**EXCERPTS FROM STATE’S DEPOSITION OF DEFENSE PH.D WITNESS REGARDING CREDIBILITY OF CHILD’S REPORT IN A CHILD SEXUAL ABUSE CASE**

##### State of Florida

**DIRECT EXAMINATION BY PROSECUTOR**

**A.** R.C.U

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**Q.** Let me ask you something a little further about the statement you just made about substantiation not being a field that you believe is something that is of worthwhile pursuit…. Could you expound on that a little bit, please?

**A.** Sure. No scientist can ever deal with anything other than probabilities, whether you’re a physician, a botanist, psychologist or whatever because doesn’t deal with certainty.

Now, the justice system is the proper and only appointed place in our society where certainty is the goal…. The justice system has abrogated its responsibility and surrendered its given task of determining disputes about what is factual to, by and large, untrained, unsophisticated, unknowledgeable people, social workers, some law enforcement types, and created the concept of substantiation, which can be, as I know it has been a fifteen minute sojourn by a twenty-two-year-old social worker fresh out of college with a degree in English literature, who goes to a home after an anonymous phone call and after fifteen minutes with the damn dolls and a kid, takes the child out of the home.

**Q.** Do you think that trained professionals can engage in, what I will call, validation interviews of children who complain of being victims of sexual abuse?

**A.** When you use the word “validation” I would have to say no….

**Q.** …Do psychologists have a role in the assessment of allegations of child abuse?

**A.** Yes.

**Q.** What role is that?

**A.** In our book….And at this point, I would say too, the role of—this is what we get criticized for by some people at least—the role of the psychologist is to remain faithful to the task of being a scientist, and to insist that people who are going to make pronouncements, statements, express opinions about child sexual abuse allegations have some data to support what they say. And frankly, at this point, there ain’t none. And so the role of psychologist overall in the system, I think, at this point, must be the uncomfortable role of saying to the people operating the system, you don’t know what you’re doing.

**Q.** Should psychologists testify in court at all on the subject?

**A.** Of course, very much so…. the role of the psychologist in providing information to the finder of fact, I think, should be always basically to do what any expert is supposed to do, provide information not known to the general public which will assist the trier of fact in making the reasoned, calm, and best possible rational decision about the question presented to the finder of fact, whatever it may be. And that’s what the role of the psychologist should be. And that’s what they should testify about.

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**Q.** Are there any other roles that you believe a psychologist should play within the criminal justice system?

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**Q.** Specifically, though, within the field of child sexual abuse, what should be the role of psychologist within the courtroom?

**A.** Provide information to the finder of fact that is not known to the general public that is reliable can be shown to be based on data. The psychologist has to remain…ethical. There’s a lot of psychological testimony given in courtrooms that I don’t think is ethical, for example, the psychologists who testify about the use of the allegedly anatomic correct dolls…. Use of the dolls, which has been opined by the American Psychological Association Commission on Assessment and Evaluation to be a psychological test, does not have any demonstrative validity or reliability. …There is no research establishing the effective—or efficacy of this procedure.…

**Q.** Do you have any data regarding the frequency of false allegations of child sexual abuse?

**A.** Yeah. There’s quite a bit of data that increasingly more than deals with that.

**Q.** Are these studies that you have done yourself, or is it data by other people that you’ve—

**A.** Both.

**Q.** —read?

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**A.** Reading chapters on *Cost of False Allegations*. Now, in that book, that chapter was written roughly in the fall of 1987. Maybe we correct it a little bit in January of ’88. Now, since that time, there have been far more reports of various sorts on the issue of false allegations. And in our resource file, just yesterday, in response to another issue, Mr. S. checked the number of articles we had and it’s 538.

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**Q.** Is there a trend within those articles as to how or what percentage they believe those false allegations to be of total allegations?

**A.** The trend is there’s an increased awareness that the system is set up so that false allegations can readily be made and there’s no cost. In fact, that the making of a false allegation produces all kinds of reinforcements and rewards. So it has become the embodiment of what the North Carolina Supreme Court said in, I believe, about ’81, that cases where there’s an accusation of child sexual abuse provides the greatest opportunity for chicanery, vindictiveness, and malfeasance.

**Q.** Do you know what case they said that in?

**A.** I don’t know it offhand. I have it in my resource file quoting a California Appellate Court, both in California Appellate Court and the North Carolina Supreme Court.

**Q.** Can you give me a percentage figure on what these articles tend to indicate, one percent, ninety-nine percent tend to be false, anywhere in between?

**A.** It varies. Nobody has sort of looked at it overall, although we do in our book.

**Q.** Do you arrive at a specific conclusion in your book?

**A.** Not specific….Without going into great detail—we do in our book and it’s even got all the tables there. We do hypothetical tables. And we say that the most likely outcome based on the best information possible, which is that in the population of accusations of child sexual abuse or child abuse, between ten and twenty percent are determined by the justice system to be—which is the final place that gets done—to be accurate. And the decision making process is at best fifty percent accuracy. That means for every one percent correctly identified as an abuser by the system as it works now out of the population of people accused, there will be from nine to four innocent people incorrectly identified.

**Q.** So for every one person that is correctly identified, there is between—you said nine to four—between four and nine people incorrectly accused?

**A.** That’s what we wrote in the book, as this looks to be the best information that we had available at the time of writing the book. It’s from the National Center for Child Abuse and Neglect. Now, most recently, I just got these about a month ago, the Department of Justice figures on incidents of child sexual abuse also bear on this….Twenty-five percent, forty percent of all women are sexually abused. Twelve percent, twenty percent of all young boys are sexually abused.

**Q.** Those are not accurate?

**A.** Not true. No, they’re not accurate. That’s part of this whole picture, too.

**Q.** Are you associated in any way with the organization named VOCAL?

**A.** No.

**Q.** Have you ever been associated with that organization?

**A.** Yes.

**Q.** Okay. In what way?

**A.** I was a member of the advisory council together with the state representatives, attorneys, and other psychologists for the Minnesota group….About three years, I think.

**Q.** What years were those?

**A.** Roughly ’84 to ’87, somewhere in there. That group is pretty well moribund now.

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**Q.** And you mentioned you were on an advisory board or advisory—

**A.** Advisory council.

**Q.** What did you do in that role?

**A.** Not much. Not enough. Initially, I agreed to serve as a spokesperson when the Minnesota group first started in October of ’84. And I had one press conference—

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**A.** And then for maybe four, five months after that, there were meetings, maybe six months. And then they sort of went off on their own and didn’t ask for or set up any advisory committee meetings or advisory council meetings for a couple of years until the convention in Torrance, which I think was ‘87—no ’86, that’s right, ’86. And then the California group and the Minnesota group had a falling out and they got mad at each other….

And so then the Minnesota group convened a couple of sessions of the advisory council. And I tried to advise them to basically accommodate each other, for C. and W.W. in California not to fight. They didn’t do that. They fought. And the result was the Minnesota group is now dead.

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**Q.** Okay. Did you support the VOCAL organization in the sense that you thought it was a worthwhile organization that espoused admirable principles?

**A.** I think that is and was at the time, yes. As far as I know, the basic principle is to improve the way we handle accusations of child abuse, physical and sexual….

**Q.** When would you consider that the area of child abuse allegations and that area of psychology became one of your specialties?

**A.** As a psychologist in 1964.

**Q.** At that time, did you have any particular experience in this field other than fifteen or sixteen hours that you mentioned in child psychology?

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**Q.** Would you say you were an expert in this field even prior to obtaining your Ph.D.?

**A.** Oh, I don’t know if I’d say expert, but certainly I had experience, and at that time, I think I could say more experience than most professionals. So that’s when I came to the University of M. in 1964, as part of my training in the child psychiatry in-patient unit at the University of M. Hospitals, of three children that I was assigned to as therapist, two of them were victims of sexual abuse. And I was selected by H. and Q. They were the ones who had that program to do that because they knew that I’d had experience with it and the other psychology interns and clerks didn’t.

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**Q.** Do you have any medical training at all?

**A.** Medical minor.

**Q.** At what time was that in your education?

**A.** Well, the APA, American Psychological Association, in the approved clinical psychology program requires that the clinical psychologists have a medical minor.

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**Q.** What do you feel is the appropriate sanction for people convicted of sexually abusing children? Is it something that involves a psychiatric or psychological program or probation? How do you think that entire area should be handled?

**A.** I have provided treatment for sex offenders from basically 1965 on. And we currently have a sex offender treatment program at IPT in which we have six people, four of them referred by the courts—three, I’m not clear on either three or four. My understanding of the empirical data is first, there are sex offenders and sex offenders. And so in response to your question, the first thing that has to be done is to determine what kind of sex offense you’re talking about. Eighty-five percent of the sexual abuse cases consist of fondling or flashing. And then, of course, you get down to people that violently assault and murder children. So you go from the range of the flasher to the true monster….

[T]he first thing you have to do is determine what kind of sex offender you’ve got. Then the second thing is to look at, again, the empirical data on treatment, which really isn’t very good. I mean, I don’t think that there is evidence showing that psychologists can provide effective—except for the incest perpetrator. There the evidence is that the recidivism rate is very low….

**Q.** Let’s leave out the violent one, the murders, the ones that inflict physical harm along with the sexual abuse in talking about incest situations. And I would also like to include situations where the abuse is not violent in the sense of physical harm, or stabbing, killing, that type of thing, but includes the handling, fondling, oral sex, or even intercourse and the offender is a neighbor, someone acquainted with the victim.…Is incarceration appropriate in any of those cases?

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**A.** …If it is shown that a person is guilty or a person is judged guilty, I guess I think incarceration certainly can be an appropriate response. I think there should be some consideration given to the individual. There are some individuals who I think can respond to treatment….

**Q.** Is reunification of the—in cases of incest, reunification of the victim with the rest of the family unit, which would include the abuser, the preferable method of handling the problem?

**A.** To my knowledge, reunification of the family is the goal of every law of every state in this country….Now, again, there are some situations where that…is not possible, and should not be done.

**Q.** What type of situations might that be?

**A.** Frankly, where you have a highly disturbed nonfunctional person who is not capable of changing their behavior, and it can be either a man or woman, it doesn’t matter.

**Q.** How do you make that determination whether or not they’re capable of changing their behavior?

**A.** You do the best job you can with the best assessment techniques we have.… And I know that the best prediction of violence in the future is whether a person has been violent in the past. When I do an assessment of risk,… And I look for the most appropriate reliable assessment or evaluation techniques that you can use.

**Q.** Can you make a prediction as to the possibility of future sexual abuse in the incest situation?

**A.** You can make a prediction, certainly. You can predict anything you want to predict if you’re responsible. You’re providing the basis for your prediction, and you provide any necessary qualifications, hedges, cautions, which I would do if I’m asked to make a prediction of a person sexually abusing somebody in the future.

**Q.** You will make a prediction, but you will give the additional information…that you mentioned?

**A.** Yeah. I mean, if you have somebody who has sexually abused a kid, the best prediction of the future is what they’ve done in the past. Now, you do have some other things that come into that, such as, for example, the low base rate that I mentioned with incest perpetrators, low base rate of recidivism.

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**Q.** In reference to this particular case, what information were you given to review in the way of written materials?

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**A.** Let’s see. Test results and notes from Dr. G. on E.B., some school records. I think it’s basically whatever the file was that Dr. G. had.

**Q.** Okay. Were you given any additional materials?

**A.** Yeah, yeah.

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**Q.** When were you first contacted regarding this case?

**A.** Oh, my. I think quite some time ago. I believe in June or July.

**Q.** Of ’…?

**A.** … yeah.

**Q.** Who was the person that contacted you?

**A.** Defense Counsel.

**Q.** And what was his request at that time?

**A.** He described the situation for me, and asked me if I would be willing to be involved…. Then nothing more happened until about a month ago.

**Q.** How much time would you say you have spent reviewing the materials you just mentioned?

**A.** I think I said to you before, three to four hours. I reviewed them first when I first got them. And then before coming down here to observe and be here for the deposition last week, I had to go through them again, because it was seven months or so.

**Q.** Have you received any other information of an oral nature, or in any other way, regarding this case?

**A.** I consulted with Defense Counsel on Thursday evening when I was here last week.

**Q.** Is—and of course, you witnessed the deposition of E.B.?

**A.** Right, uh-huh.

**Q.** Are you prepared in any way to give an opinion regarding the likelihood of the occurrence of sexual abuse as it’s occurred in this particular case?

**A.** As it’s alleged, you mean?

**Q.** Yes.

**A.** As a scientist, my opinion would be that I do not see any strong evidence supporting the allegations. And therefore, I would have to say my opinion is that it’s quite unlikely.

**Q.** Let me give you a very open-ended question. What is the basis for the opinion?…

**A.** I think I’d start first with the environment. And this is an environment with basically a relatively weak and marginally functional family situation.

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**A.** And into that now, that environment, comes the intersection with the R. family. And I think it must be carefully weighted as to what that means. Where there is such disparity in social class and experience and capacity and competencies that has to do with the situation, then I think a careful, chronological analysis of how, and under what circumstances, the allegations of abuse arose is necessary. And some consideration should be given, and in reaching my opinion I have given it, to the information available about E.B. in terms of his levels of competence, behavior patterns, and, I suppose to some extent, whatever can be observed about his personality characteristics. Next would be the nature of the alleged acts and what the base rates are, what is known about the base rates for the actual behavior of child molesters.

**Q.** I’m not sure I follow what you mean by base rates of—

**A.** All right. As far as we know, for example, when you look at the actual behavior of child molesters, only two to four percent engage in anal intercourse. And then there are other base rate facts about that we know. So if you have an allegation of anal intercourse, first thing you look at is what information does the base rate of known anal intercourse give me about this allegation. Another part of that would be an allegation involving a woman.

**Q.** Before you move off that, can you just tell me what the cite would be for the base rate regarding the anal intercourse that you just gave?

**A.** They’re in our book.

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**Q.** All right. When you say—what was that, four to eight percent?

**A.** Two to four.

**Q.** Two to four. That two to four percent, is that specific to any class of children, such as that’s for boys, that’s for girls, that’s for a certain age group, that’s for children overall from birth to sixteen; is that broken down in any way?

**A.** No—yeah. It’s—the figure is for both male and female children, and it’s for children up to about eight.

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**Q.** Where were we? Talking about the—

**A.** The basis for my opinion….And I said the nature of the allegations. The next thing would be to look at, again, what the research evidence gives us about how the allegations are made. Now, I’ll try to be as brief as I can. If you consider the difference in the nature of a learning experience that is a real event, and a learning experience that is suggested, there are real differences…

**Q.** Is that a book or article?

**A.** Article.

**Q.** What would the name of the article be? Is that a copy of your book…that you’re referring to? What’s the full title of that book?

**A.** Accusations of Child Sexual Abuse.

**Q.** When was that first printed?

**A.** 1988.… This article was built on research done by other people, so it’s not completely—and it turns out that when children talk from a learned memory rather than a memory for a real event, there are three differences. The differences are first, children who speak from a learned memory, a suggested memory, use more words….Second thing, children talking from a learned memory use more ambivalent and ambiguous phrases: I don’t know, I’m not sure….

And the third is that children speaking from a learned memory lacked sensory perceptual detail. You get the…cat walked across the room, plane flew overhead, stuff like that. And that’s what the person speaking from a learned or suggested memory child lacks. Then you can look at things like emotional affect, how fitting or appropriate is that.

**Q.** In this particular case, since you were first asked to start reviewing materials right through this moment, what have you seen or not seen, read or not read, heard or not heard, that gave rise to your previously stated opinion?

**A.** All of the above.

**Q.** Okay. Could you go through the details, for instance, examples, that type of thing?

**A.** Well, the opportunity for this child to exploit or manipulate the R. family, I think, is very evident in the psychological evaluations. And the history of the lad as presented to me indicates he has that capacity. The nature of the allegations is such as to at least raise questions about them. The child’s behavior in the deposition last Friday, I think, clearly provides the behavior, which is on videotape, of a child speaking from a learned and suggested memory rather than a memory for a real event.

**Q.** What particularly within the deposition are you speaking of?

**A.** The frequent, I’m not sure, I don’t remember, the inability of the child to provide any realistic details. And the repetition of what…I would opine is what he has done before that people have reinforced and attended to in a way that I think reflects the reinforcement he’s gotten rather than any real event.

**Q.** Can you give me an example of what reinforcement you’re specifically referring to?

**A.** People who see him go like that (indicating).

**Q.** I would just ask you to explain for the record.

**A.** I made a circle with the finger of my left hand and using the index finger of my right hand moved it back and forth, which he did in the deposition and clearly felt that should solve all of these problems. I mean (indicating), “why are you asking me any more questions, why do you ask, how do you expect me to know.” That’s the emotional.

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**Q.** —with reference to that specific point, what is it about that behavior that adds to or aids your previously stated opinion?

**A.** He’s got no sensory visual image from which to draw information. And he only repeats this motion (indicating) and expects—and gets indignant when asked to say more about it, “really can’t say more about it” (indicating). Now this is something that gets learned.

**Q.** Any other factors which go into your opinion about which we have not yet spoken?

**A.** I think I mentioned all of them in basic form.

**Q.** In the materials you were provided, you mentioned some reports by other doctors….

Was there anything in those reports, anything about those other doctors that in any way factors into your opinion regarding the likelihood or unlikelihood of the abuse having actually occurred?

**A.** Oh, I think so, yeah.

**Q.** Please explain that.

**A.** Well, again, I think the lack of any details in the reports about the allegations, the description of the child’s behavior. One of them, I think, says clearly that the kid’s manipulative.

**Q.** Which report is that; do you recall?

**A.** I think it’s C.’s.

**Q.** Let me ask you, is manipulative a word that you recall seeing or is that a word you’re attaching to her language?

**A.** That I don’t remember.

**Q.** Go ahead.

**A.** Medical evaluations I think indicate that there’s no suggestion of abuse, no evidence—no physical evidence that would support the concept of abuse….I think that the only medical observation that is used to support the potential claim that this child was abused is a lax rectal tone. And I can tell you as a scientist, that’s pure balderdash….

**Q.** Let me ask you, when you say something is balderdash, what specifically are you referring to?

**A.** The claim that a lax rectal tone can be used as evidence or data to support a claim of sexual abuse. That’s pure nonsense.

**Q.** Why is that?

**A.** Well, a number of reasons. First, the variability of rectal tone across children is so large that there is no standard as to what is normal. And you have a completely subjective account.… What evidence there is, mostly recently, is again base rate studies that nobody had before. Now we’ve got at least two that specifically falsifies that. John McCann, out of Fresno, California, a

pediatrician who’s done really the most carefully study of the genitalia of normal non-abused children that we’ve got so far. Also, McCann’s work shows this whole thing of rectal tone, and vaginal orifice, and all the things that some pediatricians still claim they can point to, varied with the position…. He’s got an article in the Journal of Child Abuse and Neglect from, I think, about June of ’89.

**Q.** Journal of Child Abuse and Neglect?

**A.** Right….That article is in that issue together with about half a dozen others. McCann also has given two lectures, and they’re available on tape at the Children’s Hospital in San Diego. And it may be that the next article will appear in the coming issue of Journal of Child Abuse and Neglect.

**Q.** Do you have any medical training that would permit you to give an expert opinion regarding what specific physical findings are indicative of sexual abuse?

**A.** Two basic things: As a scientist, I am competent to comment on the scientific quality of any human invention. It is perhaps that medicine is not a science. Physicians are not trained as scientists….physicians, frankly, don’t know how to count. And they don’t know how to evaluate scientific data because they’re not trained in that….

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**Q.** Do you feel that medical examinations of children’s genitalia can ever be of assistance in determining whether or not sexual abuse has occurred?

**A.** Of course.

**Q.** In what area?

**A.** If you have lacerations, tearing, if you have semen, if you have genital diseases, or by and large, they’re, although not by any means only, communicated by genital contact, sure.

**Q.** Do you have any personal medical expertise or experience in the physical examination of a child’s genitalia which, for the purposes of this question, I will also include the anal area?

**A.** No.

**Q.** I assume you’ve never conducted such an examination?

**A.** That’s right.

**Q.** Have you made any assessment of the techniques used or the interview format used by the doctors of whose reports you have received?

**A.** I have made no assessment, no.

**Q.** I know that in some of your writings you criticize the so-called behavioral indicators of child sexual abuse.

**A.** Uh-huh.

**Q.** Do you have an alternative theory, scientific method, of any manner whatsoever that you feel is the best way to interview a child to make a determination or to aid in the determination of whether or not sexual abuse has occurred?

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**A.** The behavioral indicators have nothing to do with interviews.

**Q.** What is your preferred method for—or what things do you look for, or how do you make a determination upon talking with a kid as to whether or not you believe the sexual abuse has occurred?

**A.** Okay. First, I don’t make determinations. That’s not my job in terms of what I report to a finder of fact or somebody who would ask me to do such a task. What I do is, first,…I ask only for what is the referral question. I think it’s an error to talk to social workers, to parents, to law enforcement officers and find out all about it. That puts you, as an interrogator, in the position of being the interrogator. You’ve got a hypothesis, you’re going to try to affirm it. At the time the interview starts, the interviewer should know the least amount of information possible in order to permit the child to provide the information.

The second thing, I believe, is that the interviewer needs to be very sophisticated, knowledgeable about child psychology, developmental psychology, and the limits that imposes…, and the levels of competence. Third thing the interviewer must be aware of is their own stimulus value, to have a certain amount of understanding of how the person comes across to a child. Next, the interviewer must know what not to do. I have seen all kinds of transcripts and tapes and videotapes of people who say I never ask leading questions, and you look at what they do.

**Q.** Are leading questions improper?

**A.** Yeah. If you want to maximize the reliability of a child’s statements, of course. That’s the next point, that you do everything that you can to permit a child to a free recall of statements. And, again, the research evidence is very clear—and nobody disagrees with us—that the most reliable kind of thing a child—the most reliable statement that a child can make is one made under free recall conditions.

I think next, it’s very important to treat the child as a person. What I have seen occur, and what I believe occurs in people who have the belief and conviction that abuse occurred, to have attitudes summed up in the popular parlance that children can’t lie about sex abuse. They can’t talk about things they haven’t heard. Children must be believed at all costs. With that kind of rhetoric, what they actually do to children is to make them an object.

... And when people who interrogate children come at the child with their own agenda, their own purpose, their own idea, they objectify kinds. And I think that is what you get. What I’ve seen, …is that children are coerced, they are pressured, they are told that they can’t go to the bathroom until they say, Daddy did it. You get a little kid, can I do wee-wee. You can go when you tell me what Dad did to you….

And you must take time. If you’re going to give a child the opportunity to produce the most reliable kind of statement you have to have enough time. You cannot come waltzing in and whip out your dolls and in fifteen minutes be done and go away….And you need to give the child some sense of power. When you’ve done all of that—and also you’ve got to record it. You’ve got to document it carefully….

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**Q.** You mention that you need to give the child a sense of power. What do you mean by that?

**A.** …When people come at children in situations of accusation of a child abuse, as I said before they objectify them. They have their own agenda….children sense that. You can see it in their behavior. You can see it in the way they respond. So I think it’s important to let a child know,…you’re not like all these other people, that as a person you’re going to give them some sense of being in control. So I do all kinds of little things. I will ask a kid, for example, I’ll use a Polaroid camera, and I open it up and take out the pack. And…ask the kid and say, “Would you put that in the wastebasket, let’s clean up a little bit, okay?” He goes, oh, yeah (indicating) ….Give them a little power, some sense that they’re in control of something. Make sense?

**Q.** You also said that you don’t make determinations as to whether or not sexual abuse occurs. Why is that?

**A.** Because I’m a scientist and that’s not my job. It’s not my responsibility. That’s the responsibility of the justice system. As I said before, the justice system is the place appointed in our society to make a determination of facticity. Scientists shouldn’t do that.

**Q.** Even outside the criminal court realm, is it proper for you to offer such a determination?

**A.** I don’t offer determinations.

**Q.** So it’s not proper under any circumstances, not just in court?

**A.** No—no, no, not as a scientist, no. I may have an opinion. As you asked me earlier, I have an opinion.

**Q.** What’s the difference between you forming your own opinion or your own determination?

**A.** Well, determination—I mean to determine something is to establish it as a fact. That’s not what scientists deal with.

**Q.** Is there any problem with scientists giving opinions?

**A.** Not as long as they say what it is and give the appropriate qualifications.

**Q.** Have you had any contact at all with C.B. or S.A.?

**A.** No.

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**Q.** On that point, research capacities, I wanted to go through what publications, in addition to these two, you have published?

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**A.** We tried to start a group of professionals and it didn’t work.

**Q.** What was that group called?

**A.** PROVOCAL.

**Q.** And?

**A.** Professionals basically supportive of VOCAL. That’s what we were supposed to be, and it just didn’t work.

**Q.** Didn’t get the participation or whatever the reason?

**A.** Yeah, uh-huh, no money.

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**Q.** In reading the reports that you did reference in preparation for this case, did you see anything improper about perhaps any of these individuals when they are trying to assess what had happened or alleged to have happened to E.B.?

**A.** Improper is a rough term. I guess I would say improper in the way I would understand that word. I don’t think it was proper behavior for somebody…. I think it was D.—to write a letter and say, this kid’s been abused, do something. I don’t think it was proper for physicians to make the statements they do about consistency. But we already talked about that.

**Q.** Why was that letter improper?

**A.** I don’t think he could express that kind of certain opinion. That’s what I’ve been saying all day today. Right? That’s what I remember now.

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**Q.** All right. You were present and watched the videotape as it was being done?

**A.** Yes.

**Q.** Have you ever been tendered as an expert and not been allowed to testify?

**A.** Oh, yes.

**Q.** By your response, I take it that’s happened more than once?

**A.** I think about six times… out of over three hundred.

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**Q.** Let me ask you, without—obviously not having a chance to read this, one chapter in your—in this book is labeled *The Truth is Obscured When a Child is Abused*.

**A.** Yeah.

**Q.** What is the general tenet of that chapter? What are you getting at there?

**A.** That’s a situation in which we believe that, in fact, the abuse occurred. That’s our personal opinion. But the method of interrogation, and the behavior of the law enforcement people was such that nobody is ever going to know. You can’t know anymore. It’s gotten so cloudy and murky there’s no way of establishing….

**Q.** How were you able to reach that opinion?

**A.** If you feel the truth has been obscured, principally by virtue of the information we had about the alleged perpetrator….

**Q.** Are there any qualifications that you would have added to your opinion in this particular case?

**A.** Qualifications, sure. It’s my opinion as a psychologist, trained from the way that I am, I believe that I can support the basis for my opinion with research. But it’s fundamentally an opinion that I have, and it needs to be evaluated as to its weight by the people who hear it.

**Q.** …Would you be able to label your opinion your determination?

**A.** No.

**Q.** Why?

**A.** That’s not my job. That’s not my responsibility. I think it is extremely important for mental health professionals to clearly understand that determination is made by the justice system.…

**Q.** Do you feel that there is any ethical problem in giving your opinion on a particular case?

**A.** No, not as long as the opinion, as I said, is articulated in terms of what the basis is for it, and what the qualifications, what the limits are, no.

**Q.** Do you feel there are any limits on your opinion in this particular case?

**A.** I’ve just described them, sure.

……………………………

**Q.** Have you heard, R., you got it wrong?

**A.** Oh, yeah, from lots of people.…Everywhere I go I have instant enemies. People who say all kinds of terrible things about me, all of which, of course, I believe are not true. And I carry in my briefcase the things that I need to falsify them. You know the game. You got the stuff from the National Center of Prosecution of Child Abuse. If you did your job you talked to G.W. at H. County and he sent you the stuff he’s got. You know what the story is.

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