

Media Reviews

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enforcement and child protection agencies. Additionally, the video could be used in parenting classes and with teachers and court officials. Any curriculum that addresses child abuse will find this video a useful addition.

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Law

—by Susan Perlis Marx
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A jury or a judge will want to know whether the defendant's sex partner had the STD, particularly absent direct proof that the defendant had the STD himself.

gation process to compel testing of the defendant. Did child protective services workers request that the defendant get tested? Again, if the defendant refused to be tested, the refusal may be admissible at the trial to show consciousness of guilt. If the test results show that the defendant had the same STD as the child, the case may end in a plea.

If, however, the test results show no evidence of the STD, analyze the entire investigation. Speak to the medical expert: could the testing procedure fail to pick up the disease? Did the defendant have notice that the child had an STD? Did he have time prior to the test to clear up the infection? Did the defendant agree to be tested only after a delay, during which time he procured

medication to destroy any evidence of the STD? Use a medical expert to describe the ease and secrecy with which the defendant could obtain

medication and the rapidity and thoroughness of the cure.

Conclusion

A case involving an STD will be particularly challenging for an investigator and prosecutor. With thorough preparation, prosecutors can use the presence of an STD to convincingly corroborate the child victim's testimony at trial and to secure a just result.

References

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LEGAL NEWS

New Jersey Supreme Court Hands Down Child Abuse Ruling With National Implications

—by John E.B. Myers

In 1984, Margaret Kelly Michaels was hired as a preschool teacher in Maplewood, NJ. Not long after Ms. Michaels left the preschool seven months later, a child made a statement that was interpreted as evidence of possible sexual abuse. A large-scale investigation followed, and eventually Ms. Michaels was charged with sexually abusing many children at the preschool. The case went to trial in 1987, and, following a nine-month trial, Ms. Michaels was convicted of multiple counts of abuse. In 1993, Ms. Michaels's conviction was reversed by New Jersey's intermediate court of appeal. Among the several reasons for reversal, the intermediate court expressed grave concern about the clearly improper way some of the children were interviewed by social workers and police. In an unprecedented ruling, the court held that if the prosecution decided to put Ms. Michaels on trial again, a separate pretrial hearing—called a "taint" hearing—would be necessary to determine whether defective interviewing rendered the children's statements so unreliable that the children should be barred from testifying.

The prosecution appealed the ruling of the intermediate court of appeal to the New Jersey Supreme Court, and on June 23, 1994, that Court handed down its unanimous decision in *State v. Michaels* affirming the intermediate court's decision to require a pretrial taint hearing. The New Jersey Supreme Court's *Michaels* decision is unquestionably one of the most important child abuse rulings in recent years, one that will likely have national ramifications. Although reasonable minds can differ on whether the Court reached the correct decision, there is little doubt that defense attorneys throughout the country will soon begin requesting taint hearings in child sexual abuse prosecutions.

The *Michaels* decision highlights more than ever

the importance of good interviewing. The decision also joins the rising judicial chorus calling for videotaping of investigative interviews. The Court wrote that, "As a matter of sound interviewing methodology, nearly all experts agree that initial interviews should be videotaped." The Florida Supreme Court made a similar statement, writing that "Experts generally agree that contacts between a child and an expert evaluating the child for sexual abuse should be videotaped to ensure trustworthiness and to ensure that the expert did not lead the child during the evaluation" (1994). In a report issued in July of this year, an advisory panel to the California Attorney General recommended that "investigative interviews conducted at well run multidisciplinary interview centers be videotaped." The advisory panel went on to state that its recommendation "does not pertain to therapy sessions with children. The Panel recommends that therapy sessions not be videotaped unless videotaping is done for therapeutic reasons" (1994).

The *Michaels* decision promises to make the already difficult job of prosecution even more difficult. Yet, the New Jersey Supreme Court is clearly right in its insistence on competent interviewing. If *Michaels* leads to better interviewing, the decision will do more good than harm.

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