



Carolyn Bailey papers

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STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

ADDRESS REPLY TO:
102 CAPITOL BUILDING
ST. PAUL, MN 55155
TELEPHONE: (612) 296-6196

March 14, 1989

William McCutcheon, Chief
St. Paul Police Department
100 East Eleventh Street
St. Paul, Minnesota 55101

Dear Chief McCutcheon:

The legal assistants and investigators in the Attorney General's Office have monthly noon seminars to which they invite speakers to discuss topics and issues related to their work.

One of the ongoing concerns we have is to be certain we are obtaining valid information when we interview potential witnesses. We would like to know if information in this area could be shared with us by your staff? If possible, I would like to ask if Lt. Carolen Bailey could come to talk to us? I have heard her speak in the past and always have found her to be a knowledgeable person who interacts well with her audience. I think she would be well received by the legal assistants and investigators on our staff.

The date, time and location are listed below:

Thursday, April 20, 1989

Noon to 1:00 p.m.

Conference Room 5th Floor EAST END
Veterans Service Building
State Capitol Complex

We appreciate your consideration of this request.

Sincerely,

Nancy D. Helmich
NANCY D. HELMICH
Legal Assistant

Telephone: (612) 297-1176

NLH:bjg

cc: Lt. Carolen Bailey

legal assistants
investigators

Medi-cale fraud
Consumer fraud
(bait + switch)
Medical/Health
Licenses
Commerce Licenses

Using local resources
- network

*by Sgt. Carolyn Bailey
Sex-Nominate Unit
St Paul Police Dept.*

"THE PROFESSIONAL LIAR"

The "professional liar" is simply a useful term to identify a particular and rare population that consumes an inordinate amount of the professionals' time.

Characteristics in common:

1. Not psychotic and does not appear to be. Although accounts are often bizarre, they are presented very credibly and tend to excite rather than raise doubts in the professional. Excitement= respond & act quickly.
2. Elaborate & usually very unusual accounts. Since this liar is seeking attention, the accounts are designed specifically to involve and excite the professional.
3. There is no apparent motive for lying, other than seeking attention.
4. When lies are revealed and admissions of lying are obtained, lies appear to be a "cry for help". The liar appears to be frustrated, trapped, etc. The "seriousness" of the need from the objective viewpoint is highly variable (example: an incest victim vs. a 41 yr. old woman who is living with her mother because her salary is "insufficient" to live independently). The key appears to be the "victim's" inability to cope. However, after years of therapy, elaborate reports frequently reoccur and progress to eliminate the lying appears minimal, even when their verbalized sources of frustration/needs are eliminated.
5. Lies are usually used to replace lies. When confronted with irrefutable contradictions/evidence, this liar may admit or divert to a whole new source of lies. Professionals often are deceived by this myth, "I lied before, but I'm telling the truth now: or "I lied because I couldn't bring myself to tell the real truth", which is another elaborate lie. They usually will have a back-up story if evidence refutes the original (example: first said baby born in hospital, later said used a different name she can't remember).
6. Tends to involve multi-professionals and agencies and to be very time-consuming. Obsessive and calling daily, etc. Lies require alot of thought/preparation, not only because they are elaborate but because they must be such as to involve the professional intensely. Examples: dead baby bodies; imminent suicide or murder, criminal conspiracies including smuggling, prostitution, etc. Since professionals do see some rare bizarre cases and "truth can be stranger than fiction", we seem eager to "jump on it" and tend to devote all efforts to it.

(next page)

7. Liar tends to use other professionals to convince those who are beginning to doubt.
8. Accounts are often difficult to check out or validate. Example: unknown location of event or a long distance away or out of the professional's jurisdiction. The liar often gives extreme reasons why cannot contact someone to validate the report. Professionals frequently accept these excuses or don't take time to check it out ("it's so easily verified that wouldn't lie!") or are unable to check out for other reasons. Carefully think out alternative sources to check, as often not likely to reveal those who would know the truth.
9. When confronted, this liar does know reality. There is no confusion about what is and what is not a lie!
10. Highly compulsive. Periodic energy is expended in the lying, which can lead the professional to feel that "it's about time that she/he's acting up again!"

When exposed, they simply go someplace else, unless you can hook them in to a system that is alert and monitors their behavior. Example: hospitalize in local hospital Crisis Unit or refer to court for False Report where mandatory monitoring is ordered.

11. The most obvious characteristic is an over-whelming need for attention. The liar may be the stereotype "wall-flower", who wasn't likely to receive much attention and often feels unimportant. However, this is not necessarily so. The liar's ego inflates the more the professional responds. Therefore, lies tend to be ESCALATING to keep the impact going.
12. This liar is very convincing. May frequently re-convince professional, even after the professional has proven the lies and become angry. Example: During a third episode of lying, a psychologist called me and said, "THIS time her story is true!"
13. Frequently isolated, with no apparent close friends, associates or relatives with whom to confide problems or release stress. Perhaps long ago, they learned not to expend the energy. Such involvement usually becomes exhausting since it is so demanding and completely engulfing!

With human services and advocacy organizations expanding services, they are particularly vulnerable to this unique individual. Crisis lines can all relate experiences but must learn to differentiate from the crank callers. -And they must coordinate their common experiences with these liars.

* Trust no one! Even if your mother says she loves you, check it out!

Techniques of Confirming Validity

(to R.C.W.D., 1-12-72)

I. Introduction: Need

Everyone seems to agree that in ~~my particular job~~ ^{police work} it is very important ~~for~~ to obtain an accurate and complete account of what happened, because the consequences of invalid information could be that an innocent person might go to jail, a dangerous man may not be apprehended and attack again or the police may waste valuable hours investigating a totally false report, etc. However, it is equally important that the caseworker determine the true facts in his or her case for many significant reasons:

1. If the case worker does not have the correct facts, she cannot make a proper evaluation of the case (diagnosis). Ex. of consequences: a battering parent may go undiagnosed until the child is suddenly brought to the hospital D.C.A.
2. ~~It is essential to have an accurate diagnosis as a guidance in deciding appropriate~~ treatment. The treatment plan is more effective and complete if you know your family.
3. In establishing a relationship with your client, it is important in the relationship itself that the client is honest with you, just as it is that the client is able to fully confide in you. I personally as a former case worker become disturbed when a Welfare client tells me such things as, "My worker doesn't know nothing", "She believes everything I tell her", etc. This I have heard many times. It is difficult to build confidence with your client and convey to them that you accept them as they are or in spite of what they may have done (and want to help) if your client thinks that you don't even know what gives. ~~In seeing this from another viewpoint, I feel even more strongly about this than I did as a case worker.~~ You must recognize too that there are some clients who, if they feel they can fool you, will try to deceive you. A relationship ✓ of respect and trust is most strongly based on an open and honest foundation. Interviewing must inspire trust and confidence and induce the client to offer his information freely and willingly. **AGREED - BUT DON'T GULLIBLE!**
BE

4. Another reason for obtaining accurate and complete information is that your case may eventually be referred to Juvenile Court. It has become increasingly important that you present objective factual evidence in court if you hope to sustain your petition. Ex. it is no longer effective to record, "Mary skipped merrily through the white picket fence and said everything was fine, but I knew she was lying because the house was a mess." The court will not accept simply impressions. "They want to know, "The refrigerator had no food in it, all of the dishes were piled in the sink with decayed food on them, etc."

5. A final reason I might add is one which I feel is particularly important in child abuse cases. The worker must make every effort to know "what's going on" with this family for the protection of the children and to be a more effective case worker. If she does not know what's happening (in their minds and in their habits), a child could die. This has happened, and when it does, we all have to account for the case. I get the kind of argument both in and outside of our department, "If you'd sent the guy to jail, this wouldn't have happened."

Let review some fundamentals -

II. Know the Facts

→ Before you go out on a new case or before you interview your client with new information, be sure that you know all the facts available. There will obviously be facts which your client will give you that you may want to check later, but there are many resources you can utilize so you know your client well and are fully aware of the current information before you ever approach the client.

1. First get all the details from your referral source. For example, if a neighbor calls and says a mother has been tying up her small child and leaving him alone all day, it is very likely the mother will attempt to deny this, unless you can pursue this further with specifics, such as when and where this happened, who saw it, where the mother went, why the mother might do this, etc.

2. The next obvious resource for initial information would be your own records. Files on closed cases should be immediately available, since there is often valuable history which may be of great assistance in an emergency as well as in the follow-up on the case. Ex. Jerry Counts.

3. ~~Other agencies and departments may have~~ considerable information on the family of which you are unaware. To this day I cannot understand why I, as a case worker, never utilized the wealth of information in the ~~police files~~ and among the district squads, unit investigators, etc. Other resources which I seldom tapped include the ~~community centers, the Credit Bureau, Probation Office, Post Office, Dept. of Education, Motor Vehicle Dept., etc.~~ *ABUSER IS FREQUENTLY A KNOWN CRIMINAL. IT COULD BE DANGEROUS!*

4. Although the case worker is not ~~and should not be~~ ^{a trained} an investigator, there may be occasions when you can gain considerable insight through ~~casual~~ conversations with ~~landlords, neighbors, employers, relatives, and other associates~~ of the client. If one case worker had visited with the landlord, she would have discovered that the father who abused his child was back in the home and ^{she} may have prevented the child's death.

You should first ~~have all the known facts~~ at your disposal before you attempt to ~~interview the client.~~

III. Determine where the interview should take place

There is a time when it is ~~more appropriate~~ to make a ~~field call~~ and another time when it is advantageous to conduct an ~~office interview~~. When you want to gain insight in to family relationships, home conditions, etc., you visit the home.

~~If I do not want someone fully prepared~~ in his account and feel there is some advantage in catching him "off guard", I will stop out to see him where the circumstances will be most appropriate.

However, if you want to ~~assure privacy~~, that you will be able to talk to the client alone and the interview will not be interrupted by children, etc., an ~~office~~ interview would best serve your purpose. It is generally wise not to allow people to come and go from the room during the interview and to limit the interview to as few people as possible. When there are several people in the room, the client may not feel free to talk, especially if it is her husband or parents. For purposes of police interrogation, the office gives the investigator the greatest advantage for several reasons. The individual to be questioned is less comfortable and confident in your office than on

Determining Valid Information.
Sometimes it's the absence of information that is important. Ex. Susie Wahl.

his own home grounds. When interrogating, you want the individual to fix his attention on you. A moment when he leaves the room or is otherwise interrupted gives him relief from questioning and give him a chance to pull himself together. The office in itself contributes to creating a more official atmosphere, and the significance of this alone may cause the individual to be more apprehensive about lying.

AUTHORITY

IV. Overall Common Sense (Probability)

When you are attempting to determine the validity of a report, first review all the known facts, then ~~as objectively as possible utilize your own life experiences~~ ^{training} in determining probability. A worker can so ~~easily become involved~~ with his client, who may be ~~very convincing~~, that he does not assess the likelihood of the client's allegations. Ex. On receipt of own cases, such as kidnapping ...; Welfare-record on overdose. On receiving a new case, it may be wise to make a tentative assessment of the case and remind yourself of this when you start getting tangled up with deception. The old cliché, "He ~~can't see the forest for the trees~~", can be very true. You can get so intense in studying each detail or each witness that you don't pause to realize how ridiculous the whole picture is. Although the cliché, "Truth is stranger than fiction", can be true, it's seldom happens or else it would no longer be strange! Our ~~best police investigators~~ are not only intelligent but have good "common sense". Stop and think! We might test it here by asking how many times you believe an unmarried mother has gotten pregnant the "first and only time" she had intercourse. The one who gives the largest number is probably the most gullible. Particularly in cases where you have been working intensively with the family, it is far easier to accept their story than to believe your client is lying to you.

Eliminating other possibilities (cf. Susie Wahl)

What is probability? (Best courses - logic & economics)

V. Motives for Lying

~~Keep in mind while assessing~~ the case, and later when interviewing, the possible motives your client might have for lying. Sometimes the strongest indications of false reports are the obvious motives for lying. For example, the child who is late home is more likely to make up a false story to excuse herself to her parents than the child who is home early and has no reason to be concerned about her parents responses. *Motives are obvious for suspects in crime but often veiled for witnesses & victims.*

An Oklahoma prosecuting attorney gave an excellent and effective demonstration of motives for lying in court. His robbery case against the defendant had been going very well, when a sweet, little elderly lady took the stand and testified that she was with the defendant the whole night that the robbery had taken place. The prosecutor realized that the jury had "fallen in love" with this old woman and they would resent any harrassment or outright accusation of lying against her, but he also knew that her alibi could lose his case, so when it was time for the prosecutor to cross-examine her, he stood up and quietly asked only one question, "Mrs. Jones, how long have you been the defendant's mother?"

Frequent motives which police learn of false reports to the Welfare Dept. include ~~allegations that budgeted welfare money has been stolen.~~ The accounts given to justify reimbursement can be very detailed and complex. Ex. A client who is afraid of "losing her children" can be very desperate in her explanations. An unmarried mother who does not want to establish paternity can dream up all kinds of stories. There are periodically those individuals who may not even appear to be mentally disturbed, who ~~lie dramatically simply to gain attention.~~ Those who are mentally and emotionally disturbed may veil this ~~claiming~~ that their responses are the result of the alleged incident. Ex. Threatening notes.

Sometimes it may not be the intention to involve the agency or an outside department in a lie, such as the child last week who claimed she was kidnapped and her car stolen but did not expect her father would report the alleged auto theft to the police.

VI. Indications of Deception

Let's face it, we hear a lot of lies, and some of them are very difficult to recognize. Any one of us, being experienced and intelligent, should be very convincing liars if we were backed up against the wall such as some of the clients are, but many of the clients have actually grown up in settings that are conducive to lying and they've become good at it! We should be aware of this if we are attempting to assess a situation.

~~Not only do we see some good liars but some situations do not in the least seem suspicious.~~ Ex. Stocking around child's throat.

There are certain notable indications of lying of which we should be aware.

1. A claimed loss of memory for whatever reason is rarely valid. *esp. c.d. black out* A person may claim he was too drunk, was struck on the head or was just too upset to remember what he did or what happened. Naturally normal memory does not encompass all details, and we cannot expect a person to recall everything; in fact if he recalls exactly what he did on a particular day in question three months ago, it is very suspicious. But you do expect, for example, a woman to remember where her baby was yesterday afternoon. Whenever someone says he doesn't remember something significant, you may be fairly certain he is lying. *EXCEPT C.D. CASES* It is often effective in these cases immediately to attack this defensive maneuver by exclaiming impatiently, "What do you mean you don't remember? ~~You couldn't possibly forget that.~~" "I know ~~full well~~ from experience that if someone ^{says} ~~uses~~ that "not that I remember" ~~expression~~, he's not telling the truth. Remember I will have to check your answers later." This technique shatters the individual's stalling defense and convinces him that he cannot get away with half-truths about this behavior. Point out the "normal" to anyone who attempts to deceive in any of these manners. It backs them up against the wall so they are forced to answer.
2. Exaggerated drama is certainly questionable. An example of this is the girl who describes her assailant as wearing a nylon stocking over his face with a gun in one hand and a knife in the other! Here again is where your good common sense comes in.
3. Histories of previous complaints or allegations may indicate deception or at least provide insight. If a client has her purse stolen five times, she is either lying to get reimbursement or she is very reckless!
4. Inconsistencies in accounts can be caught by taking a few minutes to check with others who have also discussed the matter with the client, such as in child abuse cases when medical personnel, schools, police and social agencies may all have information.

X VII. Observe!

Watch and listen. This is always important to the case worker but especially when attempting to determine validity. A ^{office} case worker should know people, their limitations, attitudes, prejudices, and psychological needs and responses. There may be obvious indications of deception, such as trembling, ^{body language} in which case you might make the suggestion that he is displaying symptoms of guilt. This may destroy his confidence in his own ability to deceive. "If you were in my position, what would you think?" ^{Summarize reasons for guilt}

VIII. In police contacts we have roughly two groups of offenders, which might apply to those who may have reasons to lie. The first group are those people who have strong feelings of guilt, remorse or realize they have done wrong. First offenders, accidental offenders, many sex offenders, and those who have committed offenses in anger, passion or revenge. In general this group responds to the sympathetic approach or to emotional appeal. In the second group are those who have committed their offense for personal gain as well as those who are repeated or old offenders. They can't be influenced by sympathetic or emotional appeals. They can only be influenced by appeals to logic. They must be convinced that they cannot evade telling the truth. They have coldblooded attitudes toward right and wrong. They are more interested in the legal consequences of their confessions. They must be shown that proof of their responsibility or guilt is certain, before they will admit anything.

IX. In Seeking and gaining the Truth

X In attempting to obtain information, you should adapt the role of one who is merely seeking the truth. If you desire that your client give you an accurate account, for example as to how her child was injured, you should not be obvious in your attempts to secure her admittance or she may be too frightened to tell you the truth. I had one woman admit to me she had killed her child while under the impression the whole time that this really was not of significant interest to me.

The attitude of the interviewer is the key to success or failure. Retain a pleasant

Religious arguments.

saying, "Don't bolster your story by swearing it is the truth. When a man is really telling the truth, it sounds like the truth when he tells it, and he doesn't have to swear to it."

Another emotional appeal or sympathetic approach is known as "minimizing his ^{find something positive to say (ex. job, house)} guilt". We do this by pointing out to the individual that anyone else under similar early childhood problems circumstances might have done the same thing. This enables the individual to partly to save face excuse himself and offers considerable relief to him. He seems to see an advantage in pointing out to you just how he came to make this particular mistake.

"Between you & me" - confidentially stressed.
You must always be careful to avoid making promises or suggesting that no consequences will follow. You would not want to say, for instance, "This is not serious."

Very often you will find that an individual may be ready and willing to tell the truth but because of a long and involved story which he has previously told he doesn't see how he can possibly discard this old story and start fresh by telling the truth. Now it is helpful if you can point out that neither you nor possibly others will feel any resentment because of the previous story and since the person now realizes the true situation and has had time to think the matter over carefully, he should go ahead and tell the true story. I frequently point out that it is not easy to admit you were wrong and now tell the truth, and that it takes a "strong person" to do this, but that I'm sure they are capable of doing this. This is also similar to raising a question about someone's honor, such as, ^{to a child} "I'm sure you're grown up enough to stand up to this" and puts him on the defensive to prove that he is not otherwise. **EX. RAPIST**

The interviewer should always display an air of confidence and should point out the various factors and circumstances indicative of the individual's responsibility, but with the more hardened offenders which we see, the interviewer must sell the idea that it is so definitely established that a case can be proved in court. "There is no use getting yourself in any deeper by trying to lie about this thing", etc. The approach of "getting it off your chest" and relieving your conscience ~~is~~ is not

effective with this group. Perhaps the outstanding single characteristic of these hardened criminals which we see and the one that can be used against them is the fact that they are selfish. They will provide information if they can be convinced that there is some selfish advantage in telling the truth.

One of the most disarming techniques in a case where the individual refuses to discuss the case at all is to concede to the person that he has a right to remain silent. The interviewer can then point out the incriminating significance of his refusal to talk. You can then sell him on the idea that you have a lot of information which may or may not be true, and he's leaving himself defenseless. "If you cooperate, some of this information might be straightened up and it won't be necessary to pursue talking to many other people, which might make it look even worse than it really is." This is in fact true in many cases! The interviewer must count heavily on his size-up of this particular individual in using these various approaches.

E. coming in

"do you want to present your version"

XI. Check Your Information

Obtain specifics so it is apparent when questioning that you will check answers.

In cases where valid information is essential (such as when a child's immediate physical protection is in question), verify all significant information. No statement by an individual should be accepted as valid in itself. It is valid only when proved. Check out everything you can as soon as possible. Ex. significant in homicides. Instances of this include the case workers who have called me to check their clients claimed reports to police, many of which do not exist or are different than alleged.

EX P.S.I. study

Ex. Overlook

XII. Preparing for Court

Since court petitions increasingly require uncontaminated, admissible evidence, it has become very important that the case worker is well prepared for the hearings. In questioning a witness for court, your best basic rule is to obtain a step-by-step chronological account of what happened. If you follow this fundamental procedure, you will rarely go wrong. Be accurate and complete. Details may be important. If you can get a clear picture of what happened, it is a good account. But try, for example, to get a clear picture from the remark, "he grabbed me". Unless you have

jumped to conclusions, you can't. Did he grab from behind, in front, by the throat, arms, and so forth. This sounds very fundamental but this procedure is often not followed by social workers in preparing for court. Go over each detail, checking each for conflicting information.

Ask one question at a time and get the answer to one question at a time.

~~Avoid implying the answer in the question, unless the purpose of the question is not~~
to obtain information but to gain an admission. When you might, for example instead of asking, "did you hit him", avoid the impact for the client in his admittance and ask, "Did you hit him because he had been crying so much?" You can at times gain ~~truthful information from the person by asking him pertinent questions in a manner~~
~~as though the correct answers were already known~~, leading him to believe that the purpose of the interviewer is merely one of determining whether or not he is willing to tell the truth. "Think carefully before you answer this question", "Are you sure about that?" etc. *Hesitancy in itself may be significant & provide insight*

Make questions brief, concise, clear, and simple. Use questions that require ~~more than "yes" or "no" for an answer~~. Ex. This is especially true with children, who are very suggestible and will agree to just about anything asked. Ex.

It is needless to mention to case worker's who spend so much time in dictation that all information should be carefully recorded for future reference for whatever purpose.

*Carolyn Bailey (Sgt.)
St. Paul Police Dept.*

*Obtain specifics (i.e. names, addresses, times, etc.)
Clearly shows you
will check further
to verify, which
also minimizes
efforts to deceive.
Then check!*

HINTS FROM BUREAU OF BUSINESS PRACTICE

Getting appropriate answers when you ask a question depends on how you ask, points out "Office Guide". Use these tips to make your queries more effective:

- Avoid asking questions that demand a "yes" or "no" answer unless that's all the information you want. Instead, use words such as "where", "when" and "which" to draw out specific details.
- Defuse tense situations by asking questions that show you value the other individual's views. For example, respond to an irate co-worker with "I understand that this situation has made you very upset. How could I have done a better job of meeting your needs?"

Follow these three proven principles of clarity offered by "Executive Action Series" to write memos that will bring a quick response:

1. Be concise. Use only words that convey your message.
2. State the subject of the sentence clearly.
3. Use action verbs. "The client decided" is more effective than "the client made a decision".

How you handle an angry customer (or complainant, Ed.) on the telephone could mean the difference between resolving a problem and losing a valuable customer (or having charges filed, Ed.) advised "Office Guide". Note these tips:

- Allow the caller to speak without interruption to vent his/her anger.
- Speak calmly and the caller will calm down too. The objective is to get past the anger and to the problem.

You can't be expected to have the knowledge to complete every task assigned to you. But you can use the situation to your advantage if you respond in a positive way when asked to do something unfamiliar. For example, you might say:

"This is new to me. Could you give me some suggestions on how to approach it?"

"I haven't done this job before, but it's something I've always wanted to learn."

While most of the above is directed toward businesses, the same principles apply to effective police work (note the comments in parentheses) and applied, can make our job much easier.

Majority do admit.

Intro: Don't need a detailed + full confession. ^(It's nice but...) In many cases, even a partial admission can be enough. (EX. M. with 10-yr old son, + defense attorney challenge. Joke: bed for \$1,000,000?)

QUESTIONING THE SEXUAL ABUSER

Apparently normal. If you think you can tell one by seeing one, you're in for a surprise!

✓ 1. Preparation

Before questioning, be sure that you know all the facts available. There will obviously be facts that you receive during questioning that you may want to check later, but there are many resources you can utilize so that you are more aware before you even approach the person to be questioned.

st: PSI
#1 Talk to victim / at yourself if you can. (problems of belief otherwise)

- A. Get all the details from your referral source. Pursue specifics.
- B. Obvious resource for initial information is your own records. Files on closed cases should be immediately available and often contain valuable history.
- C. Other agencies may have considerable information on the family of which you are unaware. These could include community center, Probation Office, Dept. of Education, police files, etc. The abuser is frequently a known criminal, and it could be dangerous!
- D. Associates of the abuser, such as landlords, neighbors, employers, relatives, etc. often have helpful information.
- E. Witnesses.

✓ 2. Location of Questioning

Generally, suspects should not be questioned in familiar surroundings. The office, especially ~~at~~ the police station, gives the questioner the greatest advantage for several reasons. The person to be questioned is less comfortable and confident in your office than on his own home grounds. When questioning, you want the person to fix his attention on you. A moment when he leaves the room or is otherwise interrupted gives him relief from questioning and a chance to pull himself and his story together. The office assures privacy and that the questioning will not be interrupted by children, etc. It is wise not to allow people to come and go from the room and to limit the interview to as few people as possible. When there are other people in the room, the person being questioned may not feel free to talk, especially if it is his wife, parents or other relatives. Also, the office in itself contributes to creating a more official atmosphere and sense of authority, and the significance of this alone may cause the person to be more apprehensive about lying. However, depending on the specific circumstances, if you want to gain insight in to family relationships, home conditions, etc., a visit to the home may be helpful. If you do not want someone fully prepared in his account, there is some advantage in catching him "off guard" and stopping out unexpectedly. Usually, if an arrest is not indicated at the time, abusers can be persuaded to come in to the office voluntarily (some excuses given for delaying).

When to arrest immediately

- ✓ 3. Why do suspects confess? Because they are in a state of mind which leads them to believe cooperation is the best course of action to follow. As long as they believe they can escape detection or punishment, they will NOT be persuaded to cooperate. When questioning abusers, remind yourself that children rarely lie about sexual abuse and emphasize to the abuser that you believe the child ("I know this happened; now what can we do about it?").

They will sense if you have doubts.

It is easy to feel resentment when the suspect resists, but if you look at the situation, you must conclude that it is completely normal for him to offer many forms of resistance. Learn to expect resistance and develop an understanding attitude. Establish a friendly atmosphere, but never let the suspect develop any doubt about your competence and your complete control of the questioning. Never allow yourself to be put on the defensive. Let's face it; we hear alot of lies, and some of them are very difficult to recognize. Any one of us, being experienced and intelligent, should be very convincing liars, but many abusers have grown up in settings that are conducive to lying and they've become very good at it!. Be aware of this when assessing, esp. if beginning to doubt.

* Sexual abuse is probably the toughest crime to admit.

✓ 4. Establish "rapport". When we confide our troubles, we usually go to clergy, close friends, people that will understand and sympathize. There is a natural inclination to be formal with strangers, which increases skepticism and resistance. Establish a friendly attitude by: 1) Identifying self. 2) Commenting on a topic of apparent interest to the subject. 3) Talk for a period about everyday subjects that are non-threatening. 4) Be informal and easy-going. 5) Display pleasant expressions. 6) Don't show suspicion immediately. 7) Appear interested and sympathetic. 8) Don't begin questioning until he appears cooperative. 9) Re-establish rapport at any time the questioning breaks down, hostility appears, etc. The subject can be influenced by the attitude conveyed in questions. Example: (friendly) "How are you this morning, John? Have a cigarette." (stern) "Do you expect a jury to believe that!"

ex. (gun collection)

✓ 5. Deal with fears and apprehensions. *no promises* *Fear of abandonment.*
 1) Strong fear of punishment. "I am not going to arrest you now. I wouldn't have asked you to come in if I were." Perhaps mention an appointment for a treatment evaluation.
 2) Fear of involving friends, neighbors, co-workers, etc. In dealing with a concern about reputation, emphasize confidentiality, that you do not intend to inform certain others, that others are more forgiving with an admission of problems, etc.
 3) Employment. Frequently they express fear of losing their jobs. Suggesting that their job is a positive thing for them and that you would gain nothing from their losing this can be helpful.
 4) Recognize "guilt drives", the desire that some may have to be punished. Don't rationalize nor amplify this need. Many respond to reassurance that they are not "all bad" and an attempt to build their existing low self-esteem.

(list on board) *

✓ 6. Remember the basic 7 W's. The way in which a question is asked is the primary tool in any interview. The basic, most powerful and greatest key in obtaining all information is: What, When, where, Why, How, Who, and Which.

When significant questioning begins, don't allow to get too far off track. Will try to distract, change subject.

7. Questioning Techniques:
- ✓ 1) Begin with "easy" questions that are not hostile nor embarrassing.
 - ✓ 2) Ask questions in systematic order of occurrence.
 - ✓ 3) Ask only one question at a time.
 - ✓ 4) Give ample time to answer. Don't rush.
 - ✓ 5) Try to help remember, but don't suggest answers. Be careful not to imply any particular answer by facial expressions, gestures, method of asking, etc.
 - ✓ 6) Repeat or rephrase questions if necessary to get the facts.
 - ✓ 7) Be sure you understand the answers. Ask to interpret.
 - ✓ 8) Give opportunity to qualify answers.
 - ✓ 9) Separate facts from inferences.
 - ✓ 10) Get comparisons to ascertain accuracy of judgement. Example: age.
 - ✓ 11) Get all the facts. Almost every witness can provide additional information beyond the initial account.

(included in victims)

✓ 8. Controlled-Answer Questioning Technique: This technique can be used when questioning someone whom you suspect will lie in order to obtain admissions but should not be used in attempting to obtain valid information from a child, reporter, etc.

Use esp. initially before begin to admit, not to obtain corroborative details.

- * 1) Stimulate a person to admit knowledge. Example: "Would you describe what happened when you went in the liquor store?" vs. "Did you go in the liquor store?"
- 2) Stimulate to agree to give information. Example: "Since you weren't involved, I'm sure you wouldn't mind discussing it, would you?" vs. "Do you object to telling me what you know?"

Really works!

Avoid negative construction when making a request. Examples: "Do you refuse to answer?" "You never have been arrested, have you (implied no)?" *many signif. arrests not aware of*

One of the most disarming techniques in a case where the person refuses to discuss the matter at all is to concede that he has a right to remain silent. The interviewer

Inexperienced parents seldom refuse to talk initially or immediately request an attorney if forewarned.

can then point out the incriminating significance of his silence, refusal to talk. You can then convey that you have considerable information, which may or may not be true, and he's leaving himself defenseless ("Do you want to ^{you have an opportunity} present your version?") or "If you want to discuss this, some of this information might be straightened out" (or we can better understand why you ~~this~~ did this), and it may not be necessary to pursue talking to many other people, which might make it look even worse than it really is." (deal with fear of confidentiality)

I'm going to take this file to the County Attorney for a decision. I should give like to give your side.

Look for delays and deliberation.

9. Cross-examination: This is exploratory questioning to test correctness, conflicting information, determining completeness, and under-mining self-confidence during deception. Are the answers vague, evasive, conflicting or inaccurate? Repeat the questions in a different manner and get details at random. It is appropriate here to use suggestive questions and inferences. If they are lying, they will frequently concur while filling in details, and inconsistencies can be pointed out. Ask about known information as if it were unknown, and ask about * unknown as if it were known. *Frog. more offenses than v. told. Testing truthfulness*

* If were you in the courtroom at the time?

* Get names, addresses, Specifically explore vague or evaded portions of admissions. Be suspicious that even slight details are important or possibly detrimental. *Reason to be vague because guilty!*

* Point out conflicts after all questions are asked, so that they build up a large number of lies before they realize it. Ask for explanations, and revised information should get the same scrutiny as the original lie. *a correction to a lie may be another lie!*

* "Will you take a Polygraph?"

10. Grouping of Abusers: For purposes of questioning, there are generally two groups of abusers. The largest group are those people who have strong feelings of guilt, remorse or realize they have done wrong. This group will often respond to the sympathetic approach or emotional appeal. This approach involves "minimizing his guilt", but the interviewer should be careful not to justify what they have done. This enables the person to explain their actions, but should not excuse responsibility, and it offers considerable relief to him. Discussing early childhood problems, sex, and financial concerns are helpful here. Those feeling guilt often respond to sympathy ("It sounds like it's been rough for you"). Find something positive to say about him, but be sincere. Example: Job, Home.

"Save face" when guilty. In the darker feelings reputation.

The second group are most often diagnosed as psychopaths, ^{those} who display no apparent guilt or remorse. These may include habitual offenders, pedophiliacs, those who justify on religious beliefs, etc. They seldom can be influenced by emotional appeals, but must be logically convinced that they cannot evade telling the truth. They are more interested in the legal consequences of their admissions, and they must be shown proof of their responsibility and an advantage to admitting it. The interviewer should always display confidence, but with group, you must sell the idea that it is so definitely established that a case can be proven in court. "There is no use getting yourself in any deeper by lying about this". The approach of "getting it off your chest" and relieving your conscience is not effective with this group. Their outstanding characteristic which can be used in questioning is the fact that they are selfish. They will provide information if they can be convinced that there is some selfish advantage in telling the truth. Help them to realize that it is of little use to deny it. Convey a confident attitude that you are only interested in getting the details and understanding their feelings, explanations in the matter. Avoid a punitive or condemning manner, or they will simply deny it and resent you. This must be matter-of-fact. If you outline the circumstances pointing to their involvement, be careful not to allow them to interrupt and explain away each detail so that he builds up a defense piece by piece against the facts. Once they have launched a lengthy discussion of why the information is not accurate, it is much more difficult to obtain the truth. You are then on the defensive and must punch holes in his story.

Bible passages

What are their fears?

* Talk about childhood, sex!
Save face.

✓ 11. Recognize factors leading to admissions.

- 1) Desire for sympathy. ^{freq. justified (ex. tied to chair)} They express a "raw deal in life", have "no one to turn to, feel no good, etc. Build on this need and encourage them to talk about their troubles (getting the "whys").
- 2) Remorsefulness. Here again they are searching for relief of guilt and respond to "rapport"/ understanding. Suggest that they need "peace of mind" to relieve their distress and begin change. (ex. driving by church)
- 3) Pride. It is helpful to point out that it is not easy to admit this, and that it takes a "strong person" to do so, but that you are sure that they are capable of doing this. This is also similar to raising a question about honor, such as to a child, "I'm sure you're grown up enough to stand up to this", and it puts them on the defensive to prove that they are not otherwise.
- 4) Questions about consequences are the most certain signs that admissions should be pursued. Look for signs of weakening, and stay with him. First try to obtain admissions of less important details.
- * Rationalize with them and appeal to intelligence. "If you were the officer and you had this information, what would you think?" (ex. the smart ones)
- 5) Claimed loss of memory. For whatever reason, this is often not valid. A frequent escape used by abusers is alcoholic black-outs. It may be helpful to acknowledge the possibility of black-outs but that it is not likely that they would not recall some of what happened when the action is so significant. Emphasize that we want to understand why and that drinking is merely another symptom of underlying problems and not an explanation. If he is not chemically dependent, emphasize that this is not something easily forgotten and that you know from experience that most people who say this simply do not want to face the problem. Pointing out the "normal" may back them up against the wall so that they are forced to answer.
- 6) Inconsistencies. These can be discovered by doing background prior to questioning and through back-tracking details. Point them out. Adapt the role of one who is merely seeking the truth.
- 7) Attempts to lend credibility. A defensive technique on the part of someone who is lying is the "I'll swear on a stack of Bibles" or the "I hope to drop dead this minute if it isn't true" routines. And don't fall for, "I was lying to you about the other thing, but I swear this is true". Expressions of this kind are frequently used by individuals who are lying to lend strength to their claim of innocence. You might say, "Don't bolster your story by saying or swearing it is the truth. When a man is really telling the truth, it sounds like the truth, and he doesn't have to swear to it."

esp. effective for female interrogator

12. Document admissions. When they do admit, document it and render it as irreversible as possible through formal statements, other corroboration, witnesses to the admission, etc. The more the admission is confirmed, the less likely they are to retract.

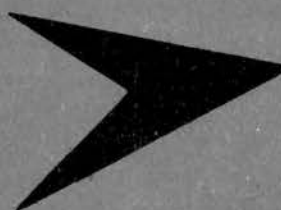
Get specifics to independently corroborate victim.
Partial admissions are okay - ex. attorney for incestuous mother arguing about dates.

Per County Attorney:

1. Don't put in opinion! Ex. This teen-ager has been running away + got what she deserved!
2. When child is brought to the hospital, remember to get statement from ambulance + paramedics; Not just from doctor - nurse is usually the one at the ER door and with grieving parents.
3. RCWD is eager to be available for consultation + assistance and wants more coordination with patrol.
4. Get photos! It may not look like much, but it may be all we need in a long series of reports. OR It may be more serious than is apparent. (ex. small scratch above Cromey fractures).

Runaways = Sexual Abuse

TRAINING BULLETIN



BUREAU OF POLICE

ST. PAUL, MINNESOTA

TRAINING BULLETIN NO. 75

SEPTEMBER 28, 1971

TIPS FOR THE PHOTOGRAPHER TESTIFYING IN COURT

TO ALL PERSONNEL:

IF YOU ARE ASKED TO TAKE THE WITNESS STAND, KEEP THE FOLLOWING GUIDELINES IN MIND:

1. DISCUSS THE TESTIMONY (CONCERNING YOUR PICTURES) WITH COUNSEL BEFORE YOU GO INTO COURT.
2. GIVE THE COUNSELOR A CLEAR IDEA AS TO THE EXTENT OF YOUR (PHOTOGRAPHIC) KNOWLEDGE, EXPERIENCE, AND GENERAL EDUCATIONAL BACKGROUND.
3. DO NOT PERMIT YOURSELF TO BE QUALIFIED AS A "PHOTOGRAPHIC EXPERT." TO BE AN EXPERT YOU'D HAVE TO KNOW EVERYTHING ABOUT PHOTOGRAPHY, INCLUDING THE PHYSICS OF LIGHT AND OPTICS. IF YOU TAKE THE STAND AS AN EXPERT, THE OPPOSING ATTORNEY WILL QUESTION YOUR EXPERTISE FULLY, WHILE YOUR ATTORNEY CAN ONLY STAND BY HELPLESSLY. THE BETTER YOUR PHOTOGRAPHS, THE MORE HARM THEY CAN DO TO HIS CLIENT, AND THE HARDER HE WILL ATTEMPT TO DISCREDIT YOUR ABILITY IN THE EYES OF THE JURY.
4. QUALIFY YOURSELF IN THE GENERAL PRACTICE OF PHOTOGRAPHY; MAKING PICTURES OF OBJECTS AND SCENES BY CONVENTIONAL TECHNIQUES.
5. SUGGEST THAT INVESTIGATING OFFICERS WHO WERE AT THE SCENE OF THE ACCIDENT MIGHT TESTIFY TO THE ACCURACY OF YOUR PHOTOGRAPHS.

REMEMBER THAT YOU AS A PHOTOGRAPHER CAN TESTIFY ONLY THAT THE SCENE OR OBJECT IN THE PHOTOGRAPH APPEARS AS IT DID TO YOU AT THE TIME THE PICTURE WAS TAKEN. WHETHER YOU USED A SLOW OR FAST FILM, 1/100 SECOND AT F/8 OR 1/200 SECOND AT F/5.6, REALLY DOESN'T MATTER TO THE COURT. IF THE FINAL RESULT OFFERED IN EVIDENCE ACCURATELY AND FAIRLY REPRESENTS THE SCENE AT THE TIME OF THE INVESTIGATION, THEN THIS IS ALL THAT SHOULD MATTER FROM THE COURT'S POINT OF VIEW.

THE JUDGE WILL DECIDE IF THE PHOTOGRAPHS ARE RELEVANT TO THE ISSUES AT HAND AND IF THE PHOTOGRAPHS WILL HELP THE JURY TO A BETTER UNDERSTANDING OF THE CASE AND THE TESTIMONY TO BE GIVEN. USUALLY IT IS BETTER NOT TO BURDEN THEM WITH TESTIMONY ON EXPOSURES, DEVELOPING, AND OTHER DETAILS WHICH ARE STANDARD PRACTICE IN PRODUCING A PHOTOGRAPH. IT IS POSSIBLE FOR THE JUDGE, AS WELL AS THE JURY, TO BE CONFUSED ON SUCH MATTERS.

6. DON'T ANSWER QUESTIONS UNLESS YOU THOROUGHLY UNDERSTAND THEIR MEANING. THEN SPEAK SLOWLY, CLEARLY, AND DISTINCTLY.
7. BE EXACT. YOU ARE NOT IN A POSITION TO DECIDE THE ISSUES; YOU ARE ONLY TESTIFYING TO THE MAKING OF THE PHOTOGRAPHS.

8. IF YOU ERR IN YOUR STATEMENT, CORRECT IT AS SOON AS POSSIBLE.
9. IF YOU DON'T KNOW OR CAN'T REMEMBER AN ANSWER TO A QUESTION, SAY SO. THIS IS A LEGITIMATE ANSWER.
10. AVOID MANNERISMS OF SPEECH. DO NOT PREFACE YOUR REPLIES WITH SOMETHING LIKE "I CAN TRUTHFULLY SAY." YOU ARE ALREADY UNDER OATH AND ARE, THEREFORE, REQUIRED UNDER PENALTY OF PERJURY TO TELL THE TRUTH.

REMEMBER: YOU ARE NOT ON TRIAL TO SAVE YOUR REPUTATION. YOU ARE THERE ONLY TO ASSIST THE COURT IN CLARIFYING ANY QUESTIONS THAT MIGHT BE RAISED CONCERNING THE MAKING OF THE PHOTOGRAPHS. IF YOU CAN'T ANSWER A QUESTION WITH A YES OR NO, MODIFY YOUR REMARKS BY SAYING, "UNDER CERTAIN CIRCUMSTANCES." WHILE AT THE SCENE OF THE CRIME OR ACCIDENT, YOU ARE PLAYING A VITAL ROLE IN CONTRIBUTING TO THE DUE PROCESS OF LAW. TESTIFYING IN COURT IS A FURTHER EXTENSION OF YOUR CONTRIBUTIONS. SO BE HELPFUL AND PROFESSIONAL WITH YOUR ANSWERS.

National research studies the credibility of children's testimony

What features of children's testimony in cases of child sexual abuse make it credible to key decision-makers? What factors affect the quality of children's testimony? What factors other than children's testimony (particularly factors that might be altered by system reform) also affect decisions in cases of child sexual abuse? These are the central questions of Children as Witnesses in Cases of Child Sexual Abuse, a three-year research project that seeks to learn how to improve the accuracy and credibility of children's testimony. The study investigates the legal decision-making process from indictment (filing of criminal charges), through to plea or trial, and conviction or acquittal.

600 cases in 9 jurisdictions

The study examines child sexual abuse cases prosecuted in nine different legal jurisdictions across the country: Baltimore County, Maryland; Dallas, Texas; Jacksonville, Florida; Kansas City, Kansas; Louisville, Kentucky; New Orleans, Louisiana; Rockland County, New York; and St. Louis, Missouri. These jurisdictions vary in size and in the laws, rules, procedures, and inter-agency collaborative relationships pertaining to child sexual abuse cases. The study sample includes all cases prosecuted from October, 1987 to October, 1988, in which the child victim was between the ages of two and ten years, a total of nearly 600 cases in all. It is hoped that the range and variations among the jurisdictions will yield results of broad applicability.

In the vast majority of child sexual abuse cases that are charged, the defendant pleads guilty, either to the original charge or, through plea bargaining, to reduced charges. The project is examining all cases prosecuted, but studying most closely those cases that are brought to jury trial. According to Dr. Gray, they are finding that typically only ten percent of cases charged are brought to jury trial, although there is substantial variation in this percentage among the jurisdictions.

Progress to date

Data collection for the project was completed in October 1988. Information has been gathered on nearly 600 cases through a review of the prosecutors' records. For those cases brought to trial, more intensive data collection has included direct observation of court proceedings, where possible. Also, key decision-makers (prosecutors, judges, jurors, defense attorneys) have been interviewed to ascertain what factors influenced the decisions they reached, how the children's testimony figured into their decisions, and what criteria they utilized in evaluating the credibility of children's statements/testimony.

Analysis of data is currently underway, to be completed by October 1989. Dissemination is planned through an end-of-project conference, with published proceedings to reach a wider audience. The researchers expect the study outcomes to have practical implications for investigation and prosecution practices. By identifying those factors which contribute to or detract from the credibility of child witnesses, they hope the research will provide a basis for reforms of the child protection, law enforcement and criminal justice systems. ■

Begun in 1986, CHILDREN AS WITNESSES IN CASES OF CHILD SEXUAL ABUSE is a collaborative effort involving the National Center of Jewish Women's Center for the Child, the University of Pennsylvania, and the University of Minnesota. The project is funded by the National Center on Child Sexual Abuse and Neglect of the U.S. Department of Health and Human Services. Dr. Ellen Gray, Senior Research Associate at the Center for the Child, is the Principal Investigator of the Project. Collaborating investigators are Dr. Ann Burgess, Professor of Psychiatric Nursing at the University of Pennsylvania, and noted expert in the fields of sexual abuse and children's testimony in child abuse cases; and Dr. Eugene Borgida, Professor of Psychology at the University of Minnesota. Dr. Borgida's research is reviewed on page 4. For more information contact Dr. Ellen Gray, Center for the Child, National Council of Jewish Women, 53W 23rd Street, New York City, New York 10010.

Looking Ahead...

L O O K I N G A H E A D

INNOVATION AND INQUIRY IN FAMILY SEXUAL ABUSE INTERVENTION • VOL. 2 • NO. 3 • WINTER 1988

The child victim in criminal court

Criminal prosecution of child sexual abuse cases usually puts the child victim in the position of key witness for the prosecution, upon whose testimony the case is won or lost. This issue of "Looking Ahead" reviews two national research projects that focus on the child victim of sexual abuse in criminal court: Children as Witnesses in Cases of Child Sexual Abuse (see article, page 2) and The Child Victim as Witness Project (see article, page 3). Both of these research efforts address major issues arising from the influx of child sexual abuse cases into the criminal justice system: the credibility of children's testimony, and the potentially negative impact on the child victim of various aspects of the legal process.

Credibility of testimony

Prosecution of child sexual abuse has always been difficult. Usually, in such cases, there is no other witness, and rarely any physical evidence to corroborate the child's report. Thus the credibility of the child's testimony is central to the case. However, children's reports often fall far short of adult legal standards. Young children may lack the concepts to understand and/or remember clearly what occurred. They may lack the vocabulary to be able to describe in words what they experienced. They are often unable, without prompting, to recount their experiences

coherently, with a clear who, when, where, what and in what order. As a consequence, both investigative and court room questioning of children has relied upon leading questions to elicit a child's story. This raises the issue of suggestibility and tends to undermine both the child's credibility and the prosecution's case.

Potential trauma to child

A major concern is that criminal prosecution thrusts the child victim into a complex process that is adversarial and, especially in dealing with allegations of sexual abuse, highly emotionally charged. There is wide-spread discussion about the potentially traumatic impact of this experience upon the very children the system is charged with protecting. Numerous aspects of the legal process are noted in the literature as further exacerbating the trauma to child victims: e.g., repetitive questioning about the abuse from a series of strangers; having to relate the story in an open court room; having to face the alleged perpetrator; undergoing cross examination; and enduring numerous delays. As Dr. Ellen Gray, Senior Research Associate at the National Council of Jewish Women's Center for the Child, and Co-Principal Investigator of the Children as Witnesses Project, points out, "Unlike defendants, child witnesses do not have any constitutional rights to protection during the investigation of their allega-

tions or trial. But the court does have an obligation to protect children from undue harm. System-caused trauma, and how to prevent it, is emerging as an important issue among medical, legal, mental health, and social service professionals."

Innovative procedures

Because of these concerns, numerous new procedural strategies are being developed to attempt to mitigate system-induced trauma and to enable the child victim to give more effective testimony. Such strategies include:

- Coordination of investigative interviews (police, child protection, medical) to eliminate repetition.
- Use of dolls, props, or art work to help the child communicate.
- Assignment of an advocate or guardian ad litem to support the child.
- Elimination of special competency requirements.
- Special hearsay exceptions.
- Use of video taped or closed-circuit testimony.
- Exclusion of spectators from the court room.
- Acceleration of case processing.
- Coordination of concurrent criminal and civil proceedings.

However, the impact of such innovative procedures is not yet clearly known.

The two studies reported on have slightly different focuses. The Child Victim as Witness Project attempts to measure the impact of various innovative strategies both on the child and on case outcomes. Children as Witnesses examines factors affecting the credibility of children's testimony. Both studies, however, are clearly seeking information about how best to avoid system-induced trauma to child victims, while maximizing the effectiveness of criminal prosecution of child sexual abuse cases. ■