

# APPROPRIATE PROCEDURES FOR INVESTIGATION OF CHILD SEXUAL ABUSE

45. It is submitted that the following propositions should be accepted as founding a twenty first century protocol:

**Proposition 1: Interviewer Bias:- the investigator ought to be impartial and approach the investigation with an open-mind.**

**Supporting Research and Opinion :**

**The Cleveland Report (at page 73):**

- "The attitude of key managers and the Child Abuse Consultant suggested that the way to resolve the conflict was to "suspend disbelief". Often in suspending disbelief, social workers, fell into the trap of suspending all critical appraisal and without their general skills in assessment being properly utilised, saw their task narrowly as securing the protection of the child. It was not a helpful approach. Ultimately children can only be protected on the basis of evidence that can be tested in Court. The need was for a broadly based assessment against which the conclusions based on the physical signs could be tested."

**The Orkney Report (at page 272)**

- 15.22 The vital distinction between taking an allegation seriously and believing the allegation...cannot be over stressed...It is recommended as matter for guidance that all those involved in investigating allegations of child sexual abuse must keep an open mind and not fall into the trap of confusing the taking of what a child says seriously with believing what the child has said.

15.23 The preservation of an open mind requires a concentration in listening with care to what a child says, absorbing all that is said and weighing the child's words objectively. A mind coloured by suspicion or a mind already moving towards a diagnosis can readily undervalue or ignore material which does not fit with a preconceived picture. Similarly material which does appear to fit with that preconceived picture may be over emphasised and highlighted in such a way as to distort the child's further account of that situation. What a child says should be taken seriously whether it supports or refutes an allegation of abuse. As much care should be taken in assessing a denial as in examining an allegation. If the initial allegation is later denied it may still have been soundly based but the denial deserves serious consideration. It is recommended that where allegations are made by a child regarding child abuse those allegations should be treated seriously, should not necessarily be accepted as true but

should be examined and **tested by whatever means are available before they are used as the basis for action**" (emphasis added).

**Joint NZCYPS and Police Operating Guidelines (March 1997)**

- 5.3.8 The interviewer needs to pay attention to any signs that a child or young person has been "coached" by an adult. This is a concern particularly where abuse is alleged in the context of a long standing dispute. The interviewer can assess this by:
  - exploring the motivation and opportunity of the reporting adult;
  - checking exactly what was said by the adult to the child or young person and amongst other adults;
  - checking what the child or young person knows about what the adult said;
  - evaluating the child or young person's response, and
  - checking the information against the facts.
- 5.3.9 The interviewer needs to decide whether to interview other significant adults (e.g. notifier, person the child or young person disclosed to).

This is to obtain important background and contextual information. It may help to identify or discount other possible explanations for the child or young person's behaviour.

**Law Commission. Total Recall? The Reliability of Witness Testimony. A Consultation Paper (July 1999)**

- A recent study examined the influence of suggestions provided to *interviewers* prior to questioning (White, Leichtman, and Ceci, 1997). The study was an attempt to emulate the real life situation in which interviewers might have contact with parents, police, and therapists prior to an interview, and to consider what effect on questioning this prior contact may have. Results indicated that suggestions to interviewers determined the questions they asked. Younger children acquiesced more often than older children (a consistent research finding) to questions based on inaccurate information. Their findings suggest that pre-schoolers' reports about personal bodily experiences (i.e. touching) are not exempt from the influences of an adult's misleading questions. What the authors called "bizarre misleading questions" concerning interactions of a highly personal nature (for example, kissing, hugging) exerted a "sleeping effect" on children's responses over the period of two interviews. They did not appear to elicit inaccurate elaboration responses in the first interview, but did elicit errors (compared to normal questions) in the second interview. The authors caution readers that their sample is small and that there are a number of possible reasons for their findings (for example, the playfulness of the interviewer, and the type of event children participated in (a Simon says game)) (refer paragraph 128).

**Research:**

- Although suggestibility varies as a function of witness age, the timing of misleading information, the salience of the event, and the types of questions asked, three conditions have especially damaging effects of children's testimonies : First, interviewers who have a bias about what

might have happened tend to elicit more false information from children.. children also [become] more credible and less inconsistent as interviewing [proceeds]. The effect of interviewer bias is likely determined by the tendency to use specific questions, which children tend to answer. As we reported earlier, specific questions, yes-no format questions followed by requests to describe, and misleading questions all elicit false information from some children, especially when children have heard misleading information outside the interview.<sup>87</sup>

- Interviewer bias characterised those interviewers who hold a priori beliefs about the occurrence or non-occurrence of certain events and, as a result, mould the interview to elicit statements from the interviewee that are consistent with these prior beliefs. One of the hallmarks of interviewer bias is the single-minded attempt to gather only confirmatory evidence and to avoid all avenues that may produce negative or inconsistent evidence. Thus, while gathering evidence to support their hypotheses, interviewers may fail to gather any evidence that could potentially disconfirm their hypotheses. Biased interviewers do not ask questions that might provide alternative explanations for the allegations (e.g. "Did your mommy and daddy tell you that this happened, or did you see it happen"). Nor do biased interviewers ask the child about events that are inconsistent with the hypotheses (e.g. "Who else beside your teacher touched your private parts? Did your mommy touch them too?"). And biased interviewers do not challenge the authenticity of the child's report when it is consistent with their hypotheses (e.g. "It's important to tell me only what you saw, not what someone may have told you," or "Did that really happen?"). When children provide inconsistent or bizarre evidence, it is either ignored or else interpreted within the framework of the biased interviewer's initial hypothesis. In short, interviewer bias can be found whenever interviewers think they know the answers before the child divulges them and whenever interviewers view their task as one of "getting the goods" on the defendant. Interviewer bias influences the entire architecture of interviews, and it is revealed through a number of different component features that are suggestive. For example, to obtain confirmation of their suspicions, biased interviewers may not ask children open-ended questions such as "What happened?" but may quickly resort to a barrage of very specific questions, many of which are repeated, and many of which are leading in the sense that the question stem presupposes the desired answer. When interviewers do not obtain information that is consistent with their suspicions, they may repeatedly interview children until they do obtain such information, sometimes subtly reinforcing responses consistent with their beliefs. Thus, child witnesses are often interviewed over a prolonged period of time, and they are re-interviewed on many occasions about the same set of suspected events (for a review, see Ceci, Bruck & Rosenthal, 1995). (at page 140-141).<sup>88</sup>
- Interviewers need to preserve a truly open mind and research indicates that the use of questions phrased to elicit preconceived information is strongly associated with inaccurate recall and reporting in children<sup>89</sup>

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<sup>87</sup>Poole, D.A., and Lamb, M.E. Investigative interviews of children: A guide for helping professionals, American Psychological Association, Washington DC.

<sup>88</sup>Bruck, M., Ceci, S.J., and Hembrooke, H. (1998) Reliability and Credibility of Young Children's Reports: From Research to Policy and Practice, American Psychologist, Vol. 53, No. 2, 136

<sup>89</sup>(First Affidavit of Dr Parsonson, p24)

- Pre-briefed interviewers may feel less need for free-recall accounts because they already have information<sup>90</sup>.
- The type of question asked may in part derive from pre-conceived ideas or specific knowledge about a particular complaint. Prior knowledge may convert the interview into a confirmatory exercise in which the interviewer seeks to confirm what he or she already knows or believes about the child's allegations. The prior knowledge influences the architecture of the interview by increasing suggestive and influential questioning and reducing the likelihood of the interviewer seeking to determine if there are alternative explanations. Production of bizarre or incompatible statements is not questioned but rationalised within the interviewer's biases<sup>91</sup>.

**Conclusion on Interviewer Method Contamination:**

- Bias and poor interviewing procedures seem likely to contaminate any subsequent examination of the allegations (pA17)<sup>92</sup>

**Proposition 2: Interviewers must be careful not to selectively reinforce a particular type of answer.**

**Supporting Research and Opinion :**

- Interviewer bias is also reflected in the atmosphere of the interview. Sometimes interviewers provide much encouragement during the interview to put the children at ease and to provide a highly supportive environment. Such encouraging statements can, however, quickly lose their impartial tone if an interviewer selectively reinforces children's responses by positively acknowledging statements... that are consistent with the interviewer's beliefs or hypotheses or by ignoring other statements that do not support the interviewer's beliefs. Some interviewers who feel an urgency and responsibility to obtain the desired disclosure may even use threats and bribes (page 141)<sup>93</sup>.

**Proposition 3: Interviewers should always consider and investigate "alternative hypotheses".**

**Supporting Research and Opinion :**

- The questioning and clarification phase is the time to focus on testing alternative hypotheses about the allegation (page 142). .. In addition to testing alternative hypotheses about the source of the allegation,

<sup>90</sup>(First Affidavit of Dr Parsonson, p25)

<sup>91</sup> (First Affidavit of Dr Parsonson, p24)

<sup>92</sup>First Affidavit of Dr Parsonson submitted to the Court of Appeal in support of the second appeal in this case.

<sup>93</sup>Bruck, M., Ceci, S.J., and Hembrooke, H. (1998) Reliability and Credibility of Young Children's Reports: From Research to Policy and Practice, American Psychologist, Vol. 53, No. 2, 136

interviewers need to test alternative hypotheses about specific comments that children make during the interview (page 143).<sup>94</sup>

- All professional guidelines and expert professional recommendations (including the authoritative British Memorandum of Understanding, 1992 and the Guidebook by Poole and Lamb, 1998, published by the American Psychological Association) emphasise that interviewers need to seek evidence in support of multiple competing hypotheses.<sup>95</sup>

**Proposition 4: The investigator needs to remember that children do make false allegations of abuse. It is a myth to say that "children do not lie about abuse".**

### **Supporting Research and Opinion :**

#### **The Cleveland Report (at page 205):**

- **Do children tell lies about abuse? Do they fantasise about it? (at page 205)**

12.7 In Some Principles of Good Practice it is said: "It is important to consider the possibility that children may fabricate or that spurious allegations made be made by the parents or caretakers, as for example in matrimonial dispute, in order to deny access."

12.8 Dr Cameron told us of research in the Unites States on false/fictitious complaints, and warned that: "Grave injustice may be done to a child and to the accused adult, if a false accusation is acted upon as if it were true. The interviewer will avoid such false diagnosis as long as a firm emphasis is maintained on correct interviewing not only of the child, but also of the other adults concerned."

12.9 Dr Underwager warned up of the risks of children being fed with information provided by adults. He told us of the incidence of false allegations by children in the United States and suggested that 65% of all reports were unfounded. He also suggested that they were not the result of most children telling lies but the effect upon children of the information derived from adults, sometimes as a result of the method if interviewing. Research, particularly in the United States, has shown that the incidence of false accusations appears to be substantially higher in custody and access disputes than in other cases.

Dr Jones said: - "A fundamental problem of the "disclosure" approach is that it is inherent in the concept that there is something to disclose. The problem is highlighted by those professionals who consider that the child is either disclosing or 'in denial'. The third, and crucial, alternative possibility, namely that the child has no sexual abuse to disclose, is not considered as a viable option. In the best circumstances, the possibility of no child sexual abuse becomes an extremely unlikely possibility from such

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<sup>94</sup>Poole, D.A., and Lamb, M.E. Investigative interviews of children: A guide for helping professionals, American Psychological Association, Washington DC.

<sup>95</sup>First Affidavit of Dr Michael Lamb, tendered to the Court of Appeal at the second appeal hearing, paragraph 91

"disclosure work". The premise that abuse has occurred, yet is hidden and shrouded from discovery, is inherent in the very term "disclosure work".

12.32 Dr Underwager provided the Inquiry with his experience in the United States and warned of the pre-conceptions and biases of adults. He said that children were vulnerable to adult influences and suggestions, such as from leading and suggestive questions. He warned that one should recognise the power of the interviewer compared with the child, and commented that those who interview seem to ignore their own behaviour...The method of assessment contaminated and reduces the reliability of a child's statements. He felt that small children were abused by the interrogation."

#### **Research:**

- Although it is probably true that children are less prone to suggestions about actions to their own bodies than to neutral, non bodily acts, the literature clearly does not support the strong view that bodily acts are impervious to distortion. There are numerous demonstrations of how suggestive interviewing procedures can lead children to make inaccurate reports about events involving their own bodies; at times these reports have been tinged with sexual connotations. (at page 234)<sup>96</sup>.
- Ceci and Bruck (1995) review research on lying by pre-school children and they identify five sources of motivation for lying and also for telling the truth. These are:<sup>97</sup>
  - i) to avoid punishment.
  - ii) to sustain a game.
  - iii) to keep promises.
  - iv) for personal gain.
  - v) to avoid embarrassment (pB11).<sup>98</sup>

It is now clear that children can and do make false allegations and whether it is defined as "lying" or "making up" it would be quite incorrect to say that children do not tell lies (pB11).<sup>99</sup>

**Proposition 5:** The interviewer must be able to accept that the child may have no information to provide.

#### **Supporting Research and Opinion :**

##### **The Cleveland Report:**

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<sup>96</sup>Ceci and Bruck (1995) Jeopardy in the Courtroom extract from page 233 at page 234

<sup>97</sup>First Affidavit of Dr Parsonson submitted to the Court of Appeal in support of the second appeal in this case.

<sup>98</sup>First Affidavit of Dr Parsonson submitted to the Court of Appeal in support of the second appeal in this case.

<sup>99</sup>First Affidavit of Dr Parsonson submitted to the Court of Appeal in support of the second appeal in this case.

- It must be accepted that at the end of the interview the child may have given no information to support the suspicion of sexual abuse and position will remain unclear.

**Joint NZCYPS and Police Operating Guidelines (March 1997)**

- a) Approach the interview with an open mind - the child or young person may have nothing to tell or they may not be ready to talk about what has happened to them.

**Proposition 6: Formal recorded interviews are not to be confirmatory exercises of informal unrecorded interviews.**

**Supporting Research and Opinion :**

**Joint NZCYPS and Police Operating Guidelines (March 1997) at page 24:**

- The interviewer must talk to the parent or supportive adult ("parent") to:
  - obtain or clarify any background information e.g. the child or young person's general history;
  - inform them about the possibility that the interview with the child may not result in a disclosure because the child or young person may not have been abused or they may not be ready to talk about what has happened.

.....

The interviewer should take all steps to ensure that relevant information is known before the interview with the child.

...

If unknown or unclear, clarify the following information with the "parent" before the child interview. If the "parent" does not have all the information, they must not question the child or young person. The child or young person should not repeat disclosure information before their interview.

**Proposition 7: Interviewers should check and clarify a child's response to prevent ambiguity**

**Supporting Research and Opinion :**

**Joint NZCYPS and Police Operating Guidelines (March 1997):**

- Check and clarify their responses to avoid assumptions and ambiguity.

**SOCIAL INFLUENCE**

**Proposition 8:** Social influence, that is, putting to a child comments made by people outside the interview, should not form part of a evidential interview.

### **Supporting Research and Opinion :**

- The Joint NZCYPs and Police Operating Guidelines (March 1997) warn against the use of social influence within the interviews, advising that it is to be used as a last resort, in the last interview, when the child has not disclosed and where there are still significant concerns about their safety (at page 47):

8.6.5 As a last resort the interviewer can introduce, in a general way, the referral concerns they have. This strategy should only be used when:

- it is the last interview;
- the child or young person has not yet disclosed; and
- there are still significant concerns about their safety.

8.6.7 Present this information to the child or young person in the least leading way, e.g. your mum told me that there are some things worrying you or your mum says you have some worries about someone. Ask them who they think that is. Do not continue with specific questions because of the risk of suggestibility. Allow the child or young person to respond with free narrative.

### **Research**

- Other people. The technique of Other People consists of telling the child that the interviewer has already received information from another person regarding the topics of the interview.... By telling a child about the statements of other people, an interviewer may create pressures toward conformity, "the tendency to change or modify our own behaviours so that they are consistent with those of other people" (Ettinger, Crooks, & Stein, 1994, p.685). Binet (cited in Siegler, 1992) discovered that children's statements regarding factual matters can be influenced by conformity.... Rynoos and Nader (1989), conducting interviews at a school that had been attacked by a sniper, found that some children absent from school during the attack gave fabricated stories of having been present. Apparently the children had heard accounts of the attack from their parents, other children, or news reports and created stories to match. (at page 348)<sup>100</sup>

## **INTERVIEWER CUES**

**Proposition 9:** The account given by a child can be influenced by the social standing of the interviewer and the cues provided

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<sup>100</sup>Garven, S., Wood, J.M., Malpass, R.S., and Shaw, J.S. III (1998) More Than Suggestion; The Effect of Interviewing Techniques From the McMartin Preschool Case, Journal of Applied Psychology 1998, Vol 83, No 3. 347-359.



by the interviewer as to the "acceptability" of the child's account.

### Supporting Research and Opinion :

**Law Commission. Total Recall? The Reliability of Witness Testimony. A Consultation Paper (July 1999):**

- It seems fair to conclude from recent research that although the accuracy of both adults and children can be affected by leading or suggestive questions, the ability to resist the influence of external suggestion increases with age (Ceci and Bruck, 1993). Children of 10 or 11 appear to be no more suggestible than adults (Myers, Saywitz, and Goodman, 1996; compare Pipe, 1996, who suggests that the likelihood that a child will resist a misleading suggestion increases with age, until about the age of 8). As younger children have been shown to be more suggestible than adults and older children, interview aids must be used carefully to avoid the possibility of influencing the child's recall. Children may also change their account of an event not because their actual memory of an event has altered or become confused but because they wish to comply with the suggestion of an adult in authority or because they interpret an adult's repeated questioning as an indication that their first response was judged "wrong" (Spencer and Flin, 1993: 305-306; McGough, 1994: 71-71). (refer page 32 paragraph 132).

**Research**

- Positive and Negative Consequences. The interviewing technique of Positive Consequences consists of giving, promising, or implying praise, approval, agreement or other rewards to a child or indicating that the child will demonstrate desirable qualities (e.g. helpfulness, intelligence) by making a statement...The technique of Negative Consequences consists of criticising or disagreeing with a child's statement or otherwise indicating that the statement is incomplete, inadequate or disappointing. ...According to learning theory, a positive reinforcer increases, and a punishment decreases, the probability that a behaviour will be repeated (Ettinger et al, 1994). (at page 349). 101

**SOCIAL RULES**

**Proposition 10: An interviewer must be alert to the possibility that an account being provided by the child is in response to some social effect rather than an accurate response to the questioning.**

### Supporting Research and Opinion :

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<sup>101</sup>Garven, S., Wood, J.M., Malpass, R.S., and Shaw, J.S. III (1998) More Than Suggestion; The Effect of Interviewing Techniques From the McMartin Preschool Case, Journal of Applied Psychology 1998, Vol 83, No 3. 347-359.

**Law Commission. Total Recall? The Reliability of Witness Testimony. A Consultation Paper (July 1999);**

- Powerful social rules may operate on the child; for example, the desire to please the adult, to terminate the interview as soon as possible, and a belief that the adult knows best or has superior knowledge.

**Wood Commission:**

- Associate Professor WALKER, the Associate Professor of Behavioural Sciences at the University of Sydney, gave evidence on behalf of the defendants that:

pre-school children are particularly sensitive to social pressures and look for cues from adults as to the answers they want, as a result of which they are most vulnerable to leading questions.

**Proposition 11: A child's account will be less susceptible to suggestion if the child does not perceive the interviewer as an authority figure.**

**Supporting Research and Opinion :**

**Law Commission. Total Recall? The Reliability of Witness Testimony. A Consultation Paper (July 1999);**

- A child, and also many adults, will be less open to suggestion if:

the child does not perceive the interviewer as an authority figure who must be obeyed or pleased (Spencer and Flin, 1993: 306) (refer page 32 paragraph 125).

**Compliance**

- Eminent researchers Ceci and Bruck (1993) comment:

"Children are also co-operative partners; they supply their adult questioner with the type of information they think is being requested...This pattern reflects children's desire to comply with a respected authority figure. As a result, when questioned by adults, children sometimes attempt to make their answers consistent with what they see as the intent of the questioner rather than consistent with their knowledge of the event" (pA12/13);<sup>102</sup>

- Children as young as 4 are sensitive to parent's intent in situations in which they are asked to answer questions (pA13);<sup>103</sup>

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<sup>102</sup>First Affidavit of Dr Parsonson submitted to the Court of Appeal in support of the second appeal in this case.

<sup>103</sup>First Affidavit of Dr Parsonson submitted to the Court of Appeal in support of the second appeal in this case.

**Proposition 12:** Demonising of the suspect:- an accusatorial tone, or portrayals of the alleged "perpetrator" as a "bad" person is a form of social influence that can lead to inaccurate reports by children.

**Supporting Research and Opinion :**

- A condition found to be particularly damaging to the reports of events by children is the portrayal to the child that the target "perpetrator" is bad or behaved inappropriately. A "tone of accusation" is also important (Lepore & SESCO, 1994). For example, when Goodman, Wilson, Hazan and Reed (1989, described by Goodman & Clarke-Stewart, 1991) interviewed fifteen 7- to 10- year olds about a brief interaction with a research assistant that occurred 4 years earlier, they included misleading questions (e.g., "he gave you a hug and kissed you, didn't he") and established an accusatory atmosphere with comments such as, "You'll feel better once you've told" and "Are you afraid to tell?" Although the children did not acquiesce to questions about spanking or touching, some children did make errors that might lead to suspicions of abuse. For example, one child falsely reported that she had been given a bath, five agreed to being hugged and kissed, and two said that they had their pictures taken in the bathtub.<sup>104</sup>
- Stereotype Inducement is another strategy that is sometimes found in biased interviews with children. Interviewers using this strategy give the children information about some characteristic of the suspected perpetrator. For example, children may be told that a person who is suspected of some crime "is bad" or "does bad things". For example, in one case, a pre-schooler told her interviewer that she was glad that the defendant was in jail because he was bad. When asked why she thought that he was bad, the child replied, "My mom told me." (at page 141)<sup>105</sup>
- Young children are also more susceptible to influence when negative stereotypes about the person being discussed are conveyed. Thus, Thompson et al. (1997) reported that the accusative tone of the interviewer affected the children's responses, while Leichtman and Ceci (1997) found that negative stereotyping affected pre-schoolers' susceptibility to suggestion.<sup>106</sup>

**Proposition 13:** An interviewer ought to be responsive to a child's reactions during an interview and consider all the possible reasons for such a reaction.

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<sup>104</sup>Poole, D.A., and Lamb, M.E. Investigative interviews of children: A guide for helping professionals, American Psychological Association, Washington DC.

<sup>105</sup>Bruck, M., Ceci, S.J., and Hembrooke, H. (1998) Reliability and Credibility of Young Children's Reports: From Research to Policy and Practice, American Psychologist, Vol. 53, No. 2, 136

<sup>106</sup>First Affidavit of Dr Michael Lamb, tendered to the Court of Appeal at the second appeal hearing, paragraph 38

## Supporting Research and Opinion :

### Joint NZCYS and Police Operating Guidelines (March 1997) page 20:

- j) Be attentive to the child or young person's reasons for distracting, non-compliant or regressive behaviours and assess how to respond appropriately.

**Proposition 14: An interviewer can provide non verbal cues to a child which could impact on their responses to questioning.**

## Supporting Research and Opinion :

### Joint NZCYS and Police Operating Guidelines (March 1997) page 20:

- k Be aware of your own body language, voice tone, gestures, verbal responses and their potential messages to the child or young person.

## TRAINING OF INTERVIEWERS

**Proposition 15: Professional interviewers are assisted by relying on protocol scripts in the questioning of children.**

## Supporting Research and Opinion :

- More recent research demonstrates that forensic interviewers can be trained to conduct 'better interviews'--interviews in which fewer suggestive questions are asked and in which greater proportions of the information are elicited using open-ended prompts, ideally before asking any focused or leading questions. In the first such study, which was conducted in Israel, Sternberg, Lamb, Hershkowitz, Yudilevitch, Orbach, Esplin, and Hovav (1997) showed that children who had been 'trained' by forensic interviewers to provide narrative responses provided two and one-half times as many details and words in response to the first substantive utterance than did children who were (like children in most forensic interviews) 'trained' to respond to focused questions. Children in the narrative condition continued to provide more information in response to subsequent invitations, suggesting that children who had the opportunity to practice providing lengthy narrative responses to open-ended questions in the introductory phase of the interview continued this pattern after the interviewers shifted focus to the alleged incidents of abuse. Similar findings were obtained when a replication study was conducted in the United States (Sternberg, Lamb, Esplin, & Baradaran, in press). Such findings are also consistent with the results of laboratory/analog studies suggesting that motivational and contextual factors play an important role in shaping children's reports of experienced events (Paris, 1988; Saywitz, Goodman, Nicholas, & Moan, 1991). Along with the results of our ongoing

research, they also suggest that, even in authentic forensic interviews, it is possible to entrain response styles that enhance the richness of information provided by children by providing them with an opportunity to practice providing detailed narrative accounts of experienced events and by reinforcing this style in the pre-substantive portion of the interviews.<sup>107</sup>

- More recent research demonstrates that forensic interviewers can be trained to conduct "better" interviews in which fewer suggestive questions are asked and in which greater proportions of information are elicited using open-ended prompts, ideally before asking any focused or leading questions.<sup>108</sup>
- Forensic interviewers who follow scripted protocols seem to elicit more information from recall memory and avoid potentially dangerous or risky interviewing practices more successfully than other experienced interviewers<sup>109</sup>.

**Proposition 16: Interviews of children ought only to be conducted by professional interviewers.**

**Supporting Research and Opinion :**

**The Cleveland Report:**

- **Agreement of the professionals**
  2. All interviews should be undertaken only by those with some training, experience or aptitude for talking with children.

**Law Commission. Total Recall? The Reliability of Witness Testimony. A Consultation Paper (July 1999):**

- A child, and also many adults, will be less open to suggestion if:  
the interviewer is skilled in questioning children;

**PARENTS AS INTERVIEWERS**

**Proposition 17: Parents are powerful interviewers.**

**Supporting Research and Opinion :**

- Ricci, C.M., Beal, C.R., & Dekle, D.J. The Effect of Parent Versus Unfamiliar Interviewers on Children's Eyewitness Memory and Identification Accuracy, Law and Human Behaviour, Vol 20, No 5, 1996, p483: This research was designed to learn if children's relationships with

<sup>107</sup>First Affidavit of Dr Michael Lamb, tendered to the Court of Appeal at the second appeal hearing, paragraph 56

<sup>108</sup>(First Affidavit of Dr Lamb, p36).

<sup>109</sup>(First Affidavit of Dr Lamb, p38)

interviewers might influence the accuracy of their eyewitness memory and their ability to make identifications from lineups. In two experiments, kindergarten children (5 year olds) viewed a slide show depicting a minor theft. Children were then interviewed by either their own parent or an unfamiliar experimenter with either a target present or target absent simultaneous photographic lineup. When lineups were presented by parents, children were less accurate, changed their identifications more frequently, and were more likely to acquiesce with a suggestion about an alternative identification. Children showed poorer recall of the event when interviewed by their parent in an unstructured interview (Experiment 1), however no differences were observed when parents and experimenters followed the same script (Experiment 2). Overall, the results indicate that interviewers can influence the accuracy and consistency of children's eyewitness identifications.<sup>110</sup>

- In a series of studies, Poole and Lindsay (1996, in press) have shown that mild suggestive techniques that are repeated by parents in the context of reading a book to their children can result in substantial memory distortion among children three to eight years of age. Thus, our discussion of the negative impact of suggestive interviewing techniques is not limited to interactions between children and professionals. (at page 143)<sup>111</sup>
- Bruck, Ceci, and Francoeur (1999) have shown that both professionals and parents cannot describe interviews and conversations accurately, even when they are motivated to do so. In particular, both parents and professionals misrepresent their reliance on focused and suggestive prompts and are more likely to attribute details to the children's spontaneous utterances when they were in fact stated by the adults or elicited in a leading fashion from the children<sup>112</sup>

**Proposition 18: Interviewers should be aware, when gathering information as to statements or comments alleged to have been made by the child before the interview, that questioners can be inaccurate in reporting the question and answer sessions.**

#### **Supporting Research and Opinion :**

- In addition, the systematic research conducted by my colleagues and I (in an as-yet-unpublished report concerning forensic investigators' descriptions of interviews that were also recorded) and by Bruck, Ceci, and Francoeur

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<sup>110</sup>Ricci, C.M., Beal, C.R., & Dekle, D.J. The Effect of Parent Versus Unfamiliar Interviewers on Children's Eyewitness Memory and Identification Accuracy, *Law and Human Behaviour*, Vol 20, No 5, 1996, p483

<sup>111</sup>Bruck, M., Ceci, S.J., and Hembrooke, H. (1998) Reliability and Credibility of Young Children's Reports: From Research to Policy and Practice, *American Psychologist*, Vol. 53, No. 2, 136

<sup>112</sup>See page 48, paragraphs 88 & 89 of Affidavit of Michael Ernest Lamb, affirmed 21 April 1999;