

From draft chapter "social science and false beliefs", Anthony Oberschall, May 2010, pp. 33-45,
on the Little Rascals day care child sex abuse trials

Pseudo-science

In a 1993 decision, *Daubert vs. Dow Merrill Pharmaceuticals Inc.* that involved birth defects of children from drugs taken during pregnancy, the Supreme Court defined "scientific knowledge" as inference or assertion "derived by the scientific method." [Susan Haak, *Defending Science Within Reason*, 2003, Amherst, Prometheus, chapter 9]. It directed the federal courts to examine the relevance and reliability of scientific evidence and limit expert testimony to that based on scientific method. By scientific method the court meant methods that allowed for empirical evidence to falsify alleged facts, opinions and hypotheses and those that were accepted in the scientific community in reputable journals and in peer review. Knowledge based solely on intuition and personal experience that cannot be validated by experimental and impersonal methods of research should be kept out of the courts. In a later 1999 decision, the Supreme Court directed trial judges to act as gatekeepers and throw out "opinion evidence" from qualified experts that is not based on solid science. The news media dubbed these opinions "junk science."

The issue of "opinion evidence" on psychological and behavioral matters arose when public concern with child sex molestation and physical abuse increased sharply in the 1970's and 1980's, many abuse cases wound up in the courts, and mental health and psychology experts provided testimony which influenced judge, jury, the mass media and public opinion Philip Jenkins, *Moral Panic. Changing Concepts of the Child Molester in Modern America*, 1998, New Haven, Yale UP]. According to James Q. Wilson ["Keep social science 'experts' out of the court-room" *Chronicle of Higher Education*, June 6, 1997], some "expert witnesses ... provide paid testimony in which they inflate their own scientific credentials or claim scientific certainty where none exists...expert witnesses - academics and independent practitioners such as psychologists and psychiatrists - are generally allowed to give courts their opinions on behavioral issues...whether or not their views are based on sound and compelling empirical evidence." In many instances, the prosecution and defense put on experts whose contradictory statements degenerated into a "he said and she said" discourse with the public and jury left uncertain about what conclusions to draw from all the expertise. There had to be a better way discriminating between sound science from pseudo-science in matters of truth and knowledge.

In on-going debates and disagreements among social scientists, methods and findings checked, criticized, amended, qualified, and eventually shaky and false knowledge is discarded through these social controls. The research pace of the academy and professional gate-keeping is slow. Public policy and the prosecution of crime demand immediate action. Sound science accumulates slowly, and it may take years for that knowledge to move from research institutes, academic journals, textbooks and classrooms to the mass media, public opinion and the courts. In the meantime, folk thinking buttressed with pseudo-science fills the gap, as happened in the Little Rascals mass child sex abuse prosecutions in the small town of Edenton N.C.] The investigation and prosecution used a pseudo-science narrative in multiple ways: the interrogation of pre-school children, the use of symptom lists and anatomically detailed dolls, medical

evidence, enrolling parents into the investigating teams, keeping its methods from public scrutiny, and revealing only positive evidence of abuse to parents and not the negative evidence. By the time the defense presented its counter-narrative on mass child sex abuse in court, based on sound science, two and a half years had elapsed during which folk thinking and pseudo-science had become widely accepted as the truth.

In addition, the prosecution used some questionable hardball tactics to win. It pressured Bradford Tillery, an independent minded judge, to resign from the case, which led to the appointment of another judge who was partial to the prosecution. Tillery complained that “I have served as a judge of Superior Court for over 20 years and I never found it necessary to take such a step...neither have I ever been made to feel before that one side or the other considered me to be not only an adversary but also fair game...for reckless assertions” [Defense Brief, Appendix 1, Defendant-Appellant’s Brief, 1992, North Carolina Court of Appeals, No.933SC676].

What happened at the “Little Rascals”?

In January 1989, the mother of a three year old boy who was attending the Little Rascals day care became anxious that he might have been sexually molested by Robert Kelly (“Mr. Bob”), the husband of day care owner and director Betsy Kelly. She got in touch with a policewoman who brought with her two child protection workers from the Department of Social Services (DSS) for two hours of questioning. The boy was uncooperative until an anatomically detailed doll (ADD) was produced. Though he said nothing had happened to him, he eventually stuck a finger into the dolls rectum and said that had happened to two of his playmates. The police and DSS believed this was sufficient evidence to start an investigation. It was the opening episode to the longest and most expensive criminal investigation and trial in the history of North Carolina. The Little Rascals mass sex molestation and satanic ritual child abuse case was the last of a dozen similar ones in the 1980’s around the country, in Minnesota, California, Massachusetts, Tennessee, Hawaii, New Jersey, Washington state, and elsewhere.

In Edenton, the case grew to seven people charged with 441 counts involving dozens of children. Bob Kelly’s trial lasted from July 1991 to April 1992; he was found guilty on 99 of 100 counts and sentenced to twelve life terms in prison. The second trial was against Dawn Wilson, the day care cook and mother of an infant, who was sentenced to life in prison. In the North Carolina Appeals Court, on May 22, 1995, a new trial was ordered for both because of “flagrant violations” of courtroom rules: the most serious was withholding evidence of the defendants’ innocence, i.e. exculpatory evidence, which was in violation of both state and U.S. Supreme Court decisions. The North Carolina Supreme Court upheld the Appeals Court and eventually in 1997 all charges against Bob Kelly, Dawn Wilson and three other female day care workers were dropped. Throughout the seven years, all the defendants insisted on their innocence and refused the prosecution’s offer to testify against one another in return for lenient treatment.

The Little Rascals enrolled some ninety children. It had problems. The ratio of staff to children was high; the education component of the activities small. Children were slapped for indiscipline and there was a special punishment chair. There were some unhappy children in the day care, and some disliked Mr. Bob who was the disciplinarian. Parents were skeptical when the Department of Social Services (DSS) sent a letter to them on January 31, 1989 substantiating

abuse and announcing the start of a criminal investigation against Bob Kelly. Almost all parents kept their children in the day care. When Bob Kelly was charged on April 14 with sex offenses against four children, the prosecution had little to go on. Of the ten later "trial children", not a single one admitted to sex abuse or molestation at first. The prosecution named four therapists and strongly urged the parents to have their children evaluated only by these four. A sweetener was added: the North Carolina crime victims' fund paid the cost. Apprehension and fear spread among parents when some were told that their children had been named by other children as having been abused. After the day care closed on April 28, many parents sent their children to one of the four therapists working for the prosecution.



Some children eventually disclosed abuse. What the therapies produced in Edenton followed the national pattern: small beginnings, one alleged offender, touching and fondling, the children admit little, but investigators and parents are convinced there is more, and the investigation intensifies and expands. More victims are named, more offenders, the abuse becomes more sexually explicit, the stories more fantastic. The disclosures escalate to oral and anal sex, sadistic acts against children and animals, and ritual acts. The stage moves from the day care to boats, forest, balloons and a space ship. There is a lot of "peeing" and "pooing" by the offenders on the children, and the children on one another. Among the objects stuck in vaginas and anuses are scissors, burning candles, knives, a chain saw, magic markers and, unexpectedly, female offenders' penises. Sadistic and violent acts of the offenders against the children were throwing them around, hanging them from a tree, cutting their neck with a knife, shutting them up in a refrigerator, trying to drown them during a boat ride, dropping them down a well, and killing unspecified babies. Besides the seven indicted offenders, the children pointed the finger at other offenders in the therapy and interrogation sessions: ordinary townsfolk, the sheriff, a man who sold balloons in the street, a stranger with a mustache, the "Fat Man", the "Joker", "Mr. Popsicle Head", "Black Andre" and the like [Defense Brief, pp. 39, 57-68, 73-90].

The Little Rascals conforms to the national pattern studied by Hollida Wakefield and Ralph Underwager [Accusations of Child Abuse, 1988, Springfield IL, Thomas, p.300]:

"In instances where children are subject to intense and frequent questioning and further details are sought across a period of time, the progression of the story goes from an initial "touching" and fondling to oral, genital and anal penetration, to monsters, witches, or people dressed in strange ways and behaving in bizarre fashion, to ritual killing of animals...the final step is some form of violence to children including torture, mutilation and murder...the repeated interviews tap into an ever deeper layer of fantasies children are known to have."

Parents consented to therapy because they were persuaded that their children needed it and because they trusted the authorities. In child abuse investigations there are seldom adult eyewitnesses, physical evidence, or conclusive medical evidence. Everything rests on what the children tell, and interviewing children is at the core of the inquiry. A review of research on pre-schoolers [Stephen Ceci and Maggie Bruck, "Suggestibility of the Child Witness" Psychological Bulletin 113 (3), 1993, pp. 403-439] found that "the literature indicates that children can be led to make false or inaccurate reports about very crucial, personally experienced, central events...studies by Goodman and her colleagues provide some of the most compelling evidence that young children do in fact make false claims about actions...that could be construed as

sexually abusive...in their anatomical doll (ADD) study ...they found that 3-5 year olds frequently gave false answers to abuse related questions such as “Did he touch your private parts?” Law professor John Myers [“Adjudication of Child Abuse Cases” The Future of Children 4(2) p.85] writes that “There is evidence that some well-intentioned but misguided therapists, police, social workers, and attorneys use interview techniques that could distort children’s memories...improper interviewing may actually create a memory of abuse that never happened. In these instances children describe non-existent abuse, all the while believing what they say.” Ceci and Bruck agree that “so-called experts (in court testimony on child sex abuse) often make claims that are not in accord with- or even diametrically opposed to the research we have just reviewed.” After examining the therapists’ records on seventeen children who testified, a psychiatrist testifying as an expert for the defense [Moisey Shopper, “What I Learned from the Little rascals Sex Abuse Trial” Psychoanalytic Inquiry 29 (6) 2007, pp.513-527] came to the conclusion that the children were not liars; the therapists, social workers and the prosecution created false beliefs that became the children’s reality through forceful, prolonged, coercive and suggestive interview techniques, and coached them to testify falsely with credibility

The Edenton parents were not told about these and other scientific findings, and had no way of finding out about them until two and a half year later at Bob Kelly’s trial during the defense examination of its experts. Instead, according to social psychologist Carol Tavis [“Between Therapists and Scientists” Chronicle of Higher Education, February 28, 2003] “psychotherapists get the public attention...they turn up on talk shows, offer advice in books and newspaper columns, and are interviewed in the aftermath of every disaster and horrible crime...our society runs on the advice of mental health professionals who are often called upon in legal settings to determine whether a child has been molested...while the public assumes that therapists must be scientists of some sort, many of the widely accepted claims promulgated by therapists are based on subjective clinical opinion and have been resoundingly disproved by empirical research.”

How the prosecution persuaded the parents

Subjective clinical opinion is “opinion evidence” barred from the court room by the Daubert decision, but that came in 1993, two years after the first Little Rascals trial opened. In child abuse investigations “opinion evidence” is based on unproven “principles” and methods, and these were employed by the authorities in the Little Rascals investigation:

1. “Children never lie” – except when they deny that they have been abused. Children don’t tell because the offender has threatened them or because they are repressing a traumatic experience. Douglas Besharov [Recognizing Child Abuse, 1990, New York, Free Press, pp. 89, 91] writes that “Some experts...claim that a child’s denials are actually a sign that the child was abused ...this is dangerously deficient...contrary to such rhetoric there is always the danger that a child’s description of being maltreated is untrue. Like adults, some children lie, exaggerate, or fantasize.” When should a child be doubted? When “a careless interviewer implants a distorted and untrue idea in the child’s mind...a real problem is created when children are interrogated with leading questions.”

2. The Edenton DSS workers and therapists used ADD dolls to get children to disclose abuse, yet the professional staff of the Center for the Future of Children [The Future of Children 4 (2) 1994

p.18] recommended that “doll play is not a diagnostic test for detecting child sexual abuse; how a child uses or plays with a doll is not determinate of whether sexual abuse occurred.” A manual for child abuse investigators cautions that [Lawrence Daly, Child Abuse Investigations, 1991, Seattle WA, Katelium, p.53-55, p.63] “ADDs are the most misused and misleading props employed to date...as used by therapists props (and play therapy) are inherently suggestive and leading...child interviews are not audio or videotaped because to do so would expose the often leading and suggestive nature of the interviews.”

3. Another mistaken belief in child sex abuse that impresses parents, the public and jurors is a huge list of “symptoms” that allegedly indicate abuse: bedwetting, nightmares, aggressive play, excessive interest in sex, too much time spent on the toilet, being uncooperative. Virtually every behavior that a parent might be concerned ends up on the list. Research finds that all of these symptoms are part of normal growing up, and that a sexually abused child may have none of them. Edenton parents were given such symptom checklists and kept a diary recording their children’s unusual behavior for the therapists and the prosecution. Parents’ testimony based on these diaries were a key part of the prosecution’s case in the trials. It was pseudo-science. The American Psychological Association’s handbook for expert witnesses on child abuse [Stephen Cresci and Helen Hembrooke, eds. Expert Witness in Child Abuse Cases, 1998, American Psychological Association, Washington D.C. p.166] states that “no significant group differences were found in PTSD (post traumatic stress disorder) symptom checklists comparing sexually abused psychiatric and physically abused patients and non-abused patients. Absence of a consistent pattern of PTSD disorders in sexually abused children underscores the ethical and forensic problems associated with using it as a diagnostic category to substantiate that a child has been sexually abused.” For example, in research on symptoms such as a sore anus or enlarged vagina, a professor of pediatrics at the University of California in San Francisco examined the vaginal and rectal areas of 250 children with no history of sexual abuse and found large variations among the genitalia of the girls studied, including features previously thought present only when children are abused [Richard Wexler, Wounded Innocents, 1990, Buffalo, Prometheus Books, p.151]. The pediatrician concluded that sore anus and enlarged vagina are unreliable symptoms for child sex abuse.

4. Pre-schoolers reports of being sexually touched are unreliable. In a medical evidence experiment, 40 three year olds visited their pediatrician for an annual checkup. In twenty, the physician touched their buttock and genitals, in the other twenty she did not. Immediately following, an interviewer pointed to buttocks and genitals of an ADD and asked, “Did the doctor touch you there?” Of those who were not touched, half said the doctor did, and showed it by touching on dolls. Fewer than half who had been touched said they hadn’t been [Nathan and Snedeker, p.154-155]. Yet, on the strength of vague answers by children to repeated probes by therapists and child protection workers about whether Mr. Bob had sexually touched them and touched any of their friends, parents were told their children were probably abused and should be put into therapy.

Wakefield and Underwager [1988] studied 109 audio and video interrogation tapes on 79 children allegedly sexually abused in fourteen states and found that 65% of interviewer questioning potentially conveyed to children how to response, though pressure, reward, modeling and closed questions, e.g. not letting the child play until she answered the questions, and telling

him his parents will be proud if he told. What was stunning is how little children actually said, and how much of what they said was “uh-huh” and similar noises. They write that “our impression from the tapes is that when a child says nothing happened, the question is repeated again and again until the desired response is obtained. The response is then reinforced. This is the fundamental learning paradigm...” [p.43].

Framing child sex abuse for public opinion: the victimization industry

How could “opinion evidence” become standard operating procedure for the authorities and accepted by public opinion? In the 1970’s and 1980’s there was alarm about declining family values and increased family violence, child abuse and child sex abuse. Responding to these concerns, Congress and the states passed legislation and provided funding for a rapid expansion of child protection services, mandatory reporting, and investigation and prosecution for child abuse. Because both feminists and conservatives were in favor of these measures, debate between the usual opponents did not take place, and the policies, laws, and practices that developed on child abuse got insufficient scrutiny [Robyn Dawes, House of Cards. Psychology and Psychotherapy Built on Myth, 1994, New York, Free Press]. Young children’s testimony was increasingly accepted in the courts without corroborating physical evidence. Hearsay evidence by adults, e.g. mothers testifying about their children, was admitted. The standard for sex abuse was redefined to include fondling, kissing and touching in ways considered uncomfortable. These changes criminalized a range of behaviors previously excluded from sex abuse and made convictions for child sex abuse a great deal easier. Philip Jenkins [Moral Panic. Changing Concepts of the Child Molester, 1998, New Haven, Yale UP, chapter 6] refers to these changes as the “child abuse revolution.”

When child sexual abuse became an issue that captured the media and the popular imagination, the medical profession, academic psychology and social science were just starting to study it scientifically and lacked basic knowledge about how to detect it with reliable methods. The legal profession lacked experience with trial testimony of young children and pre-schoolers and on admission of hearsay testimony by therapists and parents. Science and the law were discovering the issue; meanwhile hundreds of child sex abuse allegations had to be dealt with [Jenkins, chapters 6-8].

In the absence of proven knowledge, a child sex abuse industry of self-appointed “experts” filled the demand for training and informing child protection service workers, social workers, police investigators, prosecutors, therapists and others [Debbie Nathan and Michael Snedeker, Satan’s Silence, 1995, New York, Basic Books]. They wrote books and manuals, organized workshops, conferences and seminars, consulted with law enforcement agencies and school systems, and popularized junk science in magazines, TV talk shows, and the mass media which had an insatiable demand for the sensationalized treatment of child sex abuse. They discovered “repressed memories” and “multiple personality disorders” and all sorts of therapies to recover memory. It was pseudo-science. The experts not only profited handsomely from these activities, but convinced themselves that they possessed valid methods and knowledge, and were saving American children. The mental health professions split into two warring camps. A majority, the child protection advocates, was disposed to believe that abuse occurred and minimized the likelihood of false accusations, memory distortion and suggestibility. The minority, advocates for

protecting the accused, believed that many adults were victims of false accusations, and coerced and leading child interview techniques.)

As convictions for child abuse increased in the 1980's, and as skepticism was awakened by bizarre developments in some high profile mass child sex abuse trials such as the McMartin day care trial in California and the Little Rascals in Edenton, investigative and judicial methods in child sex abuse cases came under scrutiny and were found not to meet science standards by university researchers. Defense layers in appeals obtained rulings from judges that disqualified methods and evidence based on "opinion evidence" and pseudo-science, and some convictions, including the Little Rascals, were overturned. When the courts barred deficient techniques from the courts, police and child protection workers prosecutors got more cautious in their investigations, and prosecutors declined to litigate weak cases. As suddenly as the day care cases had started in the 1980s, so just as suddenly they vanished in the 1990's. The Little Rascals was the last of the lot.)

Since the mid-nineties, several high profile child sex abuse convictions have unraveled. In Charlotte NC, fifteen people named as victims or witnesses in a large child sex abuse case admitted that the assaults never happened or were not committed by the man serving life in prison for them, according to the Charlotte Observer [12/15/ 2002]. At least 19 children, ages 5 to 12, had told their school counselors and police about being grabbed, fondled or raped in the woods. Eighteen of twenty three victims and witnesses, all adults now, say no such things happened or that the offender did not do it. The only evidence that tied him to the crimes was the children's testimony. Several said that they were young and confused about questions they were asked. Jurors never heard the widely differing descriptions of the attackers or the children's initial conflicting stories that were collected by school counselors and police in dozens of interviews.

The trial, folk beliefs, narratives, and pseudo-science

During the Little Rascals investigations and trials, the Edenton parents did not know about the distinction between science and "opinion evidence" and pseudo-science promoted by the authorities. Without parents' consent, the investigation and prosecution would stall. It brought speakers from the child sex abuse speakers' circuit to educate parents and grandparents in closed meetings. According to Ofra Bikel [Frontline. Innocence Lost: the Plea, aired May 26, 1997, www.pbs.org/wgbh/frontline/shows/innocence/roundtable/], the TV documentary producer who interviewed many Edentonians, "the parents participated in workshops led by experts who came from across the country for weekend seminars to teach them about sexual and satanic abuse. They were given literature concerning it so that within a few weeks there was no question in their minds that their children were sexually and satanically abused. They were also told that in order to heal, the child had to "tell, at which point they almost pushed the children to 'disclose'." The prosecution made parents apprehensive and fearful about sex abuse of their children, and parents reacted by putting their children into therapy. When children resisted the interrogations, they were trapped: there was no way a denial was credible to the therapists and parents since denial was proof of abuse. One parent said on Frontline (The Verdict, aired July 20, 1993) that "mothers did not give kids desert unless they told," i.e. disclosed abuse; another questioned her child relentlessly and said "our child knew what we wanted to hear." Parents were persuaded to

become part of the investigating team by reading storybooks about rabbits and pets that were abused as an aid to disclosing [Defense Brief, p.48, p.70]. Not all parents were persuaded by the prosecution's tactics. One young couple figured out that the therapy caused disturbing behavior change in their normal child [Frontline, The Verdict, 1993].

There was a confusion between therapy and forensics in the investigation. The hallmark of therapy is that it matters not whether abuse is real or imagined. So long as the victim believes it to be real, it has to be treated. For the law, it is of the utmost importance to distinguish imagined from real abuse, and confounding the two results in miscarriage of justice. In Edenton, the two page treatment summaries by therapists and pediatricians for the twelve trial-children mixed reality and fantasy. According to a therapist, a five year old child said that Mr. Bob had inserted a play hammer into her rectum and vagina, that the "Fat Man" tied her up with ropes in a chair upstairs at the day care and inserted a play hammer in her rectum, that after he fell asleep, another child got her out of the ropes and they tiptoed downstairs, that several children tied up Mr. Bob and hit him with a hammer, and that Mr. Bob then shut the four children into the refrigerator. Rather than questioning how shutting four children into a refrigerator could be physically possible, the therapist writes "there is no doubt that she has been involved in some of the more traumatic and psychologically activities in the day care. Being shut in a refrigerator would give any pre-school child strong feelings of helplessness and impotence."

Some Edenton parents were skeptical when they witnessed the leading questions and other coercive methods used in interrogation of their child, and said so in the Frontline documentary aired on television [Defense brief, pp. 16-17, 28, 31-32, 40]. Most parents however became true believers. One of them tells why: "...when the children tell graphic details that they could not know unless these things actually happened, we, as parents, couldn't help believe them" [Defense Brief, Appendix, p.6; State Brief, p.6] An essay written by an Edenton resident described the dominant reaction: "Such shocking allegations are difficult to believe, but people find it still more difficult to believe that it is possible to pack a child's memory with falsehoods of this nature." Another Edentonian told a news reporter that "therapists maybe put some things in children's heads, but I do think something happened." [author interviews, Edenton, November 1 and 2, 1996].

How did most parents and public opinion become believers? The key to an explanation is how folk thinking acquires, processes, and evaluates information about unfamiliar events. In uncertainty, folk thinking seeks guidance from authorities and confirmation by peers. Uncertainty is reduced by selecting information and by confirmation bias. Negative evidence is dismissed through cognitive dissonance, thus uncertain belief becomes solid conviction. Anxiety and fear about their children being abused motivated parents to believe the authorities' narrative and to send them to the four prosecution therapists: "The most powerful condition for persuading the public is raising the anxiety level and fear...Fear arousing information is particularly persuasive and creates public demand for relief and action to reduce the threat" [Carl Hovland et al, Communication and Persuasion, 1973, New Haven, Yale UP, p.].

Had the parents known from the start, when a single offender and two or three victims were named, that the case would end as mass sex abuse with seven alleged offenders, hundreds of offenses, thirty victims, and fantastic settings, they would have been skeptical. But at the start,

parents had no reason to disbelieve the authorities. Middle and upper-middle class folks rightly believe that the government is attentive to their needs and has their interests at heart. Parents learned about the case step by step, according to a crime narrative provided by the authorities, and there was no plausible counter-narrative until two years later at the first trial when the defense presented its case. In the prosecution narrative, each step was made plausible by pseudo-science, and once the chain was accepted as true, confirmation bias fitted all sorts of data into the narrative and cognitive dissonance discarded contrary evidence.

According to the North Carolina Central Registry of Child Abuse and Neglect [Raleigh News and Observer, 9/16/1999], only 1 % of substantiated abuse and neglect cases occurred in day care facilities in 19....Almost all cases involve parents, stepparents and grandparents. Of 238 day care cases, 220 were neglect, such as allowing children playing without adult supervision. Day-care abuse cases, both physical and sexual, are exceedingly rare, and involve only a single offender and victim. One would therefore expect the suspicion of sex abuse against Bob Kelly to have been limited to Mr. Bob and the original two or children named. But Brenda Toppin, the policewoman who did the first investigation, had recently attended a seminar on ritual and satanic child abuse at Kill Devil Hills (as had some other future members of the prosecution team), and was searching for a broader pattern of abuse. Interrogating children about other children led to more names, which then led to more interrogations and names. Officer Toppin later admitted destroying the audio tapes of the child interviews and keeping only sketchy summaries of notes [Raleigh News and Observer, November 27, 1991, p.B6].

The prosecution was then in a dilemma of its own creation. If Mr. Bob was doing such mass abuse in the Little Rascals, his wife and the other day care employees must have known about it and participated in the abuse. The children were then asked not only about Mr. Bob but the other adult staff, and eventually the children named some. It seemed unlikely that a wide open day care could have so much abuse without parents and outsiders noticing anything; the children were then asked about other places, and that is how forests, attics, boats and balloons got into the children's stories. The prosecution had a second problem: moral depravity by a single offender is plausible, but a moral depravity conspiracy by seven offenders who had no criminal record stretched the imagination. Might there be a conspiracy to produce and sell child pornography videos? Scott Pivott, the owner of a video store and friend of Bob Kelly, was indicted and held in jail when he was unable to post a million dollar bail. The prosecution viewed thousands of pornographic child photos and videos for Little Rascals faces, and none were found. The prosecution then developed the moral depravity theory, linking the cook Dawn Wilson and Bob Kelly in sex acts in front of children at her trial. When the children started naming ordinary townspeople such as the police chief as offenders, the prosecution drew the line and stopped expanding the case.

The people of Edenton learned about the case from the local media. A journalism student did a content analysis of the 23 Little Rascals stories in the Chowan Herald in its first year of coverage [David Loomis, "Modern Witch Hunts: How Media Have Mishandled Ritual Child Sex Abuse Cases" Masters thesis, University of North Carolina School of Journalism, April 1997]. The early coverage presented the authorities' narrative focusing on the latest shocking revelations and did not cite the defendants and their attorneys [Loomis, p.27, p.33]: "only one of the stories led with, emphasized, or gave prominent length to the defense attorneys, and prosecutors were given

ample space ...to respond to defense criticism...during the yearlong period...the paper quoted none of the seven defendants.” Loomis also noted that the paper “exhibited no skepticism about an alleged conspiracy involving seven adults serially raping, torturing and photographing scores of three to five year old children during daylight at a centrally located day care in a small town for several years without a single witness or a shred of evidence.” The only counter narrative to the prosecution was a two hour Frontline documentary (Innocence Lost) produced by investigative reporter Ofra Bikel, which aired in May, 1991 on many PBS stations, two and a half years after the investigation started, two years after Bob Kelly was arrested, and a few weeks before his trial in July 1991.

Bikel’s narrative centered on abuse of power by the authorities and skepticism about the alleged crimes. By this time in Edenton and Eastern North Carolina public opinion believed the prosecution narrative and most were convinced of Bob Kelly’s guilt. One resident characterized how Edenton opinion had shifted [student term paper, “The Little Rascals sex abuse case” 1995]:”In a homogeneous community, the pressures of conformity left most Edentonians unable to look at the case from an objective point of view. When the first set of parents began to believe that their children might have been sexually abused, the rest of the community denied it, and most parents turned their backs on those who were making the allegations. Later as more parents became convinced that their children had been abused, those who still believed the Kellys were innocent were subjected to extensive ...pressure by other parents to press charges of their own...As the case progressed and parents became angrier, they became less tolerant of people who still believed that the children were “making the whole thing up.” Those who insisted that the Kellys were innocent were ostracized.”

The trial itself afforded an opportunity to confront science with pseudo-science, but as the Little Rascals shows, there is no knock-out punch. Medical testimony is inconclusive. The medical experts for the prosecution wrote up their experience from the trial [Jean Smith, Desmond Runyan, and Doren Frederickson, “The Little Rascals Day Care Case: A Perspective on Medical Testimony in a Prominent Public Trial” 1993, North Carolina Child Medical Evaluation Program, University of North Carolina at Chapel Hill, pp.8-9]: There was startlingly little disagreement between defense medical experts and the prosecution experts over most issues related to the medical exams...we have no gold-standard as to whether penetration actually occurred in the majority of reported cases...” In other words, if there is some scar or physical mark on the genitals or rectum, it indicates abuse, but no scar or mark does not indicate no abuse. Either way, the suspicion is kept alive, and there was no reticence by medical examiners to keep suspicion alive despite negative medical findings. The interim treatment summary for one of the children (7/28/89) reports no evidence of scarring, tearing, or lesions, yet Jean Smith, the examining physician, states that “History consistent with sexual abuse. Physical exam negative for sexual abuse at this time.” For the jury and the public, prosecution and defense medical testimony canceled out.

Similarly for the psychology experts. Both sides put on the stand credentialed experts who contradicted one another in testimony. There is no shortage of studies on the reliability of child interviews on sex abuse, and the findings often are contradictory. The studies differ on methodology and quality, and the profession eventually sorts out the wheat from the chaff. But for the public and the jury, it is yet another spectacle of experts who contradict one another. Dr.

Shopper, the psychology expert for the defense, got the impression that the judge and jury were paying little attention to his testimony and suspected that they already made up their mind about Bob Kelly's guilt []. Another expert, Maggie Buck, ["Trials and Tribulations of a Novice Expert Witness", chapter 4 in Ceci and Hembrooke, 1998] wrote that the prosecutor tried to discredit her as an expert and confuse the jury, and probably succeeded. Nor is this difficult for a skilled attorney to do. A hallmark of science is that knowledge is not complete and definitive. The public however believes experts should know everything with finality. A true scientist will qualify her answers, and a skilled attorney turns that honesty against her to raise doubts about her expertise. In Ceci's [Ceci and Hembrooke, p.45] view " Confronted between two rival expert opinion, a court of law without its own independent expert to turn to is left with no real basis or check to decide which expert is talking scientific sense."

The defense has one persuasive method of explaining how children testify to massive and monstrous abuse that did not happen. After more than two years in therapy and after attending "court school" on how to testify and answer questions, they give polished performances at the trial. This is in stark contrast to the hesitant and reluctant answers they gave to initial interrogations. A video and/or audio record of interrogations and therapy sessions shown to the jury can demonstrate how prolonged, coercive and suggestive therapy teaches children to believe the reality of abuse when it did not in fact occur. The jury in the McMartin day care mass sex abuse case, in which hundreds of children were recoded on video cameras, refused to convict the accused "because tapes answered the obvious question: how could pre-schoolers invent such terrible things without having experienced them?" [Nathan and Snedeker, p.140]. In the Little Rascals trial, there were no such tapes. There was only the children's testimony, and the mothers diaries' recording the behavioral symptoms of abuse.

According to the second Frontline documentary (The Verdict) aired on July 20, 1993, three jurors doubted Kelly's guilt. The jury had bonded in seven exhausting months and respected one another. Early in their deliberations, they decided to report a unanimous verdict. The nine jurors who believed the children's testimony dismissed those parts that were implausible and fantastic as "children's stories." One said "the evidence is there, listen to the children's stories." That is what parents and their supporters in Edenton were also told and were saying. The three doubters were not convinced by the others. After three weeks, the jurors were exhausted. Two doubters had severe health problems, and decided to give up. The third said he gave in to social pressures. The jury returned a unanimous verdict of guilty on 99 out of 100 counts, and Bob Kelly was sentenced to twelve life terms.

In summary, the prosecution narrative of mass sex abuse was grounded in pseudo-science and the media highlighted the prosecution case. The public and the parents were initially skeptical, yet in the absence of a counter-narrative and because of fears about their children they bought into the prosecution narrative. In the court of public opinion, without a systematic challenge, the prosecution held sway. The public had no reason to doubt the sincerity and competence of the authorities. Moreover, false beliefs dominated popular ideas and the advocacy literature on child abuse and were joined to unscientific methods used by the prosecution. 1. "Believe the children" but not when they don't admit abuse; if they don't admit, it is because they have been traumatized. Thus question until they admit. This tactic produces only positive evidence of

abuse, never negative evidence. Unscientific investigative and therapeutic methods of questioning get some children to disclose abuse when there has been no abuse. 2. Revealing and circulating only confirming, but not disconfirming information about abuse, e.g. if three friends played together, and Peter (in a session with therapist) said that Paul was abused, but Sam said Paul was not abused, Paul's parents were told only what Peter but not what Sam said. Selective positive information creates an impression of solid, mounting evidence for molestation to parents and to the community. 3. The behavior symptoms list, mothers' diaries and animal abuse stories was based on "opinion evidence" and not science. These methods raised parents' anxieties and generated lots of false positives about abuse when parents testified in court. 4. The notion that the fantastic and implausible aspects of pre-schoolers' stories should be dismissed as simply children's way of talking about abuse. This belief makes it impossible to distinguish true from "make believe" stories, fact from fiction. It took several years of research at many universities to demonstrate that these principles and beliefs were not based on sound science [Robyn Dawes, House of Cards. Psychology and Psychotherapy Based on Myth. 1994, New York, Free Press].

There was no coherent counter-narrative until more than two years into the case when Frontline was aired and when the defense presented its case at the Bob Kelly trial. At the trial the experts testimony became a "he said, she said" contest and the public and jury had no way of telling who was right. The jury is the bastion of defense for justice and truth, but after seven months, peer pressure, and concerned with their health, the three doubters were exhausted, gave up, and went along with the majority for a guilty verdict. In a matchup of pseudo-science against science, the prosecution won the case in the court of public opinion first, and then won it again in the trial court.

The matter did not end there. The verdict was overturned in the North Carolina Appeal Court [State vs. Kelly 118 N.C. App. 589 (1995)] because the state had withheld potentially exculpatory evidence, i.e. evidence that might show that the accused are not guilty: "the trial court erred in refusing defendant's request to conduct an *in camera* review of files of medical and therapy notes on the children involved in order to determine if any material evidence existed in the files..." No one in authority acknowledged that there had been a miscarriage of justice in this as well as the other Little Rascals cases. There was no accountability. The attorney general chose to defend the prosecution at a news conference [Raleigh News and Observer. 5/2/1995]. the decision casts no doubt on the credibility of the children and the integrity of the investigation. It is based only on legal technicalities that are quite insignificant..." There was no reflection on how pseudo-science misleads knowledge and obscures truth. For Edenton residents and the state, the Little Rascals case and the trials were a painful episode that they wanted just to forget about ["Edenton Haunted by Trial" Raleigh News and Observer, 5/25/1997].