

- the investigation commenced with an adult preconception of the events which was fed to the children, so that they were not free to answer open-ended questions spontaneously thus contaminating the data gathered; and that

Proposition 40: The objectivity and impartiality of the investigator is critical.

Supporting Research and Opinion :

The Wood Commission.

- Associate Professor WALKER, from her analysis of the material supplied in relation to the Seabeach Case, formed the opinion that:
 - the certainty of the investigator increased the fear and anger of the group, which accelerated the obtaining of the expected words and answers from the children, including the elements of witchcraft.
- In response, Professor Kim OATES, a paediatric specialist with expertise in child abuse cases who was the Head of the Child Protection Unit at the Children's Hospital at the University of Sydney and the Associate Editor of the Journal of Child Abuse and Neglect, gave evidence on behalf of the prosecution that:
 - it was difficult for children to provide information in free recall although they do retain good memory;
 - children are impressed by authoritative figures such as parents and police and if they have any input into the story then the child may learn it more readily;
 - if there was no memory, because there was no event, the process of repetition could be a learning process, and if there was real memory of an event, that memory might become obscured by repetition;
 - more research was needed into the ability of children of different ages to recall successfully events in which they were involved; and that
 - there was good evidence that children from as young as six were reliable witnesses, but the data about younger children was not clear.

Proposition 41: Children are curious about sexual matters and their normal play and humour can include sexual content.

Supporting Research and Opinion :

The Wood Commission.

- The Wood Commission. Ms Fay PETTIT, a lecturer in Child Development at the Institute of Early Childhood in Sydney gave evidence on behalf of the defendants that:
 - pre-schoolers have a strong curiosity about sexual matters, and often play doctors and nurses;

- their humour at that stage is concerned with sexual matters, and with toilet and taboo subjects which they enjoy discussing;
- the fear of harm is particularly strong in three to five year olds, and their fantasies and play often involve "needles" and "doctors' equipment";

Research:

- Although children are generally accurate when they are interviewed by a neutral experimenter who asks few leading questions, and when they are not given any motivation to produce distorted reports, there are occasionally a few children who do give bizarre or sexualised answers to some questions. For example, in the Saywitz et al. (1991) study of children's reports of their medical examinations, one child who never had a genital exam falsely reported that the paediatrician had touched her buttocks, and on further questioning claimed that it tickled and that the doctor used a long stick... Thus young children occasionally make spontaneous, strange and unfounded allegations. However, as Goodman and her colleagues have pointed out, many of these allegations can be understood by sensibly questioning the child and parents further. Often these statistically rare allegations reflect the child's source confusions or anxieties. (at page 235)²⁰¹□□□□□□

Proposition 42: Children are most open to suggestion and are very conforming to parental suggestion.

Supporting Research and Opinion:

The Wood Commission.

- Ms Fay PETTY, a lecturer in Child Development at the Institute of Early Childhood in Sydney gave evidence on behalf of the defendants that:
 - children between two and five are most open to suggestion, and are very conforming to parental suggestion;
 - In its conclusion the Commission noted at page 684:
 - "In the case of children, their suggestibility to leading questions, and their desire to please parents, interviewers or therapists with answers which they believe are wanted, must remain critical factors. Irrespective of the fact that the leading or suggestive questions may be put in good faith in an effort to learn the truth, the damage will have been done once the seeds of the idea have been implanted in the child's mind."

Proposition 43: Well meaning but inappropriate involvement of parents in passing on information can compromise an investigation.

²⁰¹Ceci and Bruck (1995) Jeopardy in the Courtroom extract from page 233:

Supporting Research and Opinion :

The Wood Commission.

- After reviewing the case the Commission concluded that the investigation was not adequate. The reasons for the Commission's conclusion included, inter alia, the following:
 - the multiple interviews by police and the ODPP, which was only aggravated by the well meaning but inappropriate involvement of the parents in interviewing the children, and in passing on the information each acquired;
 - the inappropriate interview techniques used, including the use of leading questions and the inadequate recording of those interviews;

Proposition 44: Children should not be interviewed or questioned, either by police or parents, in the company of one another.

Supporting Research and Opinion :

The Wood Commission.

- After reviewing the case the Commission concluded that the investigation was not adequate. The reasons for the Commission's conclusion included, inter alia, the following:
 - the interview of children in the company of one another, both by parents and police;

Proposition 45: Critical attention should be given to significant discrepancies in various versions given by children in mass allegation cases.

Supporting Research and Opinion :

The Wood Commission.

After reviewing the case the Commission concluded that the investigation was not adequate. The reasons for the Commission's conclusion included, inter alia, the following:

- the absence of critical attention to the significant discrepancies in the various versions given by the children;

Proposition 46: Counsellors ought not to be involved in the investigation process, and where increasingly bizarre behaviour is alleged the source of the information must be questioned.

Supporting Research and Opinion :

The Wood Commission.

- After reviewing the case the Commission concluded that the investigation was not adequate. The reasons for the Commission's conclusion included, inter alia, the following:
 - the manner in which counsellors were involved, followed by the "disclosure" of progressively bizarre behaviour including elements of witchcraft;

Proposition 47: The police and prosecutors must be sufficiently objective to appreciate if the evidence of the young children is compromised.

Supporting Research and Opinion :

The Wood Commission.

- After reviewing the case the Commission concluded that the investigation was not adequate. The reasons for the Commission's conclusion included, inter alia, the following:
 - the failure of those involved in the prosecution process to focus sufficiently early on the problems of pursuing a case based solely on information provided by such young children;

Proposition 48: Sensational publicity can increase parental anxiety and compromise the investigation of mass allegations of abuse.

Supporting Research and Opinion :

The Wood Commission.

- After reviewing the case the Commission concluded that the investigation was not adequate. The reasons for the Commission's conclusion included, inter alia, the following:
 - the sensational publicity that was attracted to the case in part generated by the release of the untrue assertion that video tapes of the sexual abuse of the children had been seized, which inevitably increased the anxiety of the parents and of the children;

Proposition 49: The prosecution must provide the defence with full and complete disclosure of all relevant matters, including materials which indicate discrepancies or weaknesses in the prosecution case and which reveal bizarre elements to the allegations made.

Supporting Research and Opinion :

The Wood Commission.

- After reviewing the case the Commission concluded that the investigation was not adequate. The reasons for the Commission's conclusion included, inter alia, the following:
 - the failure to serve the defence with the various materials which revealed discrepancies and weakness in the prosecution case;
- Finally the Commission cautioned at page 686 against the:
 - "recent tendency in the United States of prosecutors to suppress any element of Satanism or ritual conduct which might emerge for fear that it may discredit the prosecution."

Proposition 50: Investigations of mass allegations of abuse quickly escalate out of control, it is imperative that the investigation of these cases is strictly planned and controlled.

Supporting Research and Opinion :

The Wood Commission.

- After reviewing the case the Commission concluded that the investigation was not adequate. The reasons for the Commission's conclusion included, inter alia, the following:
 - the failure to develop a suitable case plan in conjunction with FACS and with the ODPP at a sufficiently early stage before the matter went out of control.

Proposition 51: Investigators of mass allegation cases need be aware of the experiences of other jurisdictions with mass allegation cases, to be aware that this is not a new phenomena and to objectively consider all possible reasons for the allegations.

Supporting Research and Opinion :

The Wood Commission.

- The Commission undertook an examination of allegations of "Satanic Ritualistic Abuse" ("SRA").²⁰² While accepting that there was no agreement as to what attracts the label of SRA, the Commission found that these 'cases' seemed to share the following:
 - sexual abuse;
 - multiple young victims;
 - multiple offenders;
 - mind controlling tactics;
 - bizarre or ritualistic behaviour; and

²⁰² See pages 667 to 688, Exhibit 6.

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- continuity of behaviour.
 - After reviewing the differences of opinion as to the veracity of such allegations, the Commission asked, if the allegations are untrue, "why are so many victims alleging things that do not seem to be true?" In response the Commission sighted a series of possible alternative answers:
 - **pathological distortion** - errors in processing reality influenced by underlying mental disorders, such as dissociate disorders, borderline or histrionic personality disorders, or psychosis, which manifest themselves in false accounts of victimisation in order to gain psychological benefits such as attention and sympathy (factitious disorder);
 - **the development of pseudo memories**, which 'victims' eventually come to believe, through dreams, substance induced altered states of consciousness, group influence, hypnosis and exposure to similar accounts through books, film or television, with which the subject identifies emotionally;
 - **traumatic memory** - distortion of reality and confusion of events arising out of fear and severe trauma, which may be part of an elaborate defence mechanism;
 - **normal childhood fears and fantasy**, in which children describe their victimisation in terms of evil as they understand it, that is, by reference to ghosts and monsters;
 - **misunderstanding, confusion and trickery** - attributable to:
 - the problems young children have in giving accurate accounts of sexual activity for which they have little frame of reference;
 - the use of drugs to deliberately cause confusion; or
 - the introduction of elements of Satanism, the occult or simple magic into sexual exploitation, to confound or intimidate the victims, or to ensure its rejection as nonsense if it is ever reported;
 - **exposure to urban legends** which have been the subject of discussion at conferences held by health professionals or law enforcement agencies, and then blown up by the mass media because of their bizarre and attention grabbing nature;
 - **the result of overzealous interviewers**, including family members, medical practitioners, therapists, social workers, law enforcement officers, or any combination thereof, who may have been hyper vigilant and made unfounded assumptions or misinterpreted the histories given, and used leading questions, which result in the victim 'adopting' the version repeated back to them;
 - **the result of overzealous parents** who have heard of allegations of SRA that may possibly involve their own children, then unwittingly contaminated their children's minds when asking them questions about the allegations; and
 - **recovered memory** - for some adults, the emergence of a previously unrecalled memory of child sexual abuse, particularly of a bizarre and serious kind, may provide a welcome explanation for the problems that led them to seeking counselling and may be seen by them and their therapist as a first step towards recovery. For others there may be quite different advantages in a recovered memory or disclosure of SRA, including:
 - the use to which it can be put in a custody dispute;
 - the possibility of receiving victim's compensation; and
 - the possibility of being awarded civil damages.

Proposition 52: The reference to "lists" of indicators of "signs" or "symptoms" of abuse is risky. Such "lists" are capable of being misused in the hands of inexperienced persons.

Supporting Research and Opinion :

The Wood Commission.

- The Commission referred to a catalogue of 'Indicators and Effects' of SRA published in New South Wales for the use of "those working in organisations and agencies who provide counselling and / or support to child and adult survivors of ritual abuse." The Commission stated at page 674 that:
 - "such lists of signs or symptoms can very quickly become misused in the hands of the inexperienced or inexperienced "diagnostician" who can place too much reliance on them or ignore other possible causation for the indicators listed. At best they are extremely limited diagnostic tools."

Proposition 53: In mass allegation cases a prosecution should only be initiated if the prosecution can exclude the possibility of contamination of the children's accounts of past events.

Supporting Research and Opinion :

The Wood Commission.

- The approach adopted by the Commission was that a prosecution would not be initiated unless (at page 686):
 - after a most rigorous check on the manner in which disclosure was made, and memory is recovered, contamination can be excluded;
 - at least some credible corroborative evidence is available;
 - the "victim" is kept away from SRA support groups at least until the initial assessment of whether or not to prosecute is made, and preferably the witness' evidence has been recorded; and
 - parents are properly supported, kept informed of the progress of the case, and firmly persuaded to stay out of the investigate process themselves.
- The Wood Commission report advises that it is necessary that (page 685):
 - "in multiple victim cases, search for any sources of potential contamination and evaluation of whether the apparently consistent accounts victims give reflect their common experiences, or alternatively, reflect material in public circulation"

Grand Jury in Dale Akiki Case

- The Report of the Grand Jury in the Dale Akiki Case reported that:

- It is inherently dangerous to prosecute in multi victim cases where (1) there is almost no physical evidence in support and (2) where disclosures came about in suspicious circumstances (giving rise to contamination concerns).

Proposition 54: The investigator in a mass allegation case must be aware that the actual incidence of mass abuse cases is minimal, and that the main contamination is the main source of such abuse allegations being made.

Supporting Research and Opinion :

Grand Jury in Dale Akiki Case

- The Report of the Grand Jury in San Diego reported that:
 - That there was no evidence of multi victim Satanic Ritual Abuse in the San Diego County despite the fact that the San Diego County Commissioner for Children and Youth had formed a multiple victim/multiple perpetrator Ritual Abuse Task Force.
- The Grand Jury cited at page 16 (as does the Wood Commission) Mr Kenneth Lanning, Supervisory Special Agent, Behavioural Science Unit of the FBI, Quantico:
 - "At another national child sexual abuse conference, the author witnesses more than 100 attendees copying down the widely disseminated "29 Symptoms Characterising Satanic Ritual Abuse in Preschool Aged Children". Is a 4-year old child's preoccupation with urine and feces an indication of satanic ritual abuse or part of normal development? Do intervenors uncover ritualistic abuse because they have learned to identify it or because it has become a self fulfilling prophecy?"
- The Grand Jury cited "Allegations of Ritualistic Child Abuse" by Bottoms, Shaver and Goodman, funded by the National Center of Child Abuse and Neglect reported at page 17:
 - "Relatively few clinicians encountered cases of ritualistic or religious related child abuse ...during the decade of the 1980's whether reported by children or adult survivors ... A very small proportion of clinicians each claiming to have treated scores of cases, accounted for most of the reports of ritualistic child abuse."

Proposition 55: It must not be assumed that a clinician trained in best practice interviewing technique actually complied with the best practice guidelines in their interactions with children.

Supporting Research and Opinion :

Grand Jury in Dale Akiki Case

- The Report of the Grand Jury in San Diego held that:
 - That therapists at the Children's Hospital at San Diego, California despite attending video training sessions proceeded to blatantly disregard the contents of the training when it came to working with the children in a clinical setting. The San Diego Centre for Child Protection was the subject of significant criticism.

Proposition 56: Questioning that contains the social influence elements present in the McMartin case produce more false allegations than suggestive interviewing alone.

Supporting Research and Opinion :

- Wood et al (1997) identified six problematic techniques in the McMartin interviews. The techniques: suggestive questioning, other people social influence (X told me that this happened); positive and negative consequences; repeated questioning where it indicates the previous answer was unacceptable and inviting speculation.²⁰³
- In the Garven, Wood, Malpass and Shaw study the researchers considered the effect of social influence and reinforcement on children's immediate reports of events. They hypothesised that the six techniques from the McMartin case would be highly effective at eliciting false allegations of wrongdoing from children, that is, where a combination of social influence techniques were adopted this would produce more false allegations than where suggestive questioning alone was used. The children tested ranged in age from 3 to 6 years. The research reveals that "the techniques in the social incentive condition, taken from the McMartin Preschool case, elicited substantially more false allegations from children than did simple suggestive questions. Specifically, allegation... were over three times more common in the social incentive condition than the suggestive control condition (58% vs 17%). Age had only a marginal association with the effect: Children of all ages made substantially more allegations in the social incentive condition. ..We conclude that even a short dose of reinforcement and social influence techniques can have a strong, immediate impact on children's accuracy. ... The second noteworthy finding of the present study is that children exposed to reinforcement and social influence techniques became more acquiescent as the interview proceeded... this finding suggests that such interviewing techniques can have a cumulative effect, making children more complaint to suggestion as the interview proceeds. ²⁰⁴

²⁰³Garven, 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.