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WITNESS STATEMENT

(CJ ACT 1967, s.9: MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

STATEMENT OF: PROFESSOR MARTIN A. CONWAY
 AGE: OVER 21
 OCCUPATION: PROFESSOR OF PSYCHOLOGY & DIRECTOR
 OF THE INSTITUTE OF PSYCHOLOGICAL
 SCIENCES, UNIVERSITY OF LEEDS

ADDRESS: [REDACTED]

CASE [REDACTED]
 CLIENT [REDACTED]
 STATES OF JERSEY POLICE

DATE MONDAY, MAY 18, 2009

This statement consisting of 4 pages, signed by me, is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have willfully stated anything which I know to be false or do not believe to be true.

In accordance with the recommendation of Lord Justice Auld's Review of the Criminal Justice System at Paragraph 132, I state that I understand that:

- 1) It is the duty of an Expert to help the Courts/Police on the matters within their expertise;
- 2) This duty overrides any obligation to the person from whom the Expert has received instructions or by whom he is paid.

Signed

[REDACTED]

Dated Monday, May 18, 2009



1. I have been asked by The States of Jersey Police to assist them by reviewing the evidence in this case with reference to my knowledge of human memory. It is important that this report is read in conjunction with: *Memory & The Law* a Report from the Research Board of the British Psychological Society.
2. The report can be found at:
http://www.bps.org.uk/downloadfile.cfm?file_uid=07F99CF1-1143-DFD0-7EBD-70F5FDA6CE19&ext=pdf
3. I also submit an electronic copy of the report with this expert report.
4. Following the recommendations of the *Memory & The Law* report I also attach a copy of my CV as evidence of my expertise in the study of human memory.

5. I have researched human memory for over twenty-eight years, I have an international reputation and I am regularly invited to attend international conferences as a keynote speaker. I have published over two hundred scientific papers, books, and other materials on human memory. My main area is that of *autobiographical memory* (memory for the events of our lives), currently a major area of memory research and one that I was instrumental in developing. I cover all aspects of autobiographical memory about which I have extensively written and researched including memory in psychological illnesses, memory following brain damage, and in special populations such as children and older adults. And, of course, I have extensively researched all types of memories in normal populations ranging from children to old age across a range of countries and cultures.
6. I have acted as an expert witness on a number of cases (over 60) of remembered childhood sexual and physical abuse, including R v J.H., and T.G. (Deceased), July 1st 2005 (EWCA Crim 1828). I have given expert evidence in a number of other cases that did not feature memory for childhood experiences but in which memories were the major evidence. I also Chaired and co-wrote the report *Memory & The Law* (see 2 above). Finally, I regularly contribute to CPD training courses for the legal professions.
7. In the present report I evaluate the accounts of memories reported in the evidence of [REDACTED] and I do so in the context of my scientific understanding of human memory.
8. I have studied in detail:
 - i. A BBC 'Horizon' interview in which [REDACTED] describes the abuse.
 - ii. A statement by [REDACTED] dated 01.03.2008
 - iii. A statement by [REDACTED], [REDACTED] daughter
 - iv. The transcript, 51 pages, of a police interview with [REDACTED]
2. [REDACTED]'s account is a very simple one and the allegation is that the same abuse occurred in the same way on every occasion. Thus, for example, he was thrown in the bath on every occasion, he was always given sandwiches to eat, and he was on every occasion let out on a Sunday evening. And this on multiple occasions over 2 years.
3. It is however most unlikely that were not at least some occasions when there was some minor or, even, major departure from this routine.
4. The point is that when people experience very similar events over periods of time they come to form a schematic representation of the event. Now when the event deviates from what is specified in the schema then it is memorable. For

any repeated event there are always some moments when it does not quite go as the schema predicts and, therefore, there are in long-term memory along with the schema some memories of specific occurrences.

5. But ■ does not appear to have any specific memories only a general schema of what he alleges took place. This is unusual as some, a few, memories of specific occurrences would be expected, e.g. first and last times and, perhaps, some memories of times when actions did not fit the schema.
6. Add to this unusual memory performance his incorrect description of the bath - a bath which allegedly he was thrown in every weekend for 2 years - concern about the source of his 'memories' increases.
7. I note that although he denies not knowing the media coverage there is on page 37 of the interview transcript clear evidence that he has detailed knowledge of at least the some of the media coverage.
8. Thus, it seems reasonable to ask: Are his memories based on experienced events? Or, alternatively, are they a product of, for instance, poorly remembered events from his time in Haut de la Garenne, media reports, and perhaps other conversations, thoughts, and images he has had about these issues?
9. It perfectly possible for such mental representations to arise quite naturally without an explicit intention to deceive or fabricate. Such confabulations have been termed "honest lies" and they are often seen following certain sorts of brain damage and in dementia, but can also be present in people who are normal and do not suffer these conditions.

10. Conclusions

This is an unusual case in terms of memory. There are number of possibilities:

- i. ■ has only a schematic recollection of the abuse and cannot recall any single, one-moment-in time, specific experience. The schematic representation in long-term memory is, nonetheless, based on (repeated) experience.
- ii. The schematic account of the abuse and the claim that it always took place in the same way on every occasion over a 2-year period is not based solely on experienced events. Instead, it is some sort of amalgam of poorly remembered events from childhood (not necessarily of abuse), imagined experiences, and recent factual knowledge.

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- iii. Finally the schematic account might not be based on experienced events at all and it may be, as described in point 9 above, an *honest lie*.
11. I have then some concerns about the source of the 'memory' that is reported: is the key description of the alleged abuse based on experience or does it have some other origin? This will be an important issue for a court to address.

Professor Martin A. Conway
Monday, May 18, 2009