but also for some in the news media, particularly KABC-TV, the local ABC station, which first reported the accusations; "20/20," the national ABC News program, as well as The Los Angeles Times and other newspapers that gave full credibility to the police in trumpeting the charges in 1984.

The verdict has produced a self-examination by the media, most notably a four-part series in The Los Angeles Times in which David Shaw, who covers the news media for the newspaper, asserted that his own newspaper consistently favored the prosecution and failed to give critical scrutiny to its charges.

Moreover, complex liaisons developed between the accusers and the news media that may or may not have influenced the coverage. The KABC reporter who first disclosed the McMartin accusations, Wayne Satz, later entered into a romantic relationship with Kee MacFarlane, the social worker at the Children's Institute International, a Los Angeles child therapy center, who interviewed scores of the children and elicited the charges of child molesting from them.

More recently, David Rosenzweig, the former metropolitan editor of The Los Angeles Times who supervised the coverage of the case for some time, has become engaged to marry Ms. Rubin, the prosecutor. All involved deny any conflict of interest or improprieties.

Mr. Satz said he would not comment on his relationship with Ms. MacFarlane except to say: "I am satisfied I never had a conflict of interest. Everything that might influence our coverage was reported dutifully to management and ABC counsel. They saw no impropriety."

According to The Los Angeles Times, Mr. Rosenzweig did not meet Ms. Rubin until July 1988, more than four years after the case began, and then removed himself from any role in the coverage soon after.

The McMartin case was one of the earliest and perhaps most sensational of the child-molesting cases that have arisen in recent years with new public awareness and concern about child abuse generally. While this prosecution failed, experts say better forensic and prosecutorial techniques have resulted in convictions and many other cases.

The Beginning

A Complaint, And Then Panic

The case began in August 1983 with a call to the Manhattan Beach police from Judy Johnson, asserting that her son had been molested by Raymond Buckey at the school. Mr. Buckey was arrested but quickly released for lack of evidence. Mrs. Johnson later wrote a letter to the district attorney saying her son went to an armory behind her house and went with Peggy Buckey. "The goatman was there," she wrote, "At the armory it was a ritual-type atmosphere." She went on to write that her child was then taken to a church where "Peggy drilled a child under the arms" and "Ray flew in the air."

In an effort to gain evidence, the police department sent a letter to 200 parents of current and former children at the school. The letter said investigators suspected "possible criminal acts" at the school, including oral sex, handling of genitals, and sodomy. "Any information from your child," the letter said, "regarding having ever observed Ray Buckey to leave a classroom alone with a child during any nap period, or if they ever observed Ray Buckey tie up a child, is important."

The letter set off a panic and, some lawyers have said, tainted the case from the outset. Soon hundreds of parents got in touch with the police, but became distraught over harsh police questioning of their children. The prosecutor's officer referred them to Ms. MacFarlane at the Children's Institute, an 86-year-old private therapy center.

At first most of the children denied being molested. But in extensive taped interviews in which anatomical dolls were used, the children were told that other children had divulged "yucky secrets" about the school and were urged to do likewise. Ultimately about 360 of the 400 children interviewed described abuse. The children told of being molested by the teachers, playing a "Naked Movie Star Game" and being photographed; they told of animal sacrifices and hidden passageways under the school.

The Indictments

Sweeping Charges, Growing Doubts

On the basis of 18 children's testimony and doctors' testimony of physical results of abuse, but little other corroborating evidence, a grand jury on March 22, 1984, indicted Raymond Buckey; his mother; his elderly grandmother who founded the school, Virginia McMartin; his sister, Peggy Ann Buckey, and three other teachers, Betty Raidor, Babette Spitler and Mary Ann Jackson, on 115 counts, later expanded to 321 counts involving 48 children. Doctors said all of the children showed medical evidence of abuse, though that was challenged in some cases by the defense.

A few days after the indictment, the prosecution asserted that child pornography was the motive of the alleged molesting. But a worldwide search by the Federal Bureau of Investigation and Interpol found no photographs or films, nor did extensive archeological excavations on the school grounds turn up animal bones, hidden passageways or other evidence.

Case Seen as Concocted

The defense team has contended that the entire case was concocted, not only that the case was too weak to obtain convictions but also that there was simply no evidence that any child had been abused at the school.

The defense lawyers' view was presented last October in an article in Los Angeles magazine by Mary A. Fischer, a freelance writer who worked closely with the defense. In the article, Ms. Fischer said the case was "simply invented," transmogrified into a national cause celebre by the intersecting ambitions and misplaced zeal of six people: Judy Johnson, the mother, who suffered from mental illness and later died of the effects of alcoholism; Jane Hoag, the detective who originally investigated the complaints; Ms. MacFarlane, the social worker; Robert Philibosian, the district attorney at the time, who was engaged in a losing political battle for re-election; Mr. Satz, the television reporter who first reported the case, and Ms. Rubin, the prosecutor.

"They were all operating out of zealotry for reasons of ambition or vested interest," Ms. Fischer said. "Not that they were bad people, but very mistaken."

Mr. Philibosian, now in private law practice here, angrily disputed suggestions that he pushed the case to bolster his sagging campaign against Ira Reiner, who won the election in 1984. "Absolute utter nonsense," he said, adding that there were six months of investigations by several agencies, that a grand jury sifted the evidence and that a judge ordered it to trial. The real culprit, he said, was time - delays by the defense. "The fault is with the horrible requirements of the criminal justice system in California, which allows an incredible waste of time through delay tactics," he said.

The Hearing

The Case Sags, Charges Cut Back

After Mr. Philibosian's departure the case lumbered on, and it began to sag of its own weight. A preliminary hearing to determine whether there was enough evidence to justify a trial began in June 1984. It lasted 18 months and proved numbingly difficult, with seven different sets of lawyers for the seven defendants each cross-examining 13 child witnesses. The judge ordered all seven to trial on a total of 135 counts on Jan. 9, 1986.

Seven days later, District Attorney Reiner dropped charges against all but Raymond and Peggy Buckey, saying the evidence against the five other defendants was "incredibly weak."

Curt Livesay, a prosecutor in Mr. Philibosian's office who is now Assistant District Attorney, recalls late-night meetings and extensive internal debates over how to proceed. "We sat down and looked at all the charges, all the defendants, all the evidence," he said. "The evidence against the five was weaker. It was fragmented. Not all those people were there at the various times. We had a continuous presence by the key figures, Mr. Buckey and his mother."

Soon after, one of the prosecutors, Glenn Stevens, quit the district attorney's office and began to help the defense. "I just realized we just did not have it," he recalled last week. "The evidence against Peggy was a carbon copy of Betty Raidor. Then my doubts about Ray solidified. And Judy Johnson was psychotic before she filed the first police report." Further, he said, the police letter to parents contaminated the case from the start. "It was almost like skywriting it."

The Manhattan Beach Police Department, which faces a civil suit by Peggy Buckey, refuses to comment.

Mr. Stevens said he would have been more convinced that there was a case if there had been one complaining child who had not gone to the Children's Institute. Mr. Stevens has been a paid consultant to Abby Mann, a Hollywood film maker, who is writing a book and plans a movie sympathetic to the defendants.

The Interviews

Children's Fright, Elusive Facts

Comments by jurors indicated the case fell mainly because they thought the children were led into making incriminating statements by Ms. MacFarlane and other interviewers at the center. Psychologists know that molested children are often fearful of talking about their experiences and try to draw them out by suggestion. But this backfired in court.

"The children were scared," Ms. MacFarlane said in an interview. "They thought they might die or their parents might die. When we realized that's what kept them silent, we began to feel we were not going to get to any of that information until they got over that fear. One way is to say we talked to a lot of their friends and they told of yucky secrets. I felt that it gave a message there may be something yucky they could tell. We found it relieved them. It took the onus off being the first one.

"Unfortunately there were no adult witnesses or videotapes of the crime. I was naive in never having been part of a case like this. By the end of the first month we had 200 on a waiting list. We were seeing them around the clock. As more talked, I began to be reassured that the numbers made it less important than how we got the information; they cross-corroborated each other. It's not like they sat down and poured this stuff out. Neither in tapes on the witness stand do children just say what happened. Some children said they never went to the McMartin School, even though they did."

Ms. MacFarlane added that the children also saw other therapists and that to no avail she "begged" the prosecutors to call them to corroborate her version. "Most sexual cases have only the word of the child," she said. "This case had more evidence than most cases have. What does this society require of these children? Do we need videotapes of the crime?"

The Aftermath

Faulty Prosecution Or Faulty System?

A number of critics have pointed to mistakes by Ms. Rubin, who has a reputation as a tough, aggressive prosecutor determined to get convictions. One of her witnesses against Mr. Buckey was George Freeman, a notorious jailhouse informer and perjurer who asserted that when they shared a cell, Mr. Buckey confessed that he molested children.

After the verdict, Ms. Rubin asserted that the defendants were guilty but that they had got the best of a ponderous legal system. "We were doing the best we could within a system that needs to be vastly overhauled," she said. "At the preliminary hearing, one child testified for 16 days, and 15 days of that were cross-examination. During the trial, children were on the stand mostly four days, one child for five days."

Asked why she pressed on even though no pornography or other physical evidence was found, she said, "Because the Buckeys had learned of the investigation before the police had served the warrant, there was ample time to get rid of them."

"The fact we did not find them was not something that would have made a difference," she added.

Ms. Rubin also complained of "interminable and often harassing" cross-examination by defense attorneys. "They often used questions that were impossible to understand for an adult, let alone a child." She called for legislative changes to impose tighter judicial control on the length and the type of cross-examination, particularly of children.

The Media

Did Reporting Push The Case to Trial?

Finally there was the role of the news media, which may have pressured the authorities to push the case. The leader was Mr. Satz of KABC-TV. His first report, on Feb. 2, 1984, said more than 60 children "have now each told authorities that he or she had been keeping a grotesque secret of being sexually abused and made to appear in pornographic films while in the preschool's care - and of having been forced to witness the mutilation and killing of animals to scare the kids into staying silent." Mr. Satz's reports were accompanied by full-page newspaper advertisements placed by his station showing a battered teddy bear, and the news anchors virtually pronounced the teachers guilty in introducing Mr. Satz's reports.

Mr. Satz, a lawyer by training, said he had always made it clear that these were "merely allegations" and had consistently given or tried to get the Buckeys' responses. He said he regretted the "gratuitous" remarks of the anchors and the newspaper ads. But he said the reports had the "salutary" effect of bringing child sexual abuse to the public forefront. Mr. Satz, no longer with the station, plans soon to air his own television show, which he says will be a parody of the news media.

In The Los Angeles Times, Mr. Shaw wrote in his recent series that the news media had played a "pivotal and sometimes distorting role" in the case and had abandoned their usual skepticism in the early stages.

In the end, though, the ultimate skeptics were the jury of eight men and four women who finally left Judge William R. Pounders's court in downtown Los Angeles last Thursday afternoon having disposed of the longest criminal case in American history. Many in the public were

outraged, but as one juror, Brenda Williams, a telephone company service representative, put it: "They did not listen to two and a half years of testimony. I am sorry if the world is not happy. But it was me there, and I can live with it."

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