

# Lightning Strikes

## Article Series - Volume 2

### *"Child Sexual Abuse Allegations"*

*An investigative approach to identifying  
"Alternative Hypothesis" and General and Specific Approaches  
by Lawrence W. Daly*

Shocked, feeling numb? Child protective services take your children? Have you been accused of a serious sexual assault case? Have you turned to the yellow pages and the attorneys and investigators all look the same? What should you do?

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# "Child Sexual Abuse Allegations"

by Lawrence W. Daly

## *An investigative approach to identifying "Alternative Hypothesis" and General and Specific Approaches*

Developing a broader prospective, understanding and ultimate approach to an allegation of child abuse can be one of the most difficult tasks that an investigator will face in the investigation of child abuse. One of the most common down falls of the child abuse investigator is his/her lack of objectivity and the need to consider, explore, eliminate and reach a hypothesis.

It amazes me when I hear an investigator make the statement that they feel the child was sexually abused by the perpetrator. When I have reviewed the investigator's findings, I generally find that the investigator has failed to understand the creation of the allegation, the reasonableness of the alleged acts and the many hypothesis the alleged acts could have originated from.

Many of the investigators and other professionals in the field of child abuse would argue that considering all of the alternative hypothesis is not always necessary as the credibility of the child's statements are sufficient. This naive belief system is one of the major causes for false allegations. It is my belief that an investigator can not overlook any possibilities, leads, facts, issues and/or others comments or suggestions. Since the crimes of sexual and physical abuse of children are serious issues and the punishments are severe, conducting hap hazard, inadequate, simplistic investigations can be detrimental to the child and the accused.

This article will address the steps an investigator should take in conducting an investigation regarding a child abuse allegation. Three scenarios case studies have been provided. To provide examples of how to approach each case summary, read each case summary and from the reading of the summary, create an initial hypothesis, alternative hypothesis, final hypothesis and a case action plan. Although the investigator's initial hypothesis may be accurate it is important that the investigator learn to process his/her thoughts and beliefs through these three phases of hypothesis, ultimately creating a case action

plan.

In order to approach any and all investigative situations, the investigator must have the following:

A complete and thorough understanding of the case facts and issues. Failure to obtain, review and understand the general to specific information about a case could lead to an investigative approach which may be misdirected in nature, lack in integrity, quality, innovation and depth.

### **REVIEWING THE CASE FACTS AND ISSUES:**

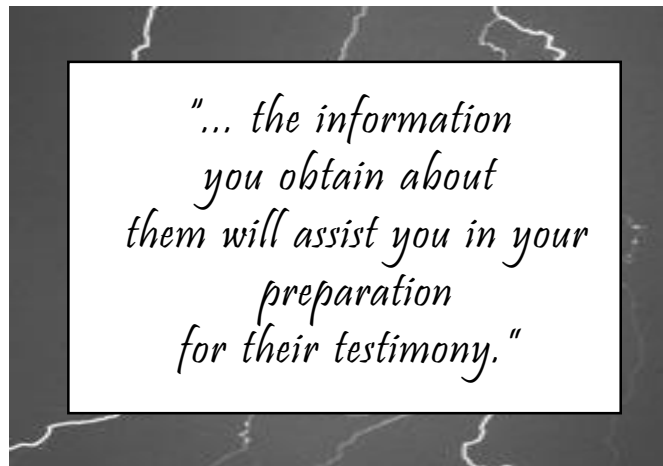
The investigator should obtain the following information before he/she makes a determination of which investigative approaches necessary.

The information should consist of:

- Conducting a complete interview of the reporting party regarding what knowledge and understanding he/she has about the facts and issues.
- Obtaining any/all documents the reporting party may have about the case.
- Obtaining, reviewing, identifying and understanding what information individuals may have any information about the case, facts and issues.
- Obtaining, reviewing and understanding any resources which are readily and easily accessible.

After the initial review of the case facts and issues, initial meeting with the reporting party, obtaining additional information from individuals and resources, a re-examination of all the information may be necessary.

After the investigator has conducted and completed the initial discovery phase of the case facts and issues, it is time for the investigator to plan his/her initial approach



to the case in chief.

## CONDUCTING A CASE ANALYSIS:

In order to properly approach any child abuse case, a Case Analysis is imperative to successfully conduct a thorough investigation.

### *What specifically is a Case Analysis?*

A Case Analysis provides the investigator and their client with a breakdown of the case. It provides a basic understanding of how the case looks after the persons, records, and issues are identified. Anyone should be able to pick up the Case Analysis and, upon reading it, understand the key aspects of the case from the State's viewpoint. A Case Analysis identifies areas of concerns and issues that should be addressed by the investigator and their client.

The categories generally utilized in a child abuse allegation are as follows:

- Victim(s)
- Relatives
- Other Witnesses
- Child Protective Services
- Police Personnel
- Counselors
- Teachers
- Foster Homes
- Medical Personnel
- Day Cares
- Evidence
- Records
- Suggestions and Approaches (Case Action Plan)
- Motions
- Notes/Comments

Once the Case Analysis has been completed, Suggestions, is where the investigator's Case Action Plan is developed.

## CASE ACTION PLAN

### *What is a Case Action Plan?*

It is the prioritization of those specific tasks and general investigative approaches that the investigator documents during the review of the case.

The Case Action Plan is useful in that it identifies the area which creates the initial development of the investigator's hypothesis and approaches to the case in chief.

## HYPOTHESIS/APPROACH: THE NEED TO LOOK FOR ALTERNATIVES

The past decade focused on the belief that children do not lie and/or any young children shouldn't have the sexual knowledge to provide such details in a child abuse allegation. This belief system generally exists amongst professionals who have limited investigative experience, knowledge, a perspective that lacks objectivity about children's abilities as witnesses. The investigator must remember that crimes of child physical and sexual abuse are unique in nature.

Specifically due to their individual characteristics, the methods employed by the investigator must be creative, general in thought and test every aspect of the general and specific allegations. It is important to approach a case from the initial review of a child abuse case. The investigator should begin creating hypothesis(s) and approaches from the moment he/she receives the case and until he/she has obtained, identified and corroborate each piece of information, element, issue, fact and aspect of the allegations. Failure to engage innovative and creative approaches to the allegation, ignoring that other possibilities and explanations may exist, is simply dangerous and could lead to a conclusion based on opinions, not fact. An investigator should understand that it is not his/her job to be judge or jury, but to gather and document information. This is a check and balance system that all investigators should subscribe to. It may cause a reduction in the number of cases that are developed from a hypothesis, based on the investigator's hunches, opinions and bias, not on fact finding method and techniques.

### *Defining What a Hypothesis and Approach Are*

The investigator must learn the basic elements regarding what a hypothesis and an approach are. A "hypothesis" is defined as follows:

An assertion subject to verification or proof, as:

- A proposition stated as a basis for argument or reasoning.
- A premise from which a conclusion is drawn.
- A conjecture that accounts, within a theory or set of coherent beliefs, for set of facts and that can be used as a basis for further investigation.
- An assumption used as the basis for action.

An "approach" is defined as follows:

- To come near or nearer in space, time, or magnitude.

- To come close to in appearance, quality, condition, or other characteristics; approximate.
- To make a proposal to; make overtures to.
- To begin to deal with or work on.
- To bring or draw closer:
- The method used to deal with or work on.
- The method used in dealing with or accomplishing something.
- A way or means of reaching someone or a destination; an access.

### *Three Phases of Hypothesis*

There are three phases the investigator must process through before coming to his ultimate hypothesis. The three phases, are the initial, alternative and final hypothesis. Let us examine each one carefully to understand their purpose in the investigation process:

#### **THE INITIAL HYPOTHESIS AND APPROACH**

In order for an investigator to properly approach a case, many hypothesis must be identified and prioritized, prior to creating a specific approach and Case Action Plan.

So how does an investigator create a hypothesis? I recommend that an investigator follow the steps that develop a hypothesis:

- A review of all the materials in reference to the case in chief.
- Identify all of the information resources through all of the resources identified in the Case Analysis.
- Set in motion basic investigative responsibilities such as backgrounds on the victim, witnesses, professionals and listed experts.
- Identify and evaluate the position of the opposing party and the experts. Consider and compare this to the evaluation and approach of the case.
- Understand completely what acts are being alleged by the opposing party. Once these acts are identified, the hypothesis(s) should begin form.

The initial hypothesis provides the investigator with multiple avenues, choices and theories to begin the investigation. The investigator should use this starting point to be as creative, imaginative, structuring ideas and hunches that either support the facts or refute the information.

### *Alternative Hypothesis*

The alternative hypothesis, creates avenues for the investigator to explore other hypothesis that have devel-

oped as the initial hypothesis gain strength, are eliminated or are proven to be of material and factual relevance. The alternative hypothesis is often overlooked by the investigator. This stage of the process of the investigation, by the investigator, can be termed as one of the most crucial steps the investigator will take in his evaluation and examination of the evidence. In this stage, the investigator should begin eliminating hypothesis' which have no support and build upon those that do have support.

The Case Action Plan that was originally created, must be re-examined for the milestones that have been completed to date. A new Case Action Plan should be organized and put into place.

### *Final Hypothesis*

The final hypothesis brings the investigator to the stage of completeness. The process of elimination that began in the alternative hypothesis will now come to a conclusion. The facts that were materially and factually relevant will have passed through the building and balancing stages and either created a final hypothesis or completely eliminated from the investigator's theory of the case in chief. The investigator may be torn between many hypothesis, but he/she should focus the case theory to one to two hypothesis. This process as most experienced investigators will tell you, is not as easy task.

### *Checks and Balances - Methods to Keep the Investigator Focused on the Facts*

Throughout the three hypothesis phases, the investigator must have a method where he/she can repeatedly ask if the information is based on supported material and factual relevant information or is the information a subliminal bias that has lead him/her astray.

The investigator must be careful not to approach the hypothesis with a "closed mind." It is imperative that the hypothesis created are examined with "The reasonable man standard!" This standard is defined as; if the hypothesis is reasonable and makes sense, it is most likely that most reasonable individuals presented with the facts, would agree that the investigator's approach and hypothesis are proper analogies utilizing the following criteria:

- Objectivity
- General to specific ideas
- Examine the case from everyone's viewpoint
- Examine the case from a full circle-not a straight line
- Intellectual honesty - built in check and balance
- Thoroughness

## **OBJECTIVITY:**

It is imperative "that the hypothesis is approached with an open mind.

Objectivity promotes reasonableness, integrity and credibility in an investigator who is conducting a fact finding mission.

## **GENERAL TO SPECIFIC IDEAS:**

The investigator should identify, develop, and consider hypothesis(s) from the most general information, facts and issues available moving to the specific information, facts and issues.

## **FROM EVERYONE'S VIEWPOINT:**

The hypothesis should be seen through the eyes of all of the witnesses experts and opposing counsel. The investigator should ask himself/herself:

- Is it reasonable what the witnesses alleges he/she knows, saw, felt or heard?
- Does the information being provided by the witness ring true?
- Does the information make sense? Is it logical?
- Is the information consistent with the information, facts and issues?

## **THE FULL CIRCLE:**

The hypothesis should be seen by the investigator as a full circle. The process of elimination should narrow the focus by the investigator, to one or two hypothesis, moving towards the center of the circle. This approach eliminates, adds and reduces all the possibilities and explanations. This should be seen as moving from left to right, corner to corner, ultimately advancing to the middle of the circle, which should contain the final hypothesis.

## **INTELLECTUAL HONESTY:**

It is important the investigator's intellectual approach to the case is an honest evaluation of the information, facts, and issues which are presented. If a check and balance system is not put into the evaluation process, the investigator may fall victim to his own approaches and hypothesis.

## **THOROUGHNESS:**

Each hypothesis must be explored thoroughly and the latter criteria(s) can be used to determine if the evaluation has been exhaustive and complete.

The criteria mentioned may be useful in creating and eliminating hypothesis, until a final hypothesis is deemed as the most reasonable by the investigator. The investigator must learn to utilize these hypothesis's criterias to his/her benefit. The hypothesis criterias should be utilized in the examination/evaluation process.

The following three case studies are for the investigator to improve his/her hypothesis as general approaches to child abuse allegations.

## **THREE CASE STUDIES**

### **Case Study #1:**

*Jamie is a five year old female. She is a possible victim of sexual abuse. The alleged perpetrator is her father. The following is a summary of the case facts:*

Jamie's father and mother have been married for ten years. The relationship appears to be amicable. Recently, there have been several arguments between Jamie's parents about the hours Jamie's father is spending at work. Although both parents work, Jamie's father has been working a lot of overtime lately. He states that the overtime is mandatory. Jamie's mother calls her husband's employer and ascertains that he has not been putting in the hours he has stated he has been putting in. Jamie's mother thinks back to the past few weeks and realizes that her husband has been coming home with alcohol on his breath. The other thing she remembers is waking up and finding her husband in bed with Jamie without any clothes on. She thought that Jamie's behavior had been peculiar since that night. An interview of Jamie by her mother occurs. In the interview Jamie alleges that her father touched her on the outside of her pajamas in the vaginal area on the evening he slept with her. She states the touching woke her up. She told her mother when she woke up to the touching, she rolled over and went back to sleep.

At this point the mother stopped the interview and called the police. Jamie's father is contacted at work by the police. He denies that he ever sexually touched his daughter and that the charges are ridiculous.

Based on the above case facts, what hypothesis's and ultimate approach would you most likely take in reference to this case? Let us look at some of the hypothesis and approaches that I would develop and utilize.

### **INITIAL HYPOTHESIS**

- The child's father may have sexually molested his daughter.
- Why doesn't the mother recognize the alcohol on her husband's breath until after finding him in

bed with her daughter.

- There's a possibility that the husband is having an affair or why would he have to lie?
- He was too drunk. Did he know what was going on and did he touch his daughter?
- Is it possible that something happened with the girl?
- Is the husband lying for a reason? Which reason and why?
- The father was drunk. Did he touch his daughter while intoxicated? Accident only?
- The father was drunk and touched his daughter sexually.
- The daughter is mad because dad spends so little time with her and made up the touching.
- Wife suspects husband having an affair and is trying to punish him so she made this up.
- Nothing happened in bed.
- Wife found husband in bed with Jamie and is afraid something happened and had Jamie make allegations.
- Wife's jealous because husband doesn't spend much time with her.

#### **CASE ACTION PLAN (APPROACH)**

- Conduct a background check on both parents.
- Interview neighbor(s).
- Interview the father's employer.
- Determine where the father had been drinking.
- Interview the bar to determine how much he drank and the time span.
- Draw up a chart of events.
- Determine when all of this began, i. e. drinking, coming home late, touching incident.
- Diagram of the bedroom.
- Interview the child.
- Determine alcohol level of father.
- Determine exactly what the arguments/conflicts were about.
- Determine the peculiar behavior of Jamie.
- Determine when the father went to bed prior to the incident.
- Interview the employer of the mother.
- Interview teachers or day care.
- Interview anyone that the child disclosed the information to.
- Interview friends of the child.
- Have the child medically examined.
- Obtain all of the families medical records.
- Obtain all of the families counseling records.
- Sexual deviance evaluation for father.
- Psychological evaluation for mother and Jamie.
- Interview other siblings or relatives.

#### **ALTERNATIVE HYPOTHESIS**

- Jamie could have been sexually touched at school, neighbors, uncle and cousins.

- Nothing happened.
- Touched her vaginal area by mistake.
- Father has a severe alcohol problem.
- Mother was sexually abused - suffers from psychiatric disorder.

#### **FINAL HYPOTHESIS**

- The father is having an affair and the mother wants to punish him, or the husband is lying for a reason.
- The father is innocent.
- The father has an alcohol problem.
- The father committed the sexual abuse.

#### **Case Study #2**

*Sally is a nine year old female. She is alleging that her neighbor and best friends father sexually assaulted her. The following is a case summary of the case facts:*

Sally lives next door to her best friend Sarah. They have been best friends since Sally moved into the neighborhood three years ago. Sally generally spends the majority of her time at Sarah's house. Sarah's father generally arrives home before Sally leaves for home. There have been no arguments between Sally and Sarah's father and there have been no incidents of negative discipline.

A week ago Sally was playing with her friend Jean at her house. They were in Sally's bedroom playing with their Barbies. As Sally's mother walked past the bedroom door, she heard Sally tell Jean that Sarah's father is a rapist. After Jean went home, Sally's mother brought her into her bedroom and asked her why she thought Sarah's father was a rapist. Sally began to cry. Sally's mother asked Sally if Sarah's father had touched her inappropriately. Sally said, he touched me in my private area. At this time Sally's mom told her she was proud of her for telling her and that they needed to tell someone who could protect her and Sarah. Sally and her mother went to the police station and Sally was interviewed by the police. Sarah's father was contacted by the police and denied all of the charges.

Based on the above case facts, what hypothesis's and ultimate approach would you most likely take in reference to this case?

#### **INITIAL HYPOTHESIS**

- Sarah's father did sexually molest Sally.
- Sarah's father molested Sarah and Sarah told Sally about it.
- Sarah's father molested Sarah in front of Sally.
- Sally made the story up, or someone else molested Sally and she's afraid to say who did it.
- A male relative of Sally's molested her.
- A male friend or relative of Sarah's father molested Sarah.

- Sarah's mother stated that she was proud of Sally for her telling her about the incident therefore making Sally feel good about what she did.
- Sally stated that Sarah's father is a rapist when most likely she doesn't understand exactly what occurs in a rape.
- The mother immediately asked if she was touched inappropriately instead of getting Sarah's response first.
- Why did Sally disclose such information to Jean and why did she state that he was a rapist.
- Sally's father could have sexually molested Sally.

### **CASE ACTION PLAN (Approach)**

- Background check on Sally's parents.
- Conduct search for prior residence interviewing neighbors.
- Indicate the workplace of Sally's parents.
- Conduct a child interview of (indicate facts)
  - Sally
  - Sarah
  - Jean
- Indicate whether Sally has had prior counseling.
- Diagram of the room.
- Medical exam-depending on length of time.
- Conduct interviews of old and new neighbors of Sally's.
- Indicate movies that Sally's family views.
- Conduct interviews of Jean and Sarah's family.
- Conduct interviews of work associates for both parents.
- Identify the time span of how long they were together each day.
- Identify if the father and Sally were ever alone.
- Identify the how many children were present after school with her everyday.
- Speak with teachers (old and new) of Sally.
- Obtain school records.
- Indicate why Sally's parents moved.
- Indicate whether Sally' parents had counseling.
- Create a pattern of growing up. Siblings?
  - Parents divorced?
  - Lives with what parents?
  - Has she ever ran away or thought about it?
  - Was she ever a victim in the past?
  - Has she ever alleged this before?
- Determine exactly who the first person was that Sally disclosed the information to.
- Determine if Sally has ever sexually acted out.
- Determine what time Sally and Sarah get out of school. What tasks do they perform when they get home?

### **ALTERNATIVE HYPOTHESIS**

- Sally thought her mother wanted her to say she had been touched.
- Sarah's mother wanted revenge and told Sally

to say these things.

- Sally has seen her parents pornographic videos and is parroting what she heard.
- Sally has been reading books about rapists.
- Sarah's father is guilty.
- Sarah fabricated the story.
- The initial interview was suggestive and leading, causing an unintentional false disclosure.

### **FINAL HYPOTHESIS**

- Sally was molested by Sarah's father.
- The initial interview conducted by Sally's mother was suggestive and leading, causing an unintentional false disclosure.

### **Case Study #3**

*Katrina is a 13 year old female. She is alleging she was sexually assaulted by two brothers who picked her up hitchhiking. The following is a summary of the case facts:*

Katrina was picked up by two brothers, Mike and Bill as she walked east on Portland Blvd. She willingly got into the truck and was driven to three of her girlfriends houses. At the girlfriends house, she picks up clothing and tries to get one of her girlfriends to come with her. This does not happen. She was ultimately and voluntarily taken to Mike and Bill's house, where she drank three wine coolers and several glasses of hard liquor. She was a runaway and had been so for three days prior to Mike and Bill picking her up. At bedtime, she went to Mike's room and slept with him. She alleges that she was forced to have sexual intercourse with Mike. After they had sexual intercourse, she alleges she was taken into Bill's bedroom where Mike put her into bed with Bill. She said, she fell asleep but awoke to Bill having sexual intercourse with her. She then fell back to sleep. She awoke the next morning, took a shower and was taken to school. Later that afternoon she reported to her school counselor that she had been raped by Mike and Bill. Based on the above case facts, what hypothesis's and ultimate approach would you most likely take in reference to this case?

### **INITIAL HYPOTHESIS**

- Katrina voluntarily had sex with both of them and then felt bad about it afterwards.
- She was raped by Mike both times and too drunk to know who she was with the second time.
- Katrina consented to sex with Mike the first time and Mike raped her the second time.
- She didn't have sex with either, Mike or Bill.
- Katrina consented to having sex with Mike the first time and was then raped by Bill.
- How did she know that she slept with the other brother?
- The girl seeks attention from her family and wants pity.

- She didn't feel right about what happened and decided to get even.
- She was in too deep for her age.
- She's a teenage runaway who has some serious problems other than from this incident. Possible truthfulness problems.
- She voluntarily went to the residence and then was unsure of what to do.
- She wanted to have friends at any costs.
- She had far too much alcohol for her age and size. She really wasn't sure what was happening.
- She was too young and naive to know what was going on.
- She had to drink and dreamt the rapes.
- She needed someone to blame for her problems.

### CASE ACTION PLAN

- Background check on Katrina and family.
- Determine if she slept with anyone prior to this incident.
- Determine if she has had prior counseling.
- Determine reason for running away.
- Interview friends of Katrina's.
- Interview both brothers.
- Interview Katrina's parents.
- Interview the girlfriend's that she saw that night.
- Interview her teachers.
- Interview the counselor that she disclosed the information to.
- Get diagram of the rooms and hall.
- Determine whether her family has had any counseling.
- Diagram of the directions and roads that she took for the hitchhiking.
- Make up a schedule of events.

### ALTERNATIVE HYPOTHESIS

- She was raped twice by the same person.
- She was raped twice by two people.
- She was not raped.
- She was a victim of sexual abuse, to drunk to perceive any incident it was not a rape.

### FINAL HYPOTHESIS

- She was raped by one person.
- Katrina voluntarily slept with Mike the first time and Mike raped her the second time in Bill's bed.
- Medical on Katrina for sperm culture.
- Blood tests on both brothers.
- Attempt to determine blood alcohol content in Katrina.

### SUMMARY

Each case will present its individual characteristics nuances, and specific issues. It is the primary role of the investigator to find the facts that support the most reasonable hypothesis. If the investigator can quickly eliminate those hypothesis which have no validity, fail to pass the reasonable standard test and lack credibility, then the number of hypotheses can be minimized as the investigators approaches become apparent. The investigation should develop into a hypothesis of elimination and focus into articulation. It is the investigator's role to be a fact finder in order to conduct a thorough and credible investigation, the investigator must consider any/all hypothesis. In essence as the hypothesis are being processed the approaches are developed and the result is a direction for the investigator to initially pursue.

*But that on the good ground are they,  
which in an honest and good heart, having  
heard the word, keep it, and bring forth fruit  
with patience.*  
~Luke 8:15 KJV