Our group specializes in allegations of abuse. This includes child molestation, child physical abuse, shaken baby syndrome, Munchausen's syndrome, rape, domestic violence and even internet stings. To be falsely accused of abuse is extremely serious. The laws and the science in this area is complex and there is a severe learning curve that you must go through. We would like you to watch this presentation before we meet so that our meeting will be more meaningful.

Now I would like to introduce you to the team members. I'm Patrick Clancy. I've been practicing law since 1974. I'm what is called a certified criminal law specialist. In the State of California as in other states you are not allowed to call yourself a specialist unless you're certified by the State Bar. Basically what that means is I did so many trials, so many appeals, so many writs, obtained recommendations from judges, from district attorneys and that gave me the honor of taking a second bar exam, much harder than the first. The first one had fourteen subject matters, the criminal law specialists exam had one subject matter. My involvement in cases of false allegations of abuse and child molest predates the McMartin case, the infamous case in Los Angeles. Our law firm, as far as I am aware, is the only firm that deals exclusively with issues of false allegations and abuse cases. Dr. Demosthenes Lorandos is a major member of our team. He's a psychologist and an expert witness. I met him decades ago on the east coast when we were both attending training seminars together and giving them together. Over the years it developed to where he was testifying in my cases as an expert witness, but since he is a expert witness, a psychologist and a lawyer it eventually evolved that we started practicing law together. He's known nationally because of the works that he's published. He's published Cross Examining Experts in the Behavioral Sciences and he's also published Benchbook in the Behavioral Sciences, Psychiatry, Psychology, Social Work. What these two books do is train lawyers how to cross-examine experts and it also trains judges, that's what benchbook means, in what you look for in terms of scientific reliability with people who are testifying in the behavioral sciences. Dr. Lorandos basically heads up the science department of our team. He's been fighting junk science's use by the prosecution in abuse cases for decades. His knowledge and research are invaluable to our team and will be invaluable to you. The next person is our investigator, probably one of the central figures in our

team because I believe that cases are won or lost based upon investigation. Harvey Shapiro was a member of the Riverside Sheriff's Department and was the head of their child investigation unit investigating child molestation cases. The training that he has received is enormous. His resume is about twenty four pages long, I think he's attended every major seminar ever given and he teaches. One of the things that I really like to point out is there is a gentleman named Stephen Ceci who is one of the top suggestibility researchers in the world. Stephen Ceci doesn't like to testify so what he does is he trained approximately 30 people a year by invitation only at Cornell and Harvey Shapiro was the only investigator that's ever been asked to come and train there. Since then he's actually talked there. In 1985 there was only about one line in the police training manual, it's called POST, Police Officer's Standard of Training, having to do with false allegations. Several years ago they came out with a new training manual. Harvey Shapiro was the only defense investigator who was asked to be a consultant on that. He's an expert in suggestibility research and one of the top investigators for the defense anywhere. Besides being a good investigator he understands people. We use the same tactics that the police use in representing you. Let me give you an example, we had a client whose wife had divorced him, moved to Colorado and every time he wanted visitation he got accused of another act of molestation. She was living in this rich neighborhood with a very well to do doctor and felt that she could just throw lightening bolts down at him all the time, every time he went for any visitation. One day she woke up in her nice ritzy house in Denver and found that there was a gentleman named Harvey Shapiro going around door to door to all her neighbors finding out about her sex and drug habits which happened to be part of the defense. The DA the next day got a phone call telling him they didn't want to go any further with the case and the cases ended up being dismissed. Harvey knows how to understand people and to use that to our benefit. Another member of our team is Julie Schumer. Julie is a certified appellate law specialist. Again, the same thing she had take a secondary bar exam after handling so many cases on appeal, so many writs and things of that nature. Julie is highly unique. If you put Julie in front of a jury I think she would pass out. She just does not want to be a public speaker in that sense. She's a phi beta kappa English major from UCLA. She's a writer, she's a researcher/writer. Normally you would never meet someone like her unless you had lost your case and were

up before the Supreme Court, but we wanted to have our motions at the trial level to be of the top quality and they are known throughout the state and were plagiarized all the time. Julie has a lot to do with the building of our motions banks. For those who don't know, motions are documents filed with the court that says the prosecution has some evidence that should not come in and here's why and here's all the law of the cases having to do with that and by the way we have some evidence that should come in and here's the case law and statutes which explain why it should be allowed in. Julie, with her exceptional writing skills, has developed our motion bank, we have probably over 100 motions that have to do with every major evidentiary issue that comes up in a case of this nature.

Throughout time children have been victims of adults, we all know that, but in the 1970's Senator Mondale, who later became Vice President, learned how to use that fact politically. He created what was called the Mondale Act. What he learned was that if you're for increasing the budget of the Department of Defense you'll win some votes and you'll lose some votes. If you're for increasing welfare payments you'll win some votes and you'll lose some votes. But if you're against child molest and hard on child molest you win votes and you win votes. Out of the political reality came the Mondale Act. The act was very well intentioned and it has done a lot of good. But it has also had some extremely adverse effects. The law requires that there be mandated reporters. Doctors, ministers, psychologists, psychiatrists used to have privilege and if they received information from you they would not report it. The law changed and there was an exception written into the privileges for child abuse and child molest. A doctor, minister, psychologist, psychiatrist, etc is now mandated to report it. If they fail to report it, they can be criminally prosecuted. On the other hand if they do report it and let's say they were negligent and they do you great harm, the fact of the matter is they will be given civil immunity. Civil immunity means they can't be sued. With the carrot and stick, the stick being they will be prosecuted and the carrot being they would be protected from civil immunity, people report it even frivolous cases and millions and millions of cases came out, that is what created this hysteria of child molestation allegations and child abuse allegations. The second negative effect that came out of it is that enormous amounts of money were provided for district attorney's to prosecute these cases. You know how

much was given to the defense to defend false allegations, nothing, not one dime. There were a total imbalance of power because all the funds went to DA, special teams of DA's to prosecute, expert witnesses for the prosecution and on and on and on. The next thing that occurred was that we got a series of biased one side laws. These have been passed every year since the Mondale Act. Also in order to prosecute these cases a whole field of what you would call junk science has been developed. Mental health professionals and medical professionals who have the answer of how you find out which cases are true and which cases are false, most of these theories were not based upon valid research and this led again to easier prosecutions, but a lack of accurate prosecutions. To overcome this imbalance of power the one sided and biased laws and the junk science that developed around this area we created our own team. This team specializes in nothing but these types of cases and by specializing we're able to level the playing field and even turn it into our client's favor.

I have several immediate warnings I want to give you that will protect you with what's to come. The first one is a concept called the pretext phone call. The pretext phone call is when the police have a child or a relative of the child place a phone call to you. The theory behind it that they want to get you to while your guard is down confess to something. While the phone call is being made it's normal practice for the police to be sitting there feeding questions written down on pieces of paper to the individual who placed the phone call. The concept is okay however it's misused. Think about getting a phone call from somebody that says you abused me. If you say you're sorry I won't go to the police. Well that puts extreme pressure on somebody whose innocent to say I'm sorry that way it's over and they don't have to the police involved. However, when those words I'm sorry is played back to a jury it's going to sound like I'm guilty. What we recommend is that if you get one of these calls just say no, nothing happened and hang up. You do not want to spar with the cop that's on the other end of that phone call. Stay away from it and immediately call us. The second warning is that at any time you're going to be subject to search and seizure. A warrant may be issued and you're house searched, your car searched, your computer searched. If this should happen, do not interfere with the police officers, you don not want charges of obstructing a police officer to complicate matters. The third warning has to do with talking to

the police. Most people believe that if you don't talk to the police, the police will think you're guilty. Well it doesn't matter what they think, what matters is the evidence and the fact of the matter is that the police have been trained in the process called the Reed method of interrogation. Now you haven't heard about that before but let me tell you this back in the 30's and 40's the police could beat you with a rubber hose to get a confession. The Reed method of interrogation is a psychological rubber hose. You can be beaten with that psychological rubber hose and I guarantee you you'll confess to killing your mother, even if she's still alive, it's that powerful. That is why we tell people do not be interviewed, do not be subject to an interrogation. Refuse to be interviewed, refuse to be subject to an interrogation, ask for an attorney, assert your right to remain silent and you should do that whether you're guilty or innocent. What comes out of those interrogations can hurt somebody whose innocent.

I want to explain to you what I call the three ring circus. Sometimes false allegation cases have to be defended in several different areas. That is why we call it the three ring circus. In addition to defending yourself in criminal court, in some cases a spouse will begin a divorce at the same time. Divorces are considered civil and are litigated in the family court. In addition to your criminal defense the state may file a petition to stop you from having contact with your children. This may be litigated in the juvenile court. Also, if you are a licensed professional like a physician, a dentist, a nurse, a psychologist or a therapist, the state may also file against you in the state's licensing administrative court. You can see why we call this the three ring circus. Sometimes there's four and even five rings. And you must remember in some states the prosecution office may seek to have charges filed against you in the criminal court, the juvenile court, and in licensing administrative courts all at the same time. In our experience this teaches us that the prosecutor's office will do just about anything to pressure you to settle for a felony prison term. Obviously few of us have the funds to fight all of these battles at the same time. That is why these tactics by the prosecutors are so effective in compelling the defendant to make some kind of agreement possible to end the suffering. We recommend damage control or what our emergency room colleagues might call triage. This means that you must pick the battle that is the most important and put all of your resources into that fight. We believe that this

is always the criminal court. Why? Because you cannot visit your children from a prison cell, you cannot enjoy your marriage from a prison cell, you cannot practice your profession from a prison cell. At the same time we believe that you must use a defense team that is completely aware of what the standards are in family court, the juvenile court and the state administrative court and is able to assist you in those courts. It is important that what is done in any of these other courts does not harm your criminal case and vice versa. This is just another reason that we have experts in our group in family law, juvenile law and state administrative hearings.

I want to talk to you about how biased and unfair the law has become. Let me give you some examples. We used to have a preliminary hearing and this is a hearing that's held prior to the trial where a judge decides whether or not there is enough evidence to warrant having a hearing. We used to be able to call witnesses at that hearing and it gave us an opportunity to question the accuser. Well what happened is in the McMartin case the preliminary hearing lasted about a year and a half and most preliminary hearings last about a day or a day and a half. The prosecution put a proposition on the ballot to change that and now they don't even have to call the child in one of these cases, a police officer can get up and testify at the preliminary hearing on behalf of the child. Further, we can't call witnesses, we used to be able to, so if there was a reluctant witness who wouldn't talk to our investigator we could put them on the stand, now we can't do that. The next law that is really unfair has to do with sentencing. The acts are parsed down into individual little components. Let's say it carries 8 years to sexually touch a child, child molest and the child says well he touched me on the left breast then he touched me on the right breast, then he touched me on the vagina, then he touched me on the left breast, well there's four counts at 8 years a piece and that took about 15 seconds, that is why you hear about sentences of 400 years things of that nature. The law also is designed to favor that each act be served consecutive, not concurrent tying the judge's hands, which means you add one sentence on top of another, on top of another for each count. Every year there are more and more laws covering this area and they are all designed to make it easier to prosecute and more severe consequences. For example, people who got sent to state prison get fifty percent credits, but not for sex cases. They have to serve eighty-five percent of their sentence, that's an effective

increase of seventy percent more time that you spend in a prison even though there's been no change in the law having to do with the length of each count. What else happened, discretion is taken away from the judges. Most allegations can be filed as mandatory prison sentences with few exceptions. If force or duress is used, you can get a mandatory prison sentence. Well when the legislature passed the law and it said child molestation let's say with force I think they were thinking about real force. Well the courts of appeal have stepped in and interpreted what force means. And it basically is the physics definition, you know if you push a penny across the table that takes force. The cases I've looked at I've only seen one case that held an act not to be forced and in that case the victim said that she opened her and a penis was in her mouth and it was pulled out and the person didn't touch her with his hands in any way, held no force. However, there are cases where somebody was led down the hallway by the hand, held to be force. A case where somebody was placed on the bed, held to be force. A case where someone put a hand on a shoulder to guide the head of the child towards the penis for oral copulation, the placing of the hand on the shoulder, held to be force and that makes it mandatory state prison. But what's duress, duress is another way you can get mandatory state prison. Duress is when you're forced or threatened to do something, you know if you don't do it I'm kill you type of thing. Then the court of appeals gets in and starts interpreting what duress means. There's actually a case where it came down that well he was big and I was little and I felt intimidated by that. So mere size difference was held to be duress. You've heard about the three strikes and you're out law, were you aware there is a one strike and you're out in sex cases when you have penetration with force. One strike and you're out, 25 to life. The other imbalance law that developed had to do with the evidence code. We've spent hundreds of years developing the evidence code based upon only allowing in evidence that's reliable. Well they've made a series of exceptions to the hearsay rule to assist in prosecuting these types of cases. If you tell a doctor, if a child tells a doctor what happened and that's used in his supposed diagnosis, even though there is no such thing as a diagnosis of sex molest, sex molest is an event not a medical condition. That's an exception to the hearsay rule. They just made one after another after another exception to the hearsay rules and finally they made a catchall one. If there is no other hearsay rule that applies and the judge thinks it's

reliable, he can let it in. No such exceptions have been made to help the defense. The next thing for over two hundred, two hundred fifty years, propensity evidence has never been allowed in. Propensity evidence means you did something like this in the past, therefore, you must be guilty of it now. What the court found was that people would be convicted for their history rather than for what currently occurred and they found it to be extremely prejudicial evidence and it was never allowed in. Well, guess what a new law has passed which allows it in in sex cases so we now have it. We also have sex registration. That was a good idea when it started. The police would have a way of keeping track of everyone, but every year the law changes, at first you had to register once where you live and you didn't have to register again. So if you owned a home and stayed there for 30 years you didn't have to register again. They then changed it and you have to register within ten days of your birthday every year and if you don't you're going to go to prison. Then they changed it again and said that if you're out of your domicile for five days you have to register. Now think about that, that means if you go on a vacation to Hawaii for a week you got to run down to the Honolulu police and register as a sex offender. That can put a little damper on a vacation. The last thing and the one that I think we're going to be struggling with for years to come is the Megan's law. It used to be that the police had access to this information, now it's at every police station available for public view. The problem is if you ever get put on the registry where do you live, they tell your neighbors, where do you work, they tell your neighbors. Every year more and more laws are passed and they are always designed to help the prosecution and strip away the right of the defendant to defend himself. Another thing that I want to mention is the sexually violent predator law. After you've finished serving your complete sentence they can now transfer you to a mental hospital, but the mental hospital has wire around it, cells, looks exactly like a prison. The theory behind it is that it's like a civil commitment. If you have somebody whose insane and going out and going to kill everybody with an ax, they can be put inside of a mental institution while they are recovering their sanity. Well, here they are saying that you are still violent dangerous sexual predator even though you've served your complete sentence we're going to send you to the mental hospital and it's a one way ticket. Very few people ever get out.

In many cases suggestibility is an issue. Did you know that false memories can be created in children. Do you know how it's done without asking a single leading question. Everyone thinks they know about suggestibility, but in fact it is a very complex field. We keep a scientific research bank on all of the sub-issues under suggestibility. Our experts are required to have at least three scientific sources for each assertion that they make to the jury. Here's our research on just one issue in one trial. However, you can't read all of this to a jury, it would take too long and be too boring for the average juror. It is done through the blend of technology and video. Science and the presentation skills of the attorney working with the expert. Here is a short example how we teach jurors in this field of suggestibility. In the excerpts from an actual trial Dr. Lorandos is the expert witness and I am the attorney, how do we get this film footage? We arrived at the courtroom for a regular trial and found out that the judge had given NBC permission to film the entire 3 week trial and turn it into a one hour show called Crime and Punishment.

In many cases, suggestibility is an issue. Do you know that false memories can be created in children? Do you know how it's done without asking a single leading question? Everyone thinks they know about suggestibility but in fact, it is a very complex field.
We keep a scientific research bank on all of the sub-issues under suggestibility. Our experts are required to have at least scientific sources for each assertion that they make to the jury. It would take too long to read the research to the jury and the jurors would become bored. This jury education is done through the blending of technology in video. Here is a short example of how we teach jurors the field of suggestibility.
In the excerpts from an actually trial Dr. Lorandos is the expert witness and I am the attorney. How do we get this film footage? We arrived at the courtroom for a regular trial and found out the judge had given NBC permission to film the entire three week trial and turned it into a one hour show called "Crime and Punishment".

Hello.

Psychlaw presents the Clancy Litigation Group; Patrick Clancy and myself, Demosthenes Lorandos in another one of our series; "Defending Against

False Allegations of Sexual Abuse." In this seminar we're going to talk about suggestibility.

\What is "suggestibility?" Many years ago, Gujohnson wrote that suggestibility is the extent to which individuals come to accept and subsequently incorporate post-event information into their memory recollections. More recently,

Dr Lorandos, I want to focus you on whether you studied suggestibility.

We had to. When I say we, I mean organized psychology. We were shocked at what occurred at some of the famous cases that we've all seen on television.

Are you referring to McMartin?

Well, I wasn't going to name names……

I asked you to get some footage from the original experimenters.

Yes; this is a study called "The Mousetrap Study" and in this experiment they demonstrated that they could create the memory of events that never happened. What the examiners did was they went to preschools and they'd play a little question game with them and the questions would change from week to week. But, there's one question that is the same every week to week; for ten weeks. And so, this first little piece illustrates the little trap being asked if you ever got your finger caught in a mousetrap.

Have you ever seen a baby alligator eating apples on an airplane?

No.

Have you ever had your finger caught in a mousetrap and had to go to the hospital?

No.

No? Okay.

Okay, stop. We noticed if you just ask them, they'll tell you the truth. You don't have to pound away and say "Tell me more, tell me more, tell me more." Just ask them. But, what happens when they're asked again and again.

You went to the hospital because your finger got caught in a mousetrap.

And it, and it.

Did that happen?

Uh huh

Did it hurt?

Yeah.

So where in your house is the mousetrap?

It's up at our … down in the basement.

Down in the basement.

It's next to the firewood.

Stop. The experiment is reported. When they did this, they were shocked at the level of detail that the kids would spontaneously create. And they said, "Whoop; time out, we've got to debrief these kids. We've got to tell them that it's just a game; it was just pretend".

In your opinion, does that put to rest whether or not it's possible to implant a belief that you've been sexually molested as a suggestion?

All of these experiments demonstrate quite clearly that we can implant ideas of sexual abuse created as false memories.

I have no further questions at this time.

Cross.

Good afternoon Doctor. How are you doing today?

Fine, thank you.

You talked a lot about false accusations. What about the concept of "false denial"? You would agree with me Doctor that in the area of child sexual abuse, that's a pretty common thing; that kids deny abuse when it actually happens.

No, I would not agree. I think that to say that denigrates children that have been sexually abused. Children that have been sexually abused can tell us if they've been abused. To suggest that they're denying it unless we harangue them and uncover it, harms them and harms us. I wouldn't say that.

Aren't there other reasons though, Doctor that… suggest that the child might not want to tell about sexual abuse – like being ashamed?

Certainly, and no amount of suggestive leading, haranguing question is going to get an accurate story out of them.

Well, what happens then when a kid then turns with a blank stare to you and says, "I don't know what you're talking about."

You mean to the question "What do you mean?"

When a child has already said, "He touched me in my privates."

Okay, and then you say, "What do you mean?"

And what if they don't tell you anything"?

Then they don't tell you anything. You want to stick a suggestible artifact in front of their face and try to manipulate them into testifying about what it is? Like a picture of a naked little girl – How often do they see naked little girls? They don't.

Doctor, if I understand this correctly, you did not review any of the three video tapes in this case at all. Correct? The two with Adrian or the one with David.

That would have adulterated the purpose for me being here.

And you did not review any of the transcripts that discussed what was on these video tapes, correct?

I specifically asked to be kept out of all that and to only talk about the science.

But you can't apply it all to the facts of this case.

That's their job, not mine.

Why didn't you watch the videos?

Because my job is to be as neutral as possible – to help you, to help him, to help this jury understand what the science is. I'll answer any questions that you have about the science to try to help… but to advocate for one side or the other? I'm not here to do that.

Doctor, wouldn't it be an understandable thing if there were problems in these videos, you could point them out to this jury, couldn't you?

I could do that. I've done that in other circumstances.

And you didn't look at the videos in this case, correct?

I believe that was my answer.

Thank you. Nothing further at this time.

If you were to evaluate a tape, and it was the sixth time the child was interviewed, would you want to have the first five interviews also taped, so that you could see them?

Yes, absolutely.

I've no further questions at this time.

We'll take our break at this time, ladies and gentlemen.

Thanks.

I don't know if any of this is making sense. Am I making any (unintelligible).

I think so. He's starting to get really defensive.

I know, but am I coming off bitchy?

No; that's him. I'd say (unintelligible)

Okay

Suggestibility is an issue in many of our cases. Most of us are aware that children can be lead to tell entire stories of events that never occurred. Most people have suggested to their children the existence of Santa Claus which leads to full scale stories about seeing Santa Clause sipping the glass of milk and eating the cookies in the morning. However can an adult have an entire memory implanted through suggestion? Many people have thought not. So Elizabeth Loftus tested this theory in a study called, "The Mall Study". She found that in fact that you can implant quite easily an entire memory in an adult for a non-event. Dr. Loftus is one of our experts who we're especially proud of. She is one of the top suggestibility experts in the world.

Our colleague, Dr. Elizabeth Loftus.

Dr. Loftus set out to task whether or not it was possible to make people believe they could remember an event they'd never experienced, just by using suggestion.
Can you actually plant an entirely false memory in the mind of someone for something that didn't happen? Can you do something more extreme than just distort their memory for a detail here and there? I am decided to try to suggest to people that when they were a kid, maybe five years old, they were lost in a shopping mall.
The way we transmitted the suggestion to our subjects was to tell them we've talked to your mother and your mother told us that when you were about five you were lost in this particular store. "What do you remember about that?" And we mixed that past memory in with some true ones, and we asked our subjects about all these experiences and then we come back and we play it and we ask again, and we come back and we play it and we ask again. Through those multiple interviews we have found that we can get about a quarter of our adult subjects claiming all or part of this memory that we have completely made up.
"Do you remember anything about the woman who found you and brought you back together?"
"No, I don't think so, no."
Sometimes the memories start out very vague; they might say that they think they were lost but they were not quite sure, and then a week later they might remember a little bit more. These images are getting for them clearer and clearer as they keep on rehearsing them.
"Hair color or anything?"
"Oh, she had grey hair. She's graying; elderly and she looked like my Gran, basically."
One woman……..her name is Beth, she went into therapy, she started discovering memories of her father raping her, forcing her to have abortions and then, ultimately it turned out she was a virgin and he had had a vasectomy when she was two or three years old.
These sisters have long been trying to unlock the mystery of remembering and forgetting. For over 20 years now, psychologist Elizabeth Loftus has conducted experiments that demonstrate how longterm memories are constructed and updated.

“The question that we’re currently interested in is, “Can you go so far as to suggest an entire memory of something that never happened?”
Chris is the subject of a false memory experiment. The Loftus researchers had several of his family members record in a journal some real events shared by the family. A false event; being lost in a shopping mall at the age of five was added to the journal, which Chris read and ultimately remembered as real.
“I remember getting lost and I was crying. I remember that day; I was so scared, I thought I’d never see my family again. I knew I was in real trouble. I remember the store……actually remember the store. An older man approached me. He was tall and, I don’t know his age but he was older. He had a flannel shirt on. I remember the flannel shirt and I remember my mom told me, “Never to do that again.”
Well, in terms of vivid memory; there was no man, there was no flannel shirt, there was no mother who said, “Don’t ever do this again.”
Using deception in psychological research is a controversial by sometimes unavoidable practice. When the Loftus research team informed Chris that they had implanted a false memory, they followed a debriefing procedure designed to minimize any distress.
Words that I would come up with to describe what memory is, I would say, “Memory is suggestive subjective; it’s malleable.”

In the mid 1980's Dr. Bruce Woodling a pediatrician from San Luis Obispo published an article on the signs of molestation in genital and anal examinations. The local DA sent Dr. Woodling children that were suspected of being victims of molestation. He examined them and what he saw was erythema which means redness, a rounded hymenal edge and bumps on the hymen, increased vascularity, indents in the curvature of the hymen. He concluded that these and other signs that he noted were proof of molestation. His work spread across the country and became the accepted dogma. It was total junk science. Why you ask. No one had ever done a study on normal non-abused children. He established (inaudible) normal anatomy (inaudible). In the early 1990's the first controlled studies were done and what did they find was normal, erythema or redness, rounded hymenal edges, bumps on the hymen, increased vascularity, indents in the curvature of the hymen, etc, etc, etc. Exactly what had been reported (inaudible). Well that didn’t end it. Now the examination of children has

turned into a word game. The doctor examined the child and say that the findings are consistent with molestation. Most people believe that they found evidence, but not so fast. Doctors may have a long list of findings like erythema, increased vascularity, etc, etc which are totally normal, but most times they have found nothing. So why has the prosecution doctor call it "consistent with molestation"? Well you can touch someone on the vagina and leave no evidence of trauma. Therefore, no evidence of trauma or no evidence at all is also consistent with molestation. Using this play on words every child in the world has anatomy that is consistent with molestation. To counter this junk science and the word games played by advocate doctors we call on our own experts. The Clancy Litigation Group maintains a library of controlled studies on normal genital and anal anatomy. The following is a clip from one of our training videos that we use to train judges and attorneys about this area of medicine(These photos depict some of the findings that the McCann Team found.

They did a study of non-abused children to establish what the norm was. What they found that 41 percent of the children had erythema or redness. For years doctors had been testifying that evidence of erythema or redness was Perferred-Molett. And yet the McCann study established that 41 percent of non-abused children had this condition. It went on to find that 26 percent had areas that looked like scars but were not. These scars…….. scars appear like a thin white line in the skin. And when they saw this, what they found out was that they were created by a genetic abnormality under the skin and were not actually scars. But for years, people had been looking at them and thinking they were scars and testifying that they had found evidence of molest. Remember, 26 percent in non-abused children.

Forty-four point eight percent total had projections or tags on the hymenal edge. That means instead of the edge of the hymen being smooth all the way round in a crescent shape, there would be a little indentation or a bump sticking out from the edge. For years people had been testifying that this was evidence that a molest had occurred. They actually found out that 44.8% of non-abused children had these projections or tags. The study went on and found that 69.7% had thickened or rolled edges of the hymen. An edge of a hymen comes down like a blade and becomes thin and sharp at the edge. Some of them however were rounded and they had felt for years that this rounding was caused by abuse because of penetration. In fact it was not….especially when you found out that 69.7% of non-abused children had this thickening or rolled edge of the hymen.

Thirty-one point three percent of the McCann Study children had increased vascularity (video stops) ….Means you could see the vessels; the blood vessels near the surface. For years doctors had been testifying this was evidence of sexual penetration. In fact, in turns out, it is not. Again, 33.1% of non-abused children have this.

Another phenomenon was, for years people have been testifying that if a vagina ever exceeded five millimeters in diameter that was a sign of penetration or sexual molestation. In this study, they found vaginal openings varying up to eight millimeters. They even found a few above that, but they discarded those as scientifically insignificant in numbers.

Now I would like to show you why we do not want you to talk to the police, whether you're guilty or innocent and if you've already talked to the police, we're about to show you without even being there what happened to you. How do we know even though we're not psychics? It starts with a call from the police, telling you that you've been accused and they just want to hear your side of the story. You're not going to be arrested, you're free to leave. Why do they say this? If you're not under arrest, they do not have to give you your Miranda Rights. They want to imply that if you'll just talk to them these allegations will be cleared up. It's a trap. You are not going to be interviewed. You're going to be interrogated. The two methods are not the same. An interrogation is designed to enforce a confession. And if not a confession, the police want at the very least to destroy your credibility. I watched one of my former clients on a police interrogation tape, being accused of touching a child's breast. The police, for 45 minutes kept telling him that if it was just an accident they could understand; accidents like that happen. They knew he was a nice guy, they knew he wasn't a child molester. If it was an accident, this was over and they understood. After 45 minutes, the client sighed and said, "Okay, it was an accident. Are we done now?" The first words out of the police officers mouth were, "Well now that you've admitted touching her, and from her story we know it wasn't an accident, be man enough to admit that you did it intentionally." Welcome to the Reed Method of interrogation.

The Reed Method of Interrogation was researched by our colleague Dr. Richard Leo as his doctoral thesis while he was at UC Berkeley. There are only a handful of people in the world that have researched this method. We are proud he is one of our expert witnesses and one of our colleagues. Have

you ever wondered why an innocent person would confess to be involved in a murder that they didn't do? Watch Dr. Richard Leo explain how it's done.

I'm Dr. Richard Leo. I want to thank those at Psychlaw for inviting me to speak as part of their continuing education program for criminal law specialists. I'm an associate professor of criminology and psychology at the University of California at Irvine. I'm obtained by PhD doctorate degree from the University of California, Berkeley. My doctoral thesis was a study of the techniques used by American police agencies in the interrogation of suspects.

In brief, I was allowed to attend 122 police interrogations at the Oakland Police Department in Northern California and witnessed another 60 interrogations by video tape in two other Bay Area police departments. I also attended five introductory and advanced interrogation training courses, including an advanced interrogation training course at the federal law enforcement training center in Glencoe, Georgia where all federal police, with the exception of the FBI are trained as well as the introductory and advanced interrogation training courses from the Chicago based training firm Reed and Associates. I have published numerous research articles, book chapters and books on police interrogation and confession. It was because of one of those articles that I was invited to attend the federal law enforcement training center.

My research has been found to be scientific in numerous state, federal and military courts. As of July, 2004 I have testified more than 100 times in 17 different states. On each occasion I have been required to establish the scientific foundation for my research. On two occasions I have testified for the California state attorney general's office for a case in which the defense was alleging that their client was innocent because three juveniles had confessed to the same crime. My role was to explain to the jury how police interrogation works and can lead to false confession from factually innocent individuals. I have given dozen of lectures on police interrogation and false confession to numerous professional organizations, including judges, prosecutors, police, psychologists and criminal defense attorneys. I have taught interrogation training courses to police investigators in Florida, Louisiana and Texas.

The Reed method is the primary method of interrogation in the United States. It was created by an individual named John Reed in the 1940's who co-wrote a textbook entitled Criminal Interrogation and Confessions which has become the bible of all interrogation training in America. It is now in it's fourth edition. The Chicago based training firm Reed and Associates goes around the country putting on seminars to teach police officers and detectives the Reed method of interrogation. Virtually every detective in America has either been trained in the Reed method directly through Reed and Associates or through similar interrogation training put on by someone else or by the police department to which they belong. The Reed method was not based upon scientific or systematic research, it was created to replace the third degree or the rubber hose in the basement of a police station when the courts put an end to the third degree in the early 1940's.

Now, the first thing to know about the Reed method is that there is a big difference between interviewing and interrogation. Interviewing is something police do to witnesses, victims and potential suspects. It involves asking friendly open ended questions in a non-accusatorial and non-confrontational manner. The purpose of an interview is to get the truth and as much information as can be helpful in figuring out the truth and investigative leads. The idea is ask questions in a manner that is not leading, suggestive or manipulative. The interviewee should feel at ease and should do most of the talking in an interview.

By contrast an interrogation is a very different activity. Police interrogate criminal suspects only when the presume the guilt of a suspect and the purpose of the interrogation is to get incriminating statements, an admission or a confession. It is not necessarily to get the truth. Remember, the idea is that police detectives already know the truth or the detective thinks he knows the truth, i.e. that the suspect is guilty and so the purpose of interrogation is to confirm what the interrogator believes. As a result, the interrogation is accusatorial and confrontational. The detective is supposed to do most of the talking and the detective uses specialized interrogation techniques whose purpose is to manipulate a suspect's perception and includes leading and suggestive, sometimes even coercive questioning methods. The ultimate goal of an interrogation is to

move the suspect from denial to confession. The Reed method is simple to understand. The main idea as put forward by the Reed school is that the interrogator needs to change the suspect's mind set by raising their anxiety and changing their perceptions about what will happen to them depending on whether they confess or not. The Reed method seeks to accomplish through a few primary interrogation techniques.

First, the interrogator seeks to isolate the suspect from the environment in which the suspect feels comfortable and from any social networks or outside support. So the interrogator takes the suspect to the interrogation room, which is typically in a remote room in the police station and sometimes lets him stew before questioning. The idea here is to isolate the suspect and eventually to show the suspect that he, the interrogator, dominates and controls the interaction.

Second, the interrogator accuses the suspect of committing the crime in a confident unwavering manner. As mentioned earlier, once the detective decides to interrogate, he has made up his mind that the suspect is guilty and the sole purpose of the interrogation is to get incriminating statements, an admission, and/or a confession. Not to entertain the suspect's alibi, denial or even reconsider whether the suspect is innocent or guilty. As a result, the interrogator will not only repeat his accusations often, but he will also cut off the suspect's denials, the idea being that the less the suspect is able to verbalize his denials, the more likely he will eventually be able to break.

Third, the interrogator will attack the suspects alibis or denials as illogical, impossible, inconsistent and/or contradicted by case facts even if it is not and confront the suspect with real or fabricated evidence, a technique that is known as the "evidence ploy". The purpose of attacking the suspect's alibi or denial and confronting the suspect with real or fabricated evidence is to convince the suspect that he is caught. That there is no way to escape the fact that everyone will think he is guilty and no one will believe his alibis or denials. In short, is to convince the suspect that he has no choice but to cooperate with the interrogator.

Fourth, the interrogator in the Reed method confronts the suspect with what are called “themes”. A theme is a psychological excuse or justification for why someone would have committed an act. So, for example, in a murder case the interrogator may suggest the theme of an accident or self defense. **Slide 7.jpg** That the suspect committed the crime accidentally or in self-defense to make the suspect feel that he is less blame worthy or culpable for the underlying act, i.e., the death of the victim and therefore make it easier for the suspect to admit to the killing. The technique of using a theme culminates in the use of a good theme and bad theme which in some ways is like the technique good cop/bad cop. The idea is to contrast the good theme, for example killing in self defense or as an accident **Slide 8.jpg** with the bad theme, for example, being a first degree premeditated cold blooded murder, to give the suspect the sense that there are only two choices in terms of how the crime will be defined and what will be the consequences to the suspect and that is in his best interest to take the good choice. Sometimes the good theme and bad theme even imply that if you accept the good theme you might have no culpability or minimal culpability. For example, the officer will state that all he needs to know is whether the defendant raped the woman or was it consensual sex. The officer will want to know if you molested the child intentionally or were you so drunk that you weren’t aware of what you were doing and it was unintentional. The officer keeps repeating that if you chose the good theme we can understand. Everyone makes those kinds of mistake or accidents. The officer never offers the choice that the alleged event didn’t occur. He keeps portraying the good thing as being in the suspect’s best interest.

The Reed method of interrogation can lead individuals who are completely innocent **slide 3.jpg** to sometimes either come to doubt themselves and their memory and/or to make false statements, false admissions or false confessions. When an innocent individual comes to doubt their memory or make a false confession it is of course highly counter-intuitive. What can clearly see how this can happen if one understands the process of interrogation because the Reed method of interrogation if misused on an innocent suspect can lead the innocent suspect to perceive their situation in a way that makes sense to question their memory or agree to a false account. How can this happen? It happens because the Reed method of

interrogation is intended to cause a suspect to think they are caught, they are trapped and there is no way out of the interrogation. They will inevitably be arrested, prosecuted and convicted no matter what they say or do in the interrogation room. This is why the interrogator exudes confidence, repeats the accusations often, cuts off or rejects any denials, attacks the suspect's alibi, sometimes relentlessly or explanations and confronts the suspect with real or false evidence. The idea is to convince the suspect that the case against him is air tight, objective and irreversible. No matter what the suspect says or does he is going to be arrested and prosecuted. Individuals who are naive or inexperienced with the police or who have no idea that police can lie and make up evidence as well as individuals low intelligence or high suggestibility may come to doubt their memories in the interrogation room especially in response to false evidence ploys because they may come to believe that despite the fact that they have no memory of committing the crime they must have done something because the police are unrelenting, attacking their explanations and alibis mercilessly and the police say they have all the objective evidence that everybody is going to believe, makes them look guilty. **Slide 5.jpg**

Common false evidence ploys include the police having the suspect's fingerprints or saying that they have the suspect's fingerprints, the suspect's DNA was found on the alleged victim or telling the suspect that his DNA was found on the alleged victim, telling a suspect that an eyewitness can identify him or her, telling the suspect that their alleged accomplice has blamed them to the police, or whatever else the police want to make up and insist falsely incriminates the suspect. The reason the Reed method can lead innocent suspects not only to doubt their memory, but also to make false statements or a false confession is because once a suspect is moved to the point of hopelessness as a result of the accusations, attacks on his alibi and explanations and the evidence ploys. He may come to perceive he really has very little choice in the matter. If the suspect believes the interrogator, whether or not he continues to deny committing the crime, he will perceive that he is trapped, caught and powerless that no matter that he is innocent he will get convicted. If a suspect believes this then the good choice and bad choice offered by the interrogator's use of themes may be persuasive. Given the fact that the

suspect perceives he is caught and there is no way out even if he is innocent he may feel compelled to take the good choice making him appear less culpable in order to avoid the bad choice which would make him appear more culpable since he believes he is going to get convicted anyway and as the interrogator is either implying or explicitly suggesting the good choice will led to less punishment, a lower a charge and/or a lower sentence or possibly no charges at all, than the bad choice which will lead to more punishments, for example a higher charge and/or higher sentence. If the detective's use of the Reed method of interrogation is successful in moving someone to this mindset then it may make sense indeed the suspect may perceive it as in his self interest to make a false admission or confession **slide 6.jpg** to avoid an inevitably higher charge or sentence even though he or she is completely innocent.

An innocent suspect can be led to say and possibly believe that it must have happened while he was asleep because he has no memory of it, it must have happened while he was blacked out drunk because he has no memory of it or is led to believe or can be made to believe that if he just agrees that something accidentally happened it will be in his self-interest. The Reed method of interrogation can be very psychologically coercive on both suspects that are guilty and suspects that are innocent.

State wide the district attorneys have a 98.5% conviction rate on these types of cases. That means that defense attorneys have a 1-1/2% win rate. This is not our win rate. Our win rate varies each year. We're about 40 to 60 times higher and here's why. Public defenders usually handle about 350 cases per year. There is only 220 work days in a year, you start doing the math. The average person probably gets less than an hour when they have a serious felony case. The rest of the time the public defender is in trial. Private attorneys, depending upon the attorney, probably handle somewhere between 80 and 125 cases. The typical criminal defense attorney is paid a retainer and immediately tries to get the best plea bargain that he can for his client. I've learned from experience this is not the way to do a case. I represented a grandfather one time who I believed was guilty. However, he never told me that he was and we prepared the case for trial assuming it was going to go to trial. As we did that he found a

Catholic priest who he just knew had some information but he wasn't talking. Well we went back and went back and went back and the young lady making the accusation, we're talking 13 years old, is claiming that she only had a sexual experience one time with her grandfather. Finally, the Catholic priest turned over letters where she claimed sexual experiences with 40 some men in the church. One the district attorney saw that, that led to a dismissal. See what would have happened if he had plea bargained before preparing the case. The Clancy Litigation Group each attorney handles 8 to 12 cases a year. We treat each case like a murder case. In fact, the sentences are longer in murder cases except for those murder cases that get the death penalty. We start preparing the case for trial on day one. We scan in all the documents, all the police reports and we index them so that we have control over the file. We take audio tapes and video tapes and we digitize them, put them into the computer so that they can be used later on in courtroom presentations and for closing arguments. During the first reading of the police report or any report that comes in, we create what is called a jobs list, a witness list, we index all of the documents and we make outlines of all witnesses. Now, we can teach you anything that we do. There is no big magic about it. Our philosophy is to involve you in your case. The district attorney will make offers even if you don't want one. Our philosophy is to educate you to make an informed decision rather than one based upon fear or ignorance. There is hope.

Now that you understand the politics and the seriousness of these cases we want to get together with you and discuss the facts of your case. We want to hear any charges been filed yet, maybe we can stop them from being filed. What interaction you've had with the police, CPS, therapists, or anyone else. We need to know a chronology of the events. People get very excited and want to tell us what's most important on their mind. But what's really important is to see the evolution of how the allegations came about so it's very important that you organize what occurred in chronological order. We want to know any prior complaints against you, prior criminal complaints made by your accuser. You can survive this. However, I found that everyone touched by one of these cases is scarred. We believe in preparation, preparation, preparation because we refuse to be one of those lawyers that wins 1-1/2% of their cases, we refuse to be what we call yellow page lawyers, they're specialists in everything;

robberies, embezzlement, sex molestation, drunk driving. Just look at the laundry list and what they claim to be experts on. We only do abuse cases. Defending against this type of case is costly both financially and emotionally. One thing you must realize is that if you don't give this fight everything you can and you lose, you'll be second guessing yourself every day for the rest of your life. We cannot guarantee every client will win their case. Anyone that tells you that is lying to you. We can tell you that everything that can be done, will be done. In this way we maximize your chance of the best possible outcome.