



*“Stopping the Runaway Train:  
Getting Control of Child Sex Abuse Cases.”*

2014 Public Defender Conference

September 22, 2014

Charles Grose

# Objectives

- The Written Materials
- The Big Picture
- Investigation & Collecting Discovery
- The Other Team's Playbook
- Anticipating Issues at Trial

# Before We Start

## Important Juvenile Issue

“Although the issue is not before the Court, we note the inconsistent positions of the General Assembly to limit the negative civil parameters of adjudication proceedings but permit the consequences of an adjudication to continue for the lifetime of one who is adjudicated delinquent for sex offenses. If this state retains the doctrine of *parens patriae* in juvenile proceedings, then the consequences of these proceedings should expire when the individual reaches the age of twenty-one years old. *See* S.C.Code Ann. § 63–19–1410(A)(5) (2010) (providing that commitment “must be for an indeterminate period but in no event beyond the child's twenty-first birthday”).”

*In re Kevin R.*, 2012-212655, 2014 WL 3844076 (S.C. Aug. 6, 2014)  
(Footnote 10)

**Defending Sex Offense Cases**  
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*The following outline was originally prepared for a presentation called "Beware of Alligators: Confronting Forensic Interviews, Limiting Expert Testimony, and Blocking Improper Vouching in Child Sexual Abuse Cases" at the 2010 Public Defender Conference. This outline was updated for a presentation at the 2012 Public Defender Conference called "Who's Driving the Bus: Understanding and Confronting the Cottage Industry in Child Sexual Abuse Cases." In addition to including cases decided in since the 2010 Public Defender Conference, the 2012 outline added Section V on the prosecution strategy, which is intended to help counsel anticipate and confront a typical prosecution case.*

*This outline was updated again for the South Carolina Association of Criminal Defense Lawyers' 8<sup>th</sup> Blues, Bar-B-Q, and Bar CLE held on July 12, 2013 in Greenwood, South Carolina. This presentation asked, "Finally Finishing Forensic Interviews?" This question became relevant after our Supreme Court dramatically limited the courtroom role of forensic interviewers in *State v. Kromah*, 401 S.C. 340, 357, 737 S.E.2d 490, 499 (2013) ("Forensic interviewers might be useful as a tool to aid law enforcement officers in their initial investigative process, but this does not make their work appropriate for use in the courtroom.").*

*This Outline was update again for the 2014 Public Defender Conference, held in North Myrtle Beach, South Carolina, for a presentation entitled, "Stopping the Runaway Train—Getting Control of Child Sex Abuse Cases."*

*This outline is intended to be a quick reference for identifying common issue arising in child sexual abuse cases in South Carolina. The outline is intended to encourage thorough, creative, and zealous representation. Attorneys using this outline, therefore, should consult relevant statutes, court rules, and case law, as well as conducting additional research as the individual case requires.*

# The Big Picture - Standards

“In any case presenting an ineffectiveness claim, the performance inquiry must be whether counsel's assistance was reasonable considering all the circumstances. Prevailing norms of practice as reflected in *American Bar Association standards and the like, e.g., ABA Standards for Criminal Justice 4-1.1 to 4-8.6 (2d ed. 1980)* (“The Defense Function”), are guides to determining what is reasonable, but they are only guides. No particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant.”

*Strickland v. Washington*, 466 U.S. 668, 688-89 (1984).

*Padilla v. Kentucky*, 559 U.S. 356, 367-68 (2010).

- National Legal Aid and Defender Assn., Performance Guidelines for Criminal Defense Representation
- ABA Standards for Criminal Justice
- Dept. of Justice, Office of Justice Programs, Compendium of Standards for Indigent Defense Systems, Standards for Attorney Performance
- The Champion
- Authoritative Treatises
- State Bar Publications



# SC Commission on Indigent Defense

**South Carolina Commission on Indigent Defense  
Performance Standards for Public Defenders and Assigned Counsel  
(Non-Capital)  
Effective Date July 1, 2013**

The following Performance Standards for Public Defenders and Assigned Counsel (non-Capital) were formally adopted by the SC Commission on Indigent Defense on June 7, 2013, effective July 1, 2013. An additional set of Performance Standards for Indigent Defense in Juvenile Cases was adopted by the Commission on June 7, 2013, effective July 1, 2013, which are intended to supplement the within standards.

These performance standards are not intended to provide a new basis for a claim of ineffective assistance of counsel. They are benchmarks taken from existing national standards, and do not and cannot redefine the existing precedents that set forth the basis for determining when reversible error has occurred.

**Guideline 1.1 Role of Defense Counsel**

(a) The paramount obligation of criminal defense counsel is to provide zealous and quality representation to their clients at all stages of the criminal process. Attorneys also have an obligation to abide by ethical norms and act in accordance with the rules of the court. Once representation has been undertaken, the functions and duties of defense counsel are the same whether defense counsel is assigned, privately retained, or serving in a legal aid or defender program.

(b) Counsel for the accused is an essential component of the administration of criminal justice. A court properly constituted to hear a criminal case must be viewed as a tripartite entity consisting of the judge (and jury, where appropriate), counsel for the prosecution, and counsel for the accused.

(c) Defense counsel should seek to reform and improve the administration of criminal justice. When inadequacies or injustices in the substantive or procedural law come to defense counsel's attention, he or she should stimulate efforts for remedial action.

**Comment**

The lawyer should be familiar with the Rule 402, SCACR.

**Guideline 1.2 Education, Training and Experience of Defense Counsel**

(a) To provide quality representation, counsel must be familiar with the substantive criminal law and the law of criminal procedure, including but not limited to Federal Constitutional Law, South Carolina Constitutional Law, the South Carolina Rules of Criminal Procedure, the South Carolina Rules of Evidence, Administrative Orders of the Supreme Court, and the

- Pre-trial Release
- Investigation
- Discovery
- Theory of the Case
- Motions
- Guilty Pleas
- Trial
- Sentencing

# Sources of Information

- Client
- Discovery
- Witnesses
- Other Court Proceedings
- Records

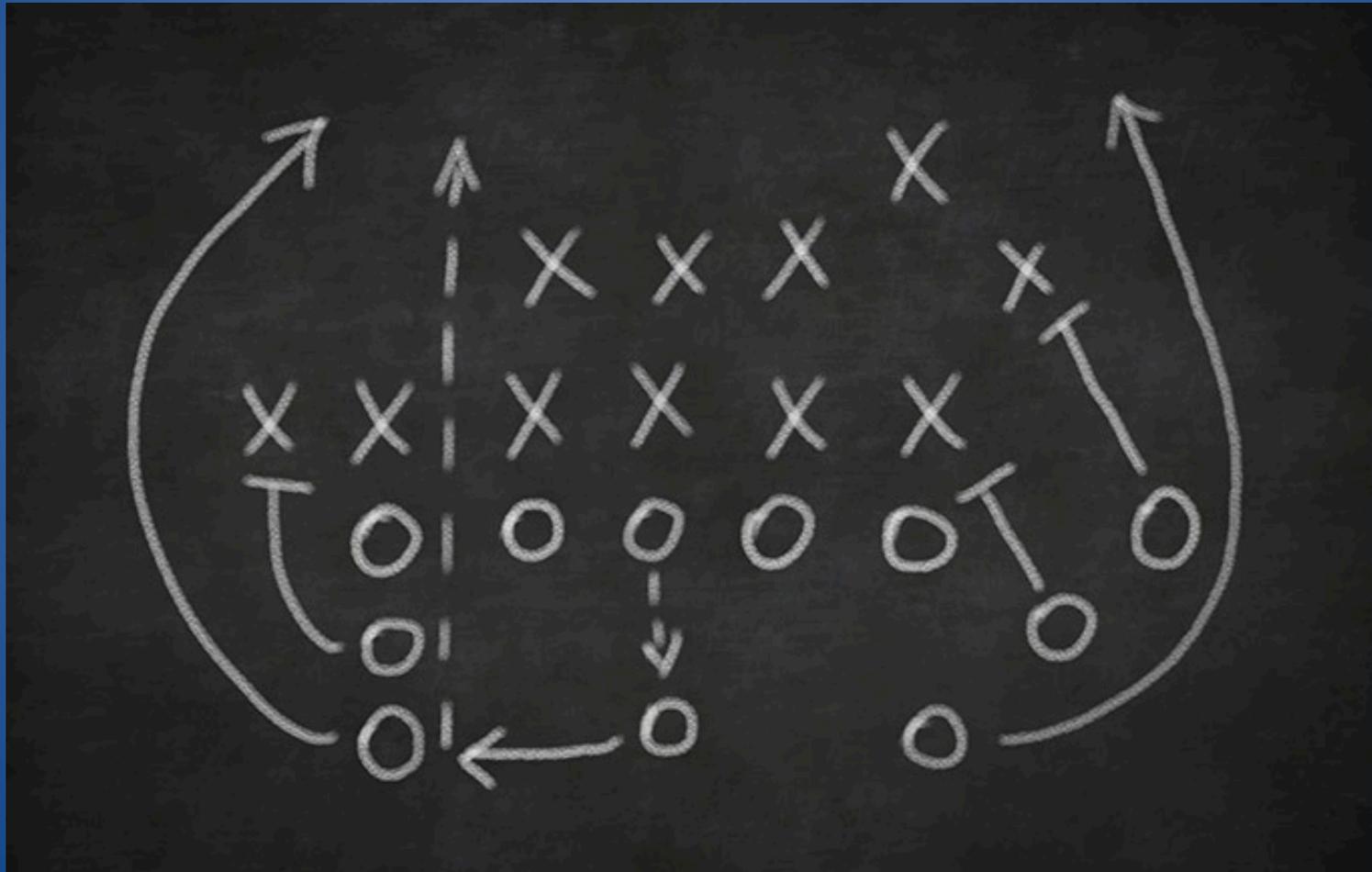
# Other Court Proceedings

- Prior Cases
- DSS
- Divorce Proceedings
- Order of Protection
- Adoption Records

# Records

- Medical
- School
- Counseling
- Employment
- Cell Phone
- Electronic

# Prosecution Playbook



# Children's Advocacy Centers

## S.C. Code Ann. § 63-11-310

(A) “Children's Advocacy Centers” mean **centers which must coordinate a multi-agency response** to child maltreatment and assist in the investigation and assessment of child abuse. These centers must provide:

- (1) a neutral, child-friendly facility for **forensic interviews**;
- (2) the coordination of services for children reported to have been abused;
- (3) **services including, but not limited to, forensic interviews, forensic medical examinations,** and case reviews by multidisciplinary teams to best determine whether maltreatment has occurred; and
- (4) **therapeutic counseling services,** support services for the child and nonoffending family members, court advocacy, consultation, and training for professionals who work in the area of child abuse and neglect, to reduce negative impact to the child and break the cycle of abuse.

# Children's Advocacy Centers

## S.C. Code Ann. § 63-11-310

(B)(1) Children's Advocacy Centers **must establish memoranda of agreement with governmental entities charged with the investigation and prosecution of child abuse.** Fully operational centers must function in a manner consistent with standards of the National Children's Alliance, and all centers must strive to achieve full membership in the National Children's Alliance.



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## Prosecution of Child Abuse Publications

- ▶ [Use of Experts in Child Abuse Cases \(2008\)](#)
- ▶ [A Guide for Use of Experts in Child Abuse Cases \(2010\)](#)
- ▶ [Prosecution of Child Abuse in SC: A Manual for Solicitors and Investigators \(2012\)](#)
- ▶ [First Responder's Checklist for Sudden Unexpected Infant Death Investigation \(2008\)](#)
- ▶ [Resource Guide for Investigating and Prosecuting Cases Involving Child Victims with Disabilities \(2011\)](#)
- ▶ [Resource Guide for Use of Interpreters in Child Abuse Proceedings](#)
- ▶ [Interviewing Child Victims of Maltreatment Including Physical and Sexual Abuse](#)
- ▶ [Portable Guides to Investigating Child Abuse and Neglect](#)

The Office of Juvenile Justice and Delinquency Prevention's **Portable Guides** series provides practical information on investigating child abuse and neglect. Law enforcement officers will find the user-friendly format of the guides useful for quick on-the-job reference. The guides are also helpful for other professionals involved in reporting, investigating, and prosecuting crimes against children. Clicking on any of the titles listed below will take you to the website of the United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Additional titles can be ordered at [www.ojp.usdoj.gov/ojdp](http://www.ojp.usdoj.gov/ojdp).

- ▶ [Sexually Transmitted Diseases and Child Sexual Abuse](#)
- ▶ [Battered Child Syndrome: Investigating Physical Abuse and Homicide](#)
- ▶ [Burn Injuries in Child Abuse](#)
- ▶ [Diagnostic Imaging of Child Abuse](#)
- ▶ [Investigating Child Fatalities](#)
- ▶ [Law Enforcement Response to Child Abuse](#)
- ▶ [Photodocumentation in the Investigation of Child Abuse](#)
- ▶ [Recognizing When a Child's Injury or Illness is Caused by Abuse](#)

Manual for Solicitors

**PROSECUTION OF CHILD ABUSE IN SOUTH CAROLINA:  
A MANUAL FOR SOLICITORS AND INVESTIGATORS**

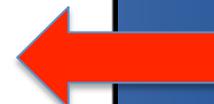
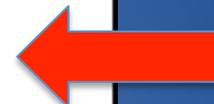
**Sixth Edition  
December 2012**

**A Project of the Children's Law Center  
School of Law  
University of South Carolina**

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# Appendix Five

## *Sample Direct Examination of Experts*

*The following sample examinations were provided by Suzanne Mayes, Child Abuse Specialist with the South Carolina Commission on Prosecution Coordination.*

### *Direct Exam of Forensic Interviewer*

#### Qualification of the expert

*Request and review the expert's resume in advance.*

1. Educational background and training
2. Employment background
  - a. Where are you employed?
  - b. What services do you provide?
3. Courses, seminars, and other training in field of forensic interviews
4. Training or teaching experience
5. Professional organizations or affiliations related to children's issues
6. Amount of experience conducting forensic interviews with children?
7. Number of years conducting forensic interviews? Estimated number of interviews conducted?
8. Has the witness been previously qualified as an expert in the field of forensic interviewing and has the witness provided testimony in court? On how many such occasions?

*Offer as an expert in the field of "forensic interviewing and child abuse assessment." Remember State v. Schumpert, 435 S.E.2d 859 (S.C. 1993): "Defects in the amount and quality of education and experience go to the weight of the expert's testimony and not its admissibility."*

## General issues

1. What is a "forensic interview?"
2. How are forensic interviews conducted to assess possible child abuse?
3. What, if any, rules or guidelines are set for the interview?
4. Is the child informed of these guidelines?
5. Are the child's parents or guardians present for the interview? Why or why not?
6. Where is the interview conducted?
7. Who may be allowed to observe the interview? In what manner?
8. What, if any, measures are used to assess the child's level of competency?
9. Why is this important?
10. Is the child's family and/or social history obtained? Why may this be important to the forensic interview and assessment?
11. Do you obtain a medical history? Why may this be important to the forensic interview?
12. What type of questioning format is used in the forensic interview? (i.e., non-leading, non-suggestive questions) Why are these safeguards used?
13. When assessing child physical or sexual abuse, how do you determine the child's knowledge of his or her anatomy?

## Delayed reporting

1. What is meant by the term delayed reporting or delayed disclosure?
2. In your training and experience, how common is delayed reporting among victims of child sexual abuse?
3. What factors commonly play a role in a child's delayed reporting?
4. During a forensic interview, do children necessarily disclose all details of past abuse? Why or why not?



## Direct Examination of Counselor or Psychologist

### Qualification of the expert

*Request and review the expert's resume in advance.*

1. Background and training
2. Type of professional licensing or practice (e.g., LISW, MSW, psychotherapy).
  - a. Where are you employed?
  - b. What specific types of services do you provide?
3. Courses, seminars, and other training in child abuse, sexual assault, or incest.
4. Training or teaching experience.
5. Professional organizations, affiliations, publications, speaking engagements.
6. Experience counseling victims of sexual assault (primarily child victims or adult survivors of child sexual abuse).
7. Number of years in practice; estimated number of patients.
8. Previous court testimony and qualification as an expert witness.

*Offer as an expert in the field of "child sexual abuse counseling and trauma recovery" or "child sexual abuse treatment."  
Remember State v. Schumpert, 435 S.E.2d 859 (S.C. 1993): "Defects in the amount and quality of education and experience go to the weight of the expert's testimony and not its admissibility."*

### Delayed disclosure generally

*Caveat: Because case law is not clear as to whether the expert can specifically identify the perpetrator, it is best for the expert to avoid calling the perpetrator by name or identifying labels such as "grandpa." The expert is allowed, however, to generally discuss the dynamics present when a perpetrator is a family member or authority figure.*

1. What do child abuse professionals mean by the terms "delayed disclosure" or "delayed reporting?"
2. In your experience, how common is this among victims of child sexual abuse?
3. What factors commonly play a role in delayed disclosure?
4. Can you explain family dynamics that may affect a child's delay in reporting sexual abuse?
  - a. when the perpetrator is within the family or present in the home
  - b. when the perpetrator has a strong influence on child or the family
  - c. when the perpetrator is abusive, domineering, controlling
  - d. when the non-offending parent is passive
  - e. when the perpetrator is an authority figure or loved by child
  - f. the child wishes to protect others, such as grandmother, mom, siblings, or anyone she perceives as being harmed by the revelation
  - g. perceives as being harmed by the revelation
  - h. when the child has strong desire to keep the family intact
  - i. when the perpetrator has threatened the child or a family member



- j. child's own natural feelings of guilt, shame, fear, and not being believed
5. What effect, if any, does it have when the perpetrator is a family member (or lives in the home)? Are you more or less likely to see delayed disclosure in these types of situations?
6. Based upon your professional experience, can you give us some examples of the different time spans you have seen concerning the issue of delayed disclosure? (i.e., cases spanning months, years, or into adulthood before disclosure, and cases with adult incest survivors where multi-generational sexual abuse may have occurred without any previous disclosure).

#### Case-specific delayed disclosure

1. In your expert opinion, (or "to a reasonable degree of certainty in your field of expertise"), did any of the factors you have previously discussed play a role in the victim's delayed reporting?
2. Based on your training and experience, was the victim's delayed reporting consistent or inconsistent with her history of sexual abuse?
3. *Optional* — What experiences, if any, have you had with adult victims who later disclose a history of childhood sexual abuse?
4. Hypothetically, if the perpetrator is a male, dominant authority figure (or residing in the home), would delayed disclosure be consistent or inconsistent with sexual abuse?
5. What, if any, role would additional factors such as physical or emotional abuse by the perpetrator play in delayed disclosure?
6. What factors may ultimately encourage a child to reveal sexual abuse? (e.g., a trusted relationship, change in environment, sense of security, age development, fear that sibling will be abused, or fear that the abuse will escalate).
7. What type of support system should be in place to allow a child to disclose sexual abuse?

#### Trauma symptoms generally

*Caveat: The proper language for the expert to use is "consistent with," instead of giving an outright conclusion regarding sexual abuse or post-traumatic stress disorder. See State v. Morgan, 485 S.E.2d 112 (S.C. Ct. App. 1997).*

1. When was (victim) first referred to you for counseling?
2. For what purpose have you treated the victim?
3. What are (victim's) treatment goals?
4. How has he/she progressed?
5. Why may symptoms of trauma follow sexual abuse or sexual assault?
6. What, in general, are recognized symptoms of trauma following an act of sexual abuse or sexual assault?

# Anticipating Issues at Trial

- Hearsay
- Lyle/Rule 404(b)
- Expert Witnesses
  - Delayed Reporting

# Hearsay

Rule 801(d)(1)(B), SCRE: A statement is not hearsay if consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive; provided, however, the statement must have been made before the alleged fabrication, or before the alleged improper influence or motive arose.”

In *State v. Jeffcoat*, 350 S.C. 392, 565 S.E.2d 321 (Ct. App. 2002), trial counsel alleged improper influence or coaching of the victim after contact with the judicial system. The Court held prior consistent statements made prior to victim's exposure to the justice system were admissible.

# Hearsay

Rule 801(d)(1)(D), SCRE: “A statement is not hearsay if consistent with the declarant's testimony in a criminal sexual conduct case or attempted criminal sexual conduct case where the declarant is the alleged victim and the statement is limited to the time and place of the incident.”

# Hearsay

## Rule 803(4). Statement for purposes of medical diagnosis.

*State v. Brown*, 286 S.C. 445, 334 S.E.2d 816 (1985) (“The perpetrator's identity would rarely, if ever, be a factor upon which the doctor relied in diagnosing or treating the victim. A doctor's testimony as to history should include only those facts related to him by the victim upon which he relied in reaching his medical conclusions. The doctor's testimony should never be used as a tool to prove facts properly proved by other witnesses”).

*State v. Burroughs*, 328 S.C. 489, 492 S.E.2d 408 (Ct. App. 1997) (a statement that the victim had been raped or that the assailant had hurt the victim in a particular area would be pertinent to the diagnosis and treatment of the victim. In this case, however, the fact that Burroughs asked if he could have a hug before he assaulted the victim in no way can be viewed as “reasonably pertinent” to the victim's diagnosis or treatment).

# Hearsay

(A) In a general sessions court proceeding or a delinquency proceeding in family court, an out-of-court statement of a child is admissible if:

- (1) the statement was given in response to questioning conducted during an investigative interview of the child;
- (2) an audio and visual recording of the statement is preserved on film, videotape, or other electronic means, except as provided in subsection (F);
- (3) the child testifies at the proceeding and is subject to cross-examination on the elements of the offense and the making of the out-of-court statement; and
- (4) the court finds, in a hearing conducted outside the presence of the jury, that the totality of the circumstances surrounding the making of the statement provides particularized guarantees of trustworthiness.

S.C. Code Ann. § 17-23-175

# S.C. Code Ann. § 17-23-175

- No Opportunity for Contemporary Cross-examination

# S.C. Code Ann. § 17-23-175

- No Opportunity for Contemporary Cross-examination
- Statute Never Says Actual Videotape is Admissible

# S.C. Code Ann. § 17-23-175

- No Opportunity for Contemporary Cross-examination
- Statute Never Says Actual Videotape is Admissible
- Not Everything in the Videotape is Admissible
  - Relevance
  - Other Bad Acts
  - Rule 403

# Hearsay – Prejudice

“Improper corroboration testimony that is *merely cumulative to the victim's testimony*, however, cannot be harmless, because it is precisely this cumulative effect which enhances the devastating impact of improper corroboration.”

*Jolly v. State*, 314 S.C. 17, 21, 443 S.E.2d 566, 569 (1994).

# Hearsay – Prejudice

“Because the children's credibility was the ultimate determination for the jury to make in deciding appellant's guilt, the trial court's error in admitting the reports could not have been harmless.”

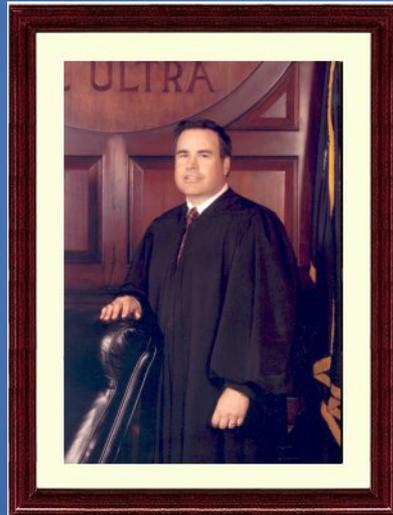
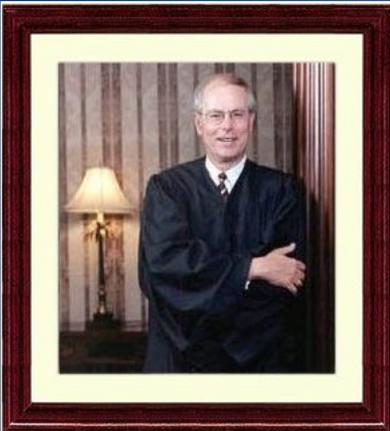
*State v. Jennings*, 394 S.C. 473, 479, 716 S.E.2d 91, 94 (2011).

# Lyle/Rule 404(b)

“A close degree of similarity establishes the required connection between the two acts and no further ‘connection’ must be shown for admissibility.”

*State v. Wallace*, 384 S.C. 428, 683 S.E.2d 275 (2009).

# State v. Wallace



- Justice Pleicones dissented in *Wallace*.
- Justice Hearn wrote the Court of Appeals opinion in *Wallace*, ruling in the other direction
- Justice Kittridge wrote the opinion in *State v. Tuffour*, 364 S.C. 497, 613 S.E.2d 814 (Ct. App. 2005) vacated and superseded 371 S.C. 511, 641 S.E.2d 24 (2007) (“The appellate courts of this state have unwaveringly adhered to the rule of exclusion of prior bad act evidence to show criminal propensity or that the defendant is a bad person unworthy of the presumption of innocence. It bears reminder that *Lyle* Rule 404(b) set forth a rule of exclusion, not inclusion.” (emphasis original)).

# Lyle/Rule 404(b) – New Play?

In *State v. McCombs*, 2012-209947, 2014 WL 4087913 (S.C. Ct. App. Aug. 20, 2014), the trial court judge denied the State's motion to admit prior bad acts under Rule 404(b). The State appealed, and the Court of Appeals reversed under *Wallace, supra*.

**Practice Tip** – It is questionable whether the State had the right to appeal in this case. See *State v. Pichardo*, 367 S.C. 84, 96, 623 S.E.2d 840, 847 (Ct. App. 2005) for a discussion of the “limited situations where the State may appeal.” Unlike the suppression of evidence in a drug case, the denial of the state's motion to admit 404(b) evidence does not prevent the State from prosecuting the case.

# Expert Witnesses

- Medical Doctors
- “Forensic Interviewers”
  - Child Abuse Assessment
- Counselors

*Watson v. Ford Motor Company*, 389 S.C. 434, 699 S.E.2d 169 (2010)

“First, the trial court must find that the subject matter is beyond the ordinary knowledge of the jury, thus requiring an expert to explain the matter to the jury. *See State v. Douglas*, 380 S.C. 499, 671 S.E.2d 606 (2009) (holding that the witness was improperly qualified as a forensic interviewing expert where the nature of her testimony was based on personal observations and discussions with the child victim).”

*Watson v. Ford Motor Company*, 389 S.C. 434, 699 S.E.2d 169 (2010)

“Next, while the expert need not be a specialist in the particular branch of the field, the trial court must find that the proffered expert has indeed acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter.”

*Watson v. Ford Motor Company*, 389 S.C. 434, 699 S.E.2d 169 (2010)

“Finally, the trial court must evaluate the substance of the testimony and determine whether it is reliable. *See State v. Council*, 335 S.C. 1, 20, 515 S.E.2d 515, 518 (evaluating whether expert testimony on DNA analysis met the reliability requirements).”

*State v. Kromah*, 401 S.C. 340, 737 S.E.2d 490 (2013).

Testimony by forensic interviewer of victim that victim had given a “compelling finding” of child abuse was inadmissible.

*State v. Kromah*, 401 S.C. 340, 737 S.E.2d 490 (2013).  
Footnote 4.

“The title of ‘forensic interviewer’ is a misnomer. The use of the word forensic indicates that the interviewer deduces evidence suitable for use in court. It also implies that the evidence is deduced as the result of the application of some scientific methodology. The exact scientific methodology applied apparently defies identification. The **RATAC style of interviewing is not scientific.** It merely represents the objectives and topics of discussion between the interviewer and the child. **Somehow RATAC is supposed to convert the interviewer into a human truth-detector whose opinions of the truth are valuable and suitable for the jury's consumption.**”

*State v. Kromah*, 401 S.C. 340, 737 S.E.2d 490 (2013).  
Footnote 5.

“In considering the ongoing issues developing from their use at trial, we state today that we can envision no circumstance where their qualification as an expert at trial would be appropriate. Forensic interviewers might be useful as a tool to aid law enforcement officers in their initial investigative process, but this does not make their work appropriate for use in the courtroom. The rules of evidence do not allow witnesses to vouch for or offer opinions on the credibility of others, and the work of a forensic interviewer, by its very nature, seeks to ascertain whether abuse occurred at all, i.e., whether the victim is telling the truth, and to identify the source of the abuse. Part of the RATAC method, which is not without its critics, involves evaluating whether the victim understands the importance of telling the truth and whether the victim has told the truth, as well as the forensic interviewer's judgment in determining what actually transpired. For example, an interviewer's statement that there is a “compelling finding” of physical abuse relies not just on objective evidence such as the presence of injuries, but on the statements of the victim and the interviewer's subjective belief as to the victim's believability. However, an interviewer's expectations or bias, the suggestiveness of the interviewer's questions, and the interviewer's examination of possible alternative explanations for any concerns, are all factors that can influence the interviewer's conclusions in this regard. Such subjects, while undoubtedly important in the investigative process, are not appropriate in a court of law when they run afoul of evidentiary rules and a defendant's constitutional rights.”

*State v. Kromah*, 401 S.C. 340, 737 S.E.2d 490 (2013).

Because the admissibility of forensic interviews and the testimony based thereon at trial has been the subject of several recent appeals, we believe it would be helpful to set forth, by way of example, the kinds of statements that a forensic interviewer should avoid at trial:

- that the child was told to be truthful;
- a direct opinion as to a child's veracity or tendency to tell the truth;
- any statement that indirectly vouches for the child's believability, such as stating the interviewer has made a “compelling finding” of abuse;
- any statement to indicate to a jury that the interviewer believes the child's allegations in the current matter; or
- an opinion that the child's behavior indicated the child was telling the truth.

*State v. Kromah*, 401 S.C. 340, 737 S.E.2d 490 (2013).

“A forensic interviewer, however, may properly testify regarding the following:

- the time, date, and circumstances of the interview;
- any personal observations regarding the child's behavior or demeanor; or
- a statement as to events that occurred within the personal knowledge of the interviewer.

These lists are not intended to be exclusive, since the testimony will of necessity vary in each trial, but this may serve as a general guideline for the use of this and other similar testimony by forensic interviewers.”

# Delayed Reporting

Ronald C. Summit, “The Child Sexual Abuse Accommodation Syndrome,” *Child Abuse and Neglect Journal*, 1983

# Challenging Delayed Reporting

First, Dr. Summit published an article in 1992, entitled “Abuse of the Child Sexual Abuse Accommodation Syndrome” that explained how his theory was being improperly used in courtrooms.

# Challenging Delayed Reporting

Second, the CSAAS has not been validated by scientific research:

London et. al., “Disclosure of Child Sexual Abuse: What Does the Research Tell Us About the Ways Children Tell?” 2005.

London *et. al.*, “Review of Contemporary Literature on How Children Report Sexual Abuse to Others: Findings, Methodological Issues, and Implications for Forensic Interviews,” 2008.

These documents point out that some of the forensic interviewing testimony does not require expert opinion while other types of the testimony are the subject of expert opinion but the “science” has not been validated.

*Watson v. Ford Motor Company.*



*“Stopping the Runaway Train:  
Getting Control of Child Sex Abuse Cases.”*

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Charles Grose