

# CHILD ABUSE AND FAMILY VIOLENCE IN CUSTODY CASES: AVOIDING SYSTEM FAILURE

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## CHILD & FAMILY WILL LOOK NORMAL FROM OUTSIDE

- CAN'T TELL MERELY BY LOOKING
- CAN'T TRUST WHAT IS PRESENTED AS FACT
- MUST BE SUSPICIOUS

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## Napa's Experience 1986 - 1989

- CREATED LOSE KNIT MULTI-DISCIPLINARY TEAM
- CHARGED 75% OF CASES BROUGHT TO DA
- 96.5% CONVICTION RATE AT CHARGING

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## Sexual Abuse Myths:

### Offense

- **FALLACY**
  - When sexual abuse surfaces during divorce, is for advantage in custody litigation
- **TRUTH**
  - Sexual abuse occurs at time of divorce for many reasons. False reports no greater than general population

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## ALAMEDA COUNTY CUSTODY CASE

- 4 YR-OLD GIRL, INJURIES SINCE 18 MO'S
- SEXUAL ABUSE SUSPECTED
- 150 PHOTOS PHYSICAL INJURIES
- 30 DAYS OF TESTIMONY – FAMILY COURT
- PARADE OF EXPERTS – HEAD OF HOSPITAL TRAUMA TEAM CONCLUDED NON-ACCIDENTAL TRAUMA
- LOCAL SHERIFF CONFIRMED ABUSE

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## METROPOLITAN POLICE AGENCY UNFOUNDED CASE – S/W RATIFIED

- “COULDN'T LOCATE” VICTIM AT FIRST
- AT FIRST, DIDN'T WANT TO PROSECUTE
- ACCOUNT OF MANY EVENTS CHANGED
- VICTIM KNEW ASSAILANT
- VICTIM DELAYED IN REPORTING
- WHEN EXAMINED, NO BRUISES

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### USING A CHILD CUSTODY DISPUTE TO DISCREDIT

### ALLEGATIONS OF SEXUAL ABUSE

Colorado Department of Corrections Research

“After my assault on my victim, I had my step-daughter removed from custody from my ex-wife by social services by telling them how physically abusive she was to my step-daughter...”

<http://www.doc.state.co.us/Sex%20Offenders/pdfs/ChildCustody.pdf>

### PROTECTIVE PARENT SURVEY 2004

- 157 SELF IDENTIFIED *PROTECTIVE MOTHERS*
- A TOTAL OF 271 CHILDREN
  - 157 GIRLS / 114 BOYS
  - 65% UNDER AGE OF 5

### Financial Impact

AVERAGE ATTORNEYS PER CASE 4

*PROTECTIVE MOTHERS WERE SUBJECTED TO  
PSYCHOLOGICAL EVALUATION BY THE COURT* 88%

AVERAGE COST OF PSYCHOLOGICAL EVAL.\* \$6,887.35

AVERAGE COST PER FAMILY \$90,506.77

\* 27% OF THE *PROTECTIVE MOTHERS* WERE FORCED TO FILE  
BANKRUPTCY AS A RESULT OF FILING FOR CUSTODY OF THEIR  
CHILDREN

### OUTCOMES

- 85% DENIED ADEQUATE PRESENTATION OF INFORMATION OR WITNESSES
- 69% LOST CUSTODY IN EMERGENCY COURT ORDER
- 65% THREATENED WITH SANCTIONS IF THEY "TALKED PUBLICLY"
- 65% ADVISED NOT TO REPORT ABUSE

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### OUTCOMES

- 56% LOST CUSTODY WITH NO COURT REPORTER PRESENT
- 64% NOT REPRESENTED BY AN ATTORNEY (AT SOME POINT) WHEN THEIR EX SPOUSE OR PARTNER WAS
- 54% NOT PERMITTED TO SEE THE EVALUATION/RECOMMENDATION
- 60% LOST CUSTODY IN EX PARTE PROCEEDINGS
- 69% LOST CUSTODY AS A RESULT OF THE PSYCHOLOGICAL EVALUATION

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### STUDY ON BELIEFS OF CUSTODY EVALUATORS

- Judges, private attorneys, and custody evaluators were more likely than domestic violence workers and legal aid attorneys to believe that mothers make false allegations.

- *Child Custody Evaluator's beliefs About Domestic Abuse Allegations: Their relationship to Evaluator Demographics, Background, Domestic Violence Knowledge and Custody-Visitation Recommendations, Saunders, Daniel, et al (2012) U.S. Dpt. Of Justice*

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### STUDY ON BELIEFS OF CUSTODY EVALUATORS

Domestic violence workers and legal aid attorneys gave the highest estimates of the percentage of father's making false domestic violence allegations, while judges and custody evaluators gave the lowest estimates.

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### Sexual Abuse Myths: Offender

- **FALLACY**
  - Only “criminal types” commit child molestation
- **TRUTH**
  - No such distinction, they come from all walks of life
- **Offenders are:**

**CUNNING**  
**CONNIVING**  
**CONTROLLING**  
**CONVINCING**

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### “DECEPTION DELIGHT”

- **ENJOYS ABILITY TO DECEIVE**
- **“RED HERRINGS”**
- **INTIMIDATION**
- **BLAMES OTHERS**
- **LACK OF FAULT**

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## THE DV-C/A NEXUS

- 30-70% Cross Relationship
- Most Dangerous Time When Separation Occurs/Finality Sets In
- Object of Attack, Whomever Within Striking Distance
  - Child Becomes Both Tool-Weapon
    - Conduit of Information
    - Missile to Deliver Hurt

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## PLANNED PATTERN OF COERCIVE CONTROL

**VIOLENCE -CONFLICT –**  
**NOT ALWAYS:**  
**< ANGER CAUSED**  
**< RESULT OF POOR**  
**IMPULSE CONTROL**

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## Judged on the character of his/her testimony.

### THE PROTECTIVE MOTHER:

- ◆ SURVIVAL MODE
  - ◆ PTSD
  - ◆ DENIAL
  - ◆ DEPENDENT
  - ◆ DELAYED ACTION
  - ◆ DEBILITATED

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## CHILD ABUSE OCCURS BEFORE, DURING OR AFTER SEPARATION

- DYNAMICS SAME FOR:
  - PHYSICAL ABUSE
  - EMOTIONAL ABUSE
  - SEXUAL ABUSE

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## CAUSES OF SYSTEM FAILURE

- **OVERLAPING ROLES OF LE & S/S**
- FALSE OR UNSUPPORTED ASSUMPTIONS ABOUT PLAYERS
- **LACK OF INVESTIGATOR INDEPENDENCE**
- FAILURE TO COORDINATE LE, S/S AND OTHER SERVICES

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## CAUSES OF FAILURE

- **PREMATURE CASE CLOSURE**
- FAILURE TO FOLLOW UP
- **BAD ASSUMPTIONS ABOUT DIVORCE CRT**
- CASES TAKE TOO MUCH TIME

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### CAUSES OF FAILURE

- BAD ADVICE GIVEN TO PARENT
- CASE BECOMES A CAN OF WORMS
- CASES HANDLED DIFFERENTLY
- VERIFICATION PATHS NOT FOLLOWED

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**"Carson District judge calls offense  
'natural impulse'"**

*".... it's my understanding that most men are sexually attracted to young women. When I say young women .... I mean women from the time they're 1 all the way up until they're 100."*

Carson City District Judge Bill Maddox

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### CHILD OF ABUSIVE FAMILY

- CAUGHT IN FEAR CYCLE
- LOVE BOTH PARENTS
- NOT BELIEVE IS INTENTIONALLY HURT
- WILL PROTECT BY:  
NOT TELLING ALL  
EXAGGERATION  
MINIMIZATION

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## Approaches Toward Inquiry

### Magic Bullet

- Conclusions from single test or symptom.

**VS**

- Assumption and bias.

### Puzzle

- Comprehensive investigation
- Objectivity and case by case [factual] analysis.

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## NAGGING, REPEATED CALLS SPAWN MISCONCEPTIONS AS TO MOTIVE OF COMPLAINT

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## OVERLAPPING ROLES OF LE AND S/S

- DISTINCTIVE PURPOSES
- SEPARATE OBJECTIVES
- FAIL TO MELD PRACTICES TO PROTECT CHILDREN
- FAIL TO FOLLOW OWN POLICIES AND PROTOCOLS

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## ROLES OF AGENCIES IN EXAMINATION OF FACTS

### ➤ SHARED RESPONSIBILITY TO INVESTIGATE

#### ➤ INVESTIGATION:

- DISPASSIONATE
- COMPREHENSIVE
- UNBIASED
- OBJECTIVE

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## INDIVIDUAL AGENCY ROLES

### • CPS

- ASSURE SAFETY IN FAMILY UNIT
- **CHILD NOT AT RISK, JOB DONE**
- NOT RESPONSIBLE NOR TRAINED FOR GATHERING EVIDENCE
- MISTAKEN ASSUMPTION THAT WHEN CPS CLOSES CASE NO FURTHER ACTION NECESSARY

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## LAW ENFORCEMENT WEARS TWO HATS

### CHILD ABUSE:

- DETERMINE AND ASSURE SAFETY OF CHILD

### CRIME:

- DETERMINE IF A CRIME OCCURRED
- **GATHER EVIDENCE**
- APPREHEND CRIMINAL
- **PREPARE FOR PROSECUTION**

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### INDIVIDUAL AGENCY ROLES: LAW ENFORCEMENT

- **TRAINED TO GATHER EVIDENCE**
- **MUST NOT ABDICATE/DELEGATE RESPONSIBILITY**
- **MAY SEEK ASSISTANCE**
  - MULTIDISCIPLINARY TEAM WITH CLEARLY DEFINED INDIVIDUAL MEMBER RESPONSIBILITIES

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### LE - CHILD ABUSE vs CRIME

#### CRIME –

- INSUFFICIENT EVIDENCE  
= CASE CLOSURE

#### CHILD ABUSE –

- BURDEN LESS
- CPS NEEDS  
DEVELOPMENT  
ASSESSMENT OF FACTS

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### LE - CHILD ABUSE vs CRIME

- **UNIQUE POLICE POWERS**
  - ARREST
  - SEARCH AND SEIZURE
- **ABDICATION = REDUCED CHANCES OF DEFINITIVE DETERMINATION**
- **INVESTIGATION SHORTCHANGED:**
  - RESULTS ARE DECISIONS BASED ON INCOMPLETE INFORMATION

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**INVESTIGATOR FAILS****TO:**

- **SEEK EVIDENCE OF**  
**< MOTIVE/ACTIONS**  
**< RECOGNIZED SYNDROMES**
- **FOLLOW-UP/ELIMINATION OF ALTERNATIVE**  
**EXPLANATIONS**
  - **VERIFY, IN PERSON, ACCOUNTS**  
**PROVIDED BY**  
**PARTIES/WITNESSES**

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***PHYSICAL ABUSE***

- ANGER/POWER
- CONTROL
- POOR IMPULSE  
CONTROL
- VINDICTIVENESS
- EGO CENTRIC
- UNREALISTIC  
EXPECTATIONS
- SUBSTANCE/  
ALCOHOL ABUSE

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***EMOTIONAL ABUSE***

- MOM'S GONE
- LACK OF COMPASSION
- LACK OF  
UNDERSTANDING  
CHILD'S  
DEVELOPMENT LEVEL
- IMMATURITY

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## ***SEXUAL ABUSE***

- MALE PRIVILEGE
- OBJECTIFICATION
- PUNISH MOM
- PSYCHOPATH
- MASKED PEDOPHILE
- DISCREDIT MOM

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## **FALSE OR UNSUPPORTED ASSUMPTIONS**

- **OFTEN MADE IN  
BEGINNING STAGES  
OF CASE**
- **ABOUT PARTIES IN  
CASE**
- **OTHER'S WORK OR  
CONCLUSIONS**

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## **FALSE ASSUMPTIONS LEAD TO PROBLEMS WHERE INVESTIGATOR:**

- **ONLY SEEKS EVIDENCE TO SUPPORT  
THEORY**
- **IGNORES ANY EVIDENCE THAT  
CONTRADICTS**
  - **HAS "TUNNEL VISION" AND  
MISSES "BIG PICTURE"**

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## Accurate Decisions in Child Abuse Cases Require Sound and Complete Investigations

- Errors cause a compromise in the process with little chance of making an informed disposition

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## INVESTIGATOR INDEPENDENCE

- MUST MAINTAIN TO ADEQUATELY EVALUATE EVIDENCE
- BASIS FROM WHICH TO COMPARE FACTS AS PRESENTED BY PARTIES

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## HINDERANCES TO PROPER LE INVESTIGATIONS

- LACK OF DEFINITIVE EVIDENCE CAUSES PREMATURE SHUT DOWN OF INVESTIGATION
- FAIL TO FOLLOW-UP
  - WITH SOCIAL WORKER
  - ON VIABLE LEADS
  - W/ INVESTIGATIVE PROCEDURES WHICH WOULD SHED GREATER LIGHT ON CASE
    - IE: PRETEXT CALLS, SEARCH WARRANTS, RECORD CHECKS, INTERVIEWS

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**IMMEDIATE CONCERNS - BASIC FACTS:**

- **IS IT POSSIBLE TO PREVENT CONTAMINATION BY WITNESSES AND INVOLVED PARTIES TALKING TO ONE ANOTHER ?**
- **IS THERE A CHANCE OF ALLIANCES BEING DRAWN ONCE THE "SECRET" IS OUT?**

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**SECURING THE TRUTH**

- **IS IT POSSIBLE TO SECURE AN ADMISSION OR CONFESSION ON THE PART OF THE OFFENDER BEFORE HE LEARNS OF THE INVESTIGATION AND TRIES TO INTIMIDATE THE CHILD OR WITNESSES OR BEGINS TO CONFABULATE A STORY?**

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**PRESERVING TANGIBLE EVIDENCE:**

- **IS IT POSSIBLE TO PREVENT THE DESTRUCTION OF EVIDENCE BY THE OFFENDER OR HIS SUPPORTERS**
  - **(OFTEN THE NON-OFFENDING PARENT) BEFORE HE LEARNS OF THE INVESTIGATION?**
  - 
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### FACTUAL ANALYSIS EVALUATOR MUST:

- ASSUME NOTHING
- **INDEPENDENTLY VERIFY FACTS**
- TEST FACTS AGAINST  
STATEMENTS OF MOTHER,  
FATHER, CHILD, COLLATERALS...
- **SEEK CORROBORATION**

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### TYPE OF CASES - MUST AVOID BINARY THINKING: TRUE vs. FALSE

- SINCERE, LEGITIMATE,  
VALID REPORT
  - MISINTERPRETATION
  - DIRECT OR CORRECT REPORT
    - OBSERVATION, BUT NO  
ABUSE
- BLIND INSISTENCE
- **DELIBERATELY FALSE**

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### WHAT IS EXAMINED?

- WHAT THE **CHILD** SAYS  
TO OTHERS;
- WHAT THE **CHILD** SAYS  
TO YOU;
- WHAT OBSERVATIONS  
HAVE BEEN MADE BY :
  - **LAY WITNESSES:**
    - NEIGHBORS
    - BABYSITTER
    - TEACHERS
    - SCHOOL COUNSELORS
  - **PROFESSIONALS:**
    - M.D. (FORENSIC/  
PEDIATRICIAN
    - Ph.D/M.S.W./LMFC...
    - POLICE
    - CPS

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### WHAT IS EXAMINED?

- WHAT THE **MOTHER** SAYS TO OTHERS;
- WHAT THE **MOTHER** SAYS TO YOU;
- WHAT OBSERVATIONS HAVE BEEN MADE BY :
  - **OTHERS:**
    - CO-WORKERS
    - FRIENDS
    - NEIGHBORS
  - **PROFESSIONALS:**
    - Ph.D/M.S.W./LMFC...
    - POLICE
    - CPS
    - M.D.
    - THERAPIST

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### WHAT IS EXAMINED?

- WHAT THE **FATHER** SAYS TO OTHERS;
- WHAT THE **FATHER** SAYS TO YOU;
- WHAT OBSERVATIONS HAVE BEEN MADE BY :
  - **OTHERS:**
    - CO-WORKERS
    - FRIENDS
    - NEIGHBORS
  - **PROFESSIONALS:**
    - Ph.D/M.S.W./LMFC...
    - POLICE
    - CPS
    - M.D.
    - THERAPIST

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### EVIDENCE

- **PHYSICAL:**
  - WRITINGS
  - CORROBORATION
  - FRESH COMPLAINT
  - INTENT
  - EROTICA
- **CONSCIOUS COURSE OF CONDUCT**
- **CONSCIOUSNESS OF GUILT**

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## MEDICAL EVIDENCE

- SIGNIFICANCE
- “Normal to be Normal”
- Only 8-13% of all cases have medical findings
- Same rates for those where offender admits offense.

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## SECURING MEDICAL EVIDENCE:

- IS THERE ANY MEDICAL EVIDENCE AVAILABLE?
- DO I HAVE ACCESS TO TRAINED, EXPERIENCED, WILLING, MEDICAL EXAMINER?

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## CONTEXT IN WHICH EVIDENCE SURFACES?

- CHILD’S STATEMENT MADE AT TIME ANNOUNCED MUST RETURN TO FATHER -
- CONSISTENT WITH ABUSE/ FABRICATION?
- PREVIOUS CONDUCT?

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### IS IT FALSE REPORT?

- PRIOR DISCLOSURE
- **EVENTS WOULDN'T ORDINARILY BE EXPOSED TO**
  - **SEXUAL KNOWLEDGE**
  - **IDIOSYNCRATIC DETAIL**
- DESCRIBES THINGS CONSISTENT WITH ABUSE
- PHYSICALLY POSSIBLE?
- DO THINGS DESCRIBED EXIST?
- EMOTIONS CONSISTENT WITH ABUSE?
- INCREDULITY TO INTIMATE QUESTIONS

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### CONTEXT IN WHICH EVIDENCE SURFACES?

- DOES EVIDENCE DEMONSTRATE KNOWLEDGE BEYOND YEARS?
- DOES EVIDENCE HAVE OTHER EXPLANATION?
- **DOES EVIDENCE DEMONSTRATE UNIQUE KNOWLEDGE NOT OTHERWISE KNOWN?**
- **DOES EVIDENCE POINT IN DIFFERENT DIRECTIONS?**

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### CONSISTENT WITH ABUSE/FABRICATION?

- IS ACCOUNT CONSISTENT WITH FACTS?
- IS THERE EVIDENCE OF CONSCIOUSNESS OF GUILT?

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## CONSISTENT WITH ABUSE/FABRICATION?

- IS WHAT IS DESCRIBED POSSIBLE?
- **IDIOSYNCRATIC DETAIL**
- DO THINGS CHILD DESCRIBES EXIST?
- **OPPORTUNITY?**
- ACT DONE IN VIEW OF OTHERS?

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## CONSISTENT WITH ABUSE/FABRICATION?

- TEARS BECAUSE TELLING TRUTH FOR FIRST TIME IN RECANTATION *OR*
- TEARS BECAUSE OF TRUE EMOTION AT DISCLOSURE?
  - TEARS OF
    - FEAR
    - ANGER
    - AVOIDANCE
    - RELUCTANCE
    - NERVOUSNESS
    - ANXIETY
    - DISCOMFORT
    - SADNESS

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## CONSISTENT WITH ABUSE/FABRICATION?

- CHILD'S INCREDULITY AT INTIMATE DETAILS
  - SEMEN IN MOUTH
  - ORAL COP OF ANUS/VAGINA

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## CONSISTENT WITH ABUSE/FABRICATION?

- CHARACTERISTICS OF FALSE REPORTER?

- AXE TO GRIND
- OVERTLY ANGRY
- SOPHISTICATED ACTS, NO LEAD-UPS OR RELATION TO SEXUAL STIMULATION
- NO EMOTION

CAVAET:

ABUSE MAY BE CAUSE!

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## SEXUAL ABUSE: SPECIAL CONSIDERATIONS

- IMPORTANT BEHAVIORAL OBSERVATIONS

- Sexual behavior or knowledge inappropriate for the child's age and developmental level
- Sudden change in behaviors or demeanor
- Unusual behaviors

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## ALTERNATIVE EXPLANATION?

- CHILD IS EXPOSED OR HAS ACCESS TO SEXUAL STIMULI

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## ALTERNATIVE EXPLANATION?

- CHILD DOING SOMETHING ELSE
- ADULT DOING SOMETHING ELSE

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## PREVIOUS CONDUCT?

- PREVIOUS MOLEST VICTIM
- PARENT
  - CHILD
- PREVIOUS ALLEGATION
  - CO-EXISTING FAMILY VIOLENCE

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## COLLECTS CHILD PORNOGRAPHY

Places found may imply significance (i.e.: under mattress, bedside nightstand)...

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### **CONSISTENT WITH ABUSE/FABRICATION?**

- **FOLLOWS  
GROOMING/  
SEDUCTION  
PATTERN**

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### **COLLECTS BOOKS AND WRITINGS ON SEX**

- **LEAVES IT WHERE CHILD  
MAY DISCOVER IT...**

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### **FANTASY WITH NO EXPERTISE**

- **This offender has no  
sophistication or  
outlet, yet, focuses on  
an age or sexual  
preference as his  
object of attention**

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### *CHILD SEXUAL ABUSE ACCOMODATION SYNDROME*

- **SECRECY**
- **HOPELESSNESS**
- **ENTRAPMENT AND ACCOMODATION**
- **DELAYED, UNCONVINCING,  
CONFLICTED DISCLOSURE**
- **RETRACTION**

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### SYSTEM FAILS, S--- HAPPENS

- FAMILY LOOSES FAITH  
IN SYSTEM'S ABILITY  
TO PROTECT THEM
- TAKE MATTERS INTO  
OWN HANDS
- LEADS TO VIOLENCE
- LEADS TO ABDUCTION/  
FLIGHT TO PROTECT

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### SOLUTIONS?

- Knowledge of dynamics of abuse – IPV, Incest
- Adherence to protocols, regulations, procedures
- Checking biases at the door
- Training, education, policy change
- Taking the time to do it right
- Assuming nothing

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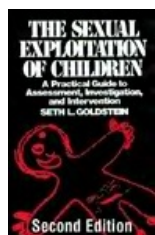
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## RESOURCE

Available at:

CRCPRESS.COM



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