MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 5, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on February 5, 1987, at 8:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 262: Rep. Bradley, District 79, sponsor, stated that this bill sets up a hearsay exception for use in court in cases of sexual molesting of children. The child must be under the age of 10 and if it were to be admissible, the judge would make a written finding based on the evidence. This bill tries to protect the child. When this situation arises, the court is dealing with a very young child who is incompetent to be a witness, that is, the child would have forgotten the events, would be too young to understand a logical train of events throughout the time and would not understand the meaning of giving the truth or some such situation. The child is just not a proper witness. This lets a case go forward when otherwise it might not. Exceptions already in existence will not work in this particular situation. She submitted several articles for the record. (Exhibit A-H).

PROPONENTS: MIKE MCGRATH, Lewis and Clark County Attorney, explained that the problem is that the standard rules of evidence court procedures are not designed for children witnesses and are not designed for children that are victims of crime. Under the present law, unless there is specific exception, hearsay evidence is not admissible. The incidence of sexual abuse of young children has increased dramatically in recent years. Statistics show that there has been a 200% increase in the reporting of sexual abuse since 1976. By 1980, there were 25,000 reported cases annually. A substantial number of cases are never reported; estimates of the actual incidence vary from 100,000 to 500,000 per year. Often the child victim's out-of-court statements constitute the only proof of the crime of sexual abuse. Despite the importance of cross-examination, exceptions to the hearsay rule have long existed in evidentiary law. He urged adoption for this law and submitted an excerpt from the Kansas Supreme Court opinion. (Exhibit I).

SANDY ASHLY, works for the Mental Health Center in the sexual assault treatment program, pointed out that children are not little adults. Sexual abuse is an extremely

overwhelming experience and it makes it very difficult for the child to talk about. The passage of this bill will allow us to be more effective in our work. She urged support of this bill.

MARY PETERSON, Social Worker, representing herself, stated that she supports the bill because it provides protection for children that presently they are denied. This bill also protects future victims. She submitted written testimony. (Exhibit J).

JOHN MADSEN, Department of SRS, stated that the State of Montana needs laws like this passed.

W. L. BENNATT, went on record in support of this bill.

There were no further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 262: Rep. Rapp-Svrcek asked Mr. McGrath if the child or parent goes into the judge's chambers once there is hearsay that needs to be disclosed. Mr. McGrath stated that it depends on the circumstances but if the circumstances are highly reliable, the judge would question the witnesses and the court would make a finding stating that the child is unable to testify. The jury is instructed that it is hearsay evidence and they would examine the weight of that hearsay. Rep. Rapp-Svrcek then clarified that the judge decides when the child is unable to testify and makes a written finding; does he then, inform the jury of what the child has told him. Mr. McGrath stated that the parent's testimony is admissible and that is the hearsay. Rep. Meyers asked Mr. McGrath if video tapes can be used under the present law. He stated that this law could change that. In 1979, the legislature passed a law allowing video tapes to be used in court as testimony. The tape cannot be allowed unless the defendant and the defendant's lawyer had the opportunity at the time the tape was made, to be present and to cross-examine the child.

Rep. Addy stated, this is legislation that troubles him and he asked Mr. McGrath about the 24th exception to the hearsay rule, and quoted it, "a statement not specifically covered by any of the foregoing exceptions but having comparable circumstantial guarantees of trustworthiness". He could not understand why that does not give him (the county attorney) enough authority to do what he is asking for in this bill. Mr. McGrath said that it could, it is possible and there are other states that have done that. He also stated that this bill addresses the problem and provides some specific guidelines including the requirements of written findings and that is why he prefers this bill. Rep. Addy stated that this is what bothers him about the bill, because you already

have the authority that you are asking for and it seems that the purpose of this bill is to make sure that judges will allow that testimony in evidence. It is aimed at somebody who is accused of the crime of child abuse and gives them a lesser set of constitutional guarantees then somebody who is accused of another crime. Mr. McGrath stated that what they are trying to identify is not the crime but the victim. Rep. Addy pointed out that it is a tremendous temptation and almost impossible to screen out feelings and he cannot imagine a judge in front of a father or mother saying he will not let the parents tell that to the jury. Rep. Bradley pointed out that judges do not like to be reversed and they will be very careful in letting something go to the jury and they will have the responsibility on their shoulders if they do not make the case. Rep. Addy wondered if it is true that children 10 years old do not have enough knowledge about sexual matters to lie about them. He is not sure that is true. Mr. McGrath gave some examples of recent cases he had handled and sometimes there are not sufficient guarantees of trust-worthiness to allow statements. Ms. Ashley stated that there are studies being conducted now on this issue and about 5% of the stories being told are not true and those are happening in two situations, one being where there is a teenage girl who has been molested before and another time in a child custody suit. There are common patterns and now that there has been enough research done in the area of sexual abuse, we know what the patterns are. Rep. Addy questioned Ms. Ashley on the age of ten and wondered if the age should be lowered. She felt that ten years old should be kept in the bill.

Rep. Mercer stated that in the normal hearsay exceptions, they are to protect one person and that is the defendant and in this kind of case he is not so concerned about the defendant but is concerned about a child being a victim under this bill, where a mother is trying to get custody and the mother makes up a story. He is concerned that someone other than the child will make stories up in order to get someone in trouble. Rep. Bradley reminded him that this is only applicable in criminal proceedings. Rep. Rapp-Svrcek asked Mr. McGrath if it is possible, under this bill, that the judge would not ever see the child. He answered that it is not possible, the judge has to make a finding whether the child is capable of testifying.

Rep. Bradley closed the hearing on House Bill No. 262.

HOUSE BILL NO. 305: Rep. Cohen, District No. 3, sponsor, deals with raising from $300.00 to $800.00 the value of property, labor, services, loss, and other items that is the dividing line between a lower and higher penalty for criminal mischief, forgery, theft, and theft-related offenses.

This forms the dividing line between a misdemeanor and a felony. He submitted a written letter from Mr. James C. Bartlett, Attorney from Kalispell, which stated that the justification for the bill, in his opinion, is the economic reality that every 12 years the price of goods doubles. The criminal code was passed in 1973. Fourteen years have passed and therefore, $800.00 is equivalent to the $300.00 figure in terms of price of goods. Therefore, it is appropriate to raise the value. (Exhibit A).

There were no proponents, opponents and no questions from the committee.

Rep. Cohen closed the hearing.

HOUSE BILL NO. 301: Rep. Rapp-Svrcek, District No. 51, sponsor, stated that this bill plugs a hole in the criminal law by creating the offenses of criminal and negligent endangerment. These offenses would apply primarily to cases in which someone would introduce poison into aspirin tablets or something of that nature. He pointed out that a person who knowingly engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of criminal endangerment. He stated that the fiscal note attached is in error.

PROPONENTS: MARK J. MURPHY, Attorney General's Office, representing the Montana County Attorney's Association, stated that this bill addresses gross negligence. He urged support for the legislation.

MIKE MCGRATH, Lewis and Clark County Attorney, strongly supported the bill.

There were no further proponents, no opponents and no questions from the committee. Rep. Rapp-Svrcek closed the hearing on House Bill No. 301.

HOUSE BILL NO. 419: Rep. Spaeth, sponsor, requested that Rep. Mercer speak for him in asking the committee to let the bill sit in committee. There was no action taken on this bill as of this date.

EXECUTIVE SESSION:

ACTION OF HOUSE BILL NO. 283: Rep. Darko moved, DO PASS. Rep. Bulger moved to amend by deleting lines 14 and 15 on page 3.

Rep. Addy stated that this section is setting the grounds for modifying the custody decree and it sounds like good grounds for modifying the decree. Rep. Bulger did not agree

because it is frequently an area of conflict and it is a subject of vague interpretation and will cause trouble. Rep. Hannah stated that parents might look at this language and be more sensitive to the children, so, he opposed the motion. Rep. Darko pointed out that the bottomline of the bill is to protect the children, and the language is harmful. Rep. Miles felt that this could be abused too easily. Rep. Mercer stated that modification proceedings have seen some desire in the legal system to try to resolve issues of custody and visitation so that people are not constantly in court and the current standard is someone has to show the serious harm which is a very difficult standard to meet. Once custody has been determined, it is almost all over with and this bill will really open this up, if there is some frustration the case can be opened up. He suggested that the provision be dropped.

Rep. Brown supported the motion and stated the language heard most by parents going through custody suits is found in subsection (e), and this bill does try to get to a remedy that is essential. Rep. Daily made a substitive motion to strike line 11-20, on page 3. Question was called and a voice vote was taken. The motion FAILED 13-4. Question was called and a voice vote was taken. The motion CARRIED 9-8. Discussion continued and Rep. Rapp-Svrcek stated that he felt this was a good bill. Rep. Mercer explained that the problem most seen in regard to this bill is that it will essentially become a man's relief act. If he is bitter over the custody, he will be able to contest custody and the more litigation that takes place, the more bitterness that will follow. There needs to be one custody battle and then it is over with. Rep. Brown pointed out that people in this situation know the statute and what they can get away with. Subsection 2, seems to be a hammer and he felt it was a good hammer. Rep. Miles pointed out that there is no time limit on page 2 in regards to giving notice, she preferred a clearer directive so that it is not abused. Rep. Mercer stated that there is a rule of civil procedure in regard to serving notice of divorce but Rep. Miles' concern is appropriate because there is not a time limitation currently for custody cases. Rep. Darko stated that there are two sides to these situations and there are some amiable divorces. Rep. Rapp-Svrcek acknowledged that there should be a time limitation set up. Rep. Mercer proposed an amendment that if someone is attempting to leave the state, they must give written notice to be sent to the noncustodial parent at the last known address and provided to the clerk of the court. Rep. Hannah stated that there are too many problems to address in this bill and every loop hole simply cannot be closed. It is important to try and maintain contact, visitation rights and anything that helps force more agreeable divorces is a good idea. Rep.

Rapp-Svrcek agreed with Rep. Mercer's proposed amendment and stated that it will make a good bill better. Rep. Addy opposed the proposed amendment. Rep. Mercer moved his amendment. Question was called and a voice vote was taken. The motion CARRIED 15-2, with Rep. Addy and Eudaily dissenting. (See Amendments attached).

Rep. Darko moved that HB 283 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED 15-2, with Rep. Bulger and Miles dissenting. HB 283, DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 284: Rep. Darko moved DO PASS. Rep. Mercer stated that he has a serious concern about this bill. He felt that it will take marital disputes out of the hands of the party and that prosecutors will get caught up in the middle of it, so, that there is a civil proceeding going on and a criminal proceeding at the same time. To make it a crime to interfere with visitation rights is serious. Rep. Darko stated that the only thing custodial parents can be charged with is contempt of court and she did not know how it can be fixed. Rep. Meyers made a substitive motion to table the bill. A voice vote was taken and the motion CARRIED 16-1, with Rep. Darko dissenting. HB 284, TABLED.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 11:25 a.m.

Earl Lory

EARL LORY, Chairman

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 5, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

CS-30

STANDING COMMITTEE REPORT

February 5 19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 283

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Chairman

1. Page 2, line 9.
Following: "state, a"
Insert: "resident"

2. Page 2, line 10.
Strike: "may"
Insert: "shall"

3. Page 2, line 11.
Strike: "before"
Insert: "unless"

4. Page 2, line 12.
Strike: "has" through "for" on line 12
Insert: "upon order of the court after notice to the noncustodial parent and a"

5. Page 3, line 13.
Following: "parent;"
Insert: "or"
Strike: lines 14 and 15

Renumber: Subsequent subsection

FIRST reading copy (WHITE color)

Misused Tool Can Prove Harmful To Children

Newport News Tir
November 21, 198

EXHIBIT
DATE

Editor's Note: In early September this year, the News-Times/Lincoln Leader published a series of articles on the tragedy of child abuse in Lincoln County. Following is a esponse to the series and personal omments on methods and practices f the Children's Services Division nd Lincoln County District At rney's office in dealing with the c ild abuse issue.

The author, William McIver of Newport, a clinical psychologist.

In Massachusetts in 1692, 9-year-old Betty and her 11-year-old cousin Abigail would at times writhe and scream and make a lot of un--Puritan-like noises. The explanation was simple. Witches.

So the witchhunters came. And these experts knew what to look for. After all, they had tools and techniques which had been handed down from the Spanish Inquisition.

And there were the children. Abigail and Betty, and then others, would writhe and moan on demand. They'd point and accuse. Townspeople were paraded before them, some "strange;" most ordinary; and one, 5-years-old. The girls pointed out 40 persons as those who had caused their maladies.

The prosecutors had a passion for confession. Misguided souls who didn't admit guilt after being accused by the girls (and, therefore, found guilty) were dunked in water and kept under awhile. If, when revived, they persisted in their denial, down they went again. If they died, it was because they were guilty. If they didn't die, it was because they were guilty and full of the Devil. And, if they lived to confess, they were hung. Twenty died.

Factual evidence was set aside as the work of the Devil. "Spectral" evidence ruled the day. "I dreamed she came and stood over my bed. . .She put a potion in my porridge. . .I saw him fly on a stick across the face of the moon. . ." All the while, Abigail and Bet[illegible]d others wh[illegible] today we'd call teenagers, would writhe, point and accuse. They repeated their performances frequently for various experts who'd come to town from all over New England.

These experts had several things in common. They were zealous, ignorant and biased. And they persued their quarry with a highly selective inattention to truth. They didn't check out the cow, or the potion, or even the stick the witch was riding.

So, when it comes to the area of sexual molestation of children, in Lincoln County anyway, the Children's Services Division and the Lincoln County District Attorney's office are following an old tradition. Zealous caseworkers and prosecutors show the same disregard for objectivity and fact and reason as those Massachusetts witchhunters in 1692.

Given a highly emotional issue, all sorts of self-styled experts appear on the scene. Unfortunately for Lincoln County they have the weight of the state and local agencies behind them. They can't readily be sued and, thus, held accountable for their acts; yet most of them lack experience, training, and any semblance of objectivity.

Children can lie about this sort of thing. And they can be conditioned in subtle and not-so-subtle ways to the point where they can't distinguish what they think happened from what really happened. If a child or even adult repeats something often enough, they start believing it. And the more believeable they become. Especially if the story is repeated under conditions where the child is given a great deal of warm, sympathetic attention by people whom it sees as important in its life. These would include a parent, a caseworker, or a prosecutor with an axe to grind. Children aren't dumb. They readily tend to read what significant adults expect of them and to perform accordingly.

Opinion

By the time a child who had been coaxed or pressured to say certain things to begin with ("yes, he touched my bottom. . .I thought he put his hand on my breast. . ."), has repeated the story numerous times at home and then before CSD workers and prosecutors, it sometimes doesn't know what to believe. And, then, when it's paraded before the warm and sympathetic eyes of grand jury members who want to do a decent, responsible job yet hear only what the district attorney wants then to hear, any hope for truth is lost. If a child is deliberately lying, by that time it's too late to get out of it. And if he or she was led into saying some small things that could be turned into accusations at the beginning, they will have blossomed out into stories that it can no longer differentiate from reality.

The process in itself is a form of mental rape.

There is no research whatsoever to support the use of the so-called "anatomically correct" dolls. Actually, they're not anatomically correct. They're caricatures of the human body. Take a look at them. Borrow some of the dolls from the district attorney's office and take them to a day care center. Show them to your children and grandchildren. Notice how they respond. Some will just giggle and think they're silly, and others, though never having been touched inappropriately, will show an understandable interest in the sort of plumbing they've never seen on a doll. Any responsible parent or experienced teacher knows it would take very little prodding to encourage the children to say that various people did all sorts of things with that plumbing.

Recently, two children took their turns on the witness stand. The prosecutor placed dolls in front of them and they immediately started manipulating them to demonstrate various kinds of sexual contact, before any questions were even asked! So much for the effects of rehearsal and training.

A good tool, one that has been tested and proven, should only be used by someone who is experienced in its use. Watching members of the district attorney's office use those dolls with kids is like watching someone hand a child sticks of dynamite and telling them they are Lincoln Logs.

The damage that is done to the children by this process, this militant refusal to deal in a rational way in search for facts, is incalculable. As the result of having been encouraged and even coached into saying some fairly outrageous things, some children eventually come to believe them and, to that extent, become out of touch with reality. Those children who are forced into positions of lying and know it, feel a guilt and frustration that expresses itself in anxiety depression, sleeping and eating disorders, and any one of a number of other physical and psychological symptoms.

Zealousness and lack of objectivity and training in this area hurts kids, not to mention adults who get falsely accused of child molestation.

Of late, the media have focused a lot of attention on this area and that's as it should be. Some people do monstrous things to children and the public should be aware of it and deal with it and protect them.

Children need advocates, somebody in their corner. But these should be clear-headed people who can see beyond the limitations of their own experience and frustration — people who don't use kids to wage their own personal battles and, thus, become the very abusers they condemn.

EXHIBIT 4
DATE 2-5-87
HB # 368

EXHIBIT B
DATE 2-5-87
HB # 262

The Case for a Therapeutic Interview in Situations of Alleged Sexual Molestation

by William F. McIver, Ph.D.

There is a right way and a wrong way to interview children in cases of alleged molestation. The right way results in more accurate information and helps children. The wrong way yields questionable information and can hurt children.

Unfortunately, children are currently being damaged in the interview process in these cases because, quite simply, they are being denied the opportunity to tell the truth. Typically, the interviewer's needs are taken care of—not the child's. The story told is too often one the interviewer wants to hear and not an objectively true one.

The purpose of an interview is, after all, investigatory. Therefore, a number of questions need to be asked. However, it can be much more fruitful to ask these questions in ways that don't lead the child to feel that certain sorts of answers are expected. This is the difference between getting accurate information and not getting it. In cases of possible molestation, the most useful technique for gathering accurate information can also be the most helpful for the child.

Typically, the child is interviewed by various agency people, sometimes repeatedly. This might include police, prosecutors, child service workers, and sometimes a grand jury. These interviews are narrow in focus and are based on the assumption that abuse did occur and that "children don't lie about this sort of thing."

The "anatomically correct" dolls are brought out, occasionally accompanied by a drawing about which the child is asked to complete and tell a story. It might be just the child and the interviewer or perhaps there is a police officer or member of the district attorney's office in the room. (There are, in fact, instances in which a child has been interviewed while sitting on the lap of the parent making a complaint against another parent!) Whatever actually did (or did not) happen, this child will experience emotional conflicts which are usually ignored in this sort of non-therapeutic, exploitative situation.

A biased interviewer can shape a child's responses.

The child receives rapt attention when it says or demonstrates certain things (*e.g.*, points at the genital plumbing on the dolls or says things such as "he touched me here," "put his mouth on me," "made me touch him," etc.). Often this scene is repeated. And interviewers respond more to these sorts of communications than to anything else a child might be trying to express. Further, nothing need be vocalized; interviewer responses can be non-verbal—through facial expressions and mannerisms.

In such a setting (which is "high pressure" to the child, especially a young one), a strongly biased interviewer can shape a child's responses by a method called "successive approximation." Simply put, this means reinforcing or rewarding the child (through smiles, hugs, or statements like "good girl...don't you feel better now?...that's the way!...") for statements leading up to and finally including those the interviewer wants to hear. (I know of cases where the interviewer congratulated the child for making allegations and became perturbed when s/he didn't.)

For example, the interviewer might elicit a number of "yes" responses after pointing to one of the dolls and asking if her daddy ever touched her on the knee, buttocks, belly-button, etc. Her answers would be followed by hugs and comments such as "nice going!...,"you're doing a good job!"...., etc., and easily lead into the caseworker pointing to the pubic area and

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asking if she was ever touched there. This question will, not surprisingly, commonly receive an affirmative response from the child, because negative implications for such a question do not exist for the child and because the child, especially a young one, wants to go on pleasing this nice adult (who is giving her so much attention). And that's the whole game!

This sort of attention, often quite new for a child, is a most powerful reinforcer. That is, it greatly increases the likelihood that the child will say the same things and demonstrate the same things again. And, the more a child repeats something (we all suffer confusion about one or another story we've told ourselves many times over the years), the more it becomes believable and the more believable the child becomes on the witness stand.

Interviews are based on the assumption that abuse did occur.

Thus, two powerful variables that affect learning—*reinforcement* and *repetition*—can seriously shape a child's memory. Reinforcement produces a story of questionable accuracy; repetition produces a subjective belief in the accuracy of that story. Result: arguably inaccurate testimony becomes unassailable since the credibility of the child-witness is not at issue.[1]

A therapeutic interview, on the other hand, is an unbiased attempt to find out what story a child might have to tell and/or what conflicts need to be expressed and resolved. The setting is unstructured and open-ended to encourage a free narrative. The child is not expected to perform in any special way. Instead, the child is encouraged to feel safe and comfortable enough to act out spontaneously (with dolls, drawings, stuffed animals, or just "play acting") anything it can't or won't put into words.

A brief example is in order. Recently a thirty-eight-year-old man was found guilty of molesting a four-and-a-half-year-old girl. She had been interviewed repeatedly by a child service worker. One session with the worker and a police officer was videotaped. It was clear that the child was being led to say that the defendant had touched her genital area with his hands and his mouth. The worker smiled and hugged her when she made such allegations, and was cold and non-demonstrative when she didn't.

A defense attorney new to the case was able to secure a court order for the child to be evaluated. The evaluation took place during a two-hour interview that was videotaped. In the initial part of the interview, when the child was not yet comfortable and might have expected the same sort of interviews she had experienced before, she said that the defendant had done "nasty things," had gotten on top of her, touched her genital area, etc. She had been so conditioned by the way she had been questioned previously that she even indicated that the child service worker who interviewed her had "grabbed her by the crotch!"

Later, as she became more comfortable, she not only indicated that the defendant had done nothing, but also that she cared for him and didn't want him to be in trouble for things she had said. Additionally, through spontaneous role playing (using little stuffed animals and a drawing), she indicated that some boy had pulled her pants down while she was in the bathroom of her home and that an older male had fondled her. She re-enacted a violent verbal exchange between her mother and someone who might have been a neighbor and expressed fantasies in which she, the child, died.

Whatever death means to a small child, it is the worst thing that can happen, something to be greatly feared. And she feared the worst for herself if she did not give the "right" answers. The child had identified with her mother's anger toward the defendant. Statements she made about people who *did* molest her were somehow twisted around to the point where she said that *the defendant* had molested her. This allowed her to survive in the home of a mother who felt the defendant had wronged her. And these statements then caused adults, especially the child service worker, to give her warmth and attention that she did not get at home.

This child had been pressured to say certain things and not to say others. On the surface, she was a pretty, talkative, and affectionate little girl. But underneath the surface, she was a seriously disturbed child who had been kept from expressing and resolving her conflicts by the interrogation process used, ostensibly, to help her.[2]

The point here is that proper interviewing techniques were not only therapeutic for the child in that they allowed her to express serious unresolved conflicts, but they resulted in more detailed and verifiable information than the previous interviews.

The child was being led to say that the defendant had touched her.

Stress distorts and blocks memory. An anxious child will depend to a great degree on the interviewer to "fill in the blanks" and provide some way to allay anxiety. A child who is not anxious, but comfortable, will depend to a lesser degree on the interviewer and hence will be not only able to be more accurate in remembering things, but also be much less likely to be conditioned by a zealous investigator.

General Comments and Recommendations

So how should we examine children in cases of alleged sexual abuse?

There is a myth propagated by "abuse detectors" that "children don't lie about these things." Yet there is no real evidence to back this up. On the contrary, Jean Piaget, in his monumental work, ***The Moral Development of Children***, showed that, until age five or six, a lie is whatever an adult says it is,[3] notwithstanding the often clumsy attempts by prosecutors and

1. A different issue is the instance(s) in which a child knowingly lies. This can happen when, for its own protection, the child assumes the attitude of one parent who is angry with another, when s/he has been coerced, or even when angry over some real or imagined harm the defendant has done.

2. During cross examination of the psychologist, the district attorney inadvertently revealed that the babysitter's teenage son had been in court for sexual molestation.

3. I am indebted to T.F. Naumann, Ph.D., ABPP, of Central Washington University, Ellensburg, Washington, for referring me to Piaget's works on developmental stages of cognitive abilities.

Vol 19(7), July 1985

FORUM

A platform for unusual topics that arise in your practice.

WHEN SEX ABUSE IS FALSELY CHARGED

Domeena C. Renshaw, MD

A well-regarded, hardworking pediatrician committed suicide in California in April 1984. He had examined a 13-year-old girl for unexplained numbness. No nurse chaperone was present. The girl alleged that his physical examination was sex abuse. Three police officers went to his crowded office with a search warrant to go through his patient's chart and file. He and his employees were cross-questioned in what some alleged was harassment. The pediatrician did not tell his family anything about the event. He left them a message that he was leaving town on an emergency. Next day, he was found dead in a motel of an overdose. Ensuing headlines and a media circus caused his bereaved family additional pain and stress. A newspaper's front page read: "Dead Doctor Under Suspicion of Molestation." Others headlined "Unassisted Examination of Girl Considered Unusual."

Domeena C. Renshaw is Professor, Department of Psychiatry, and Director, Sexual Dysfunction Clinic, Loyola University, Chicago.

Loyal patients were enraged and poured out letters of support. One newspaper printed an apology for its coverage. But does that make restitution? In the current atmosphere he was considered by the public as guilty until exonerated.

In a similar incident, a young family physician in California was indicted for sex abuse of 17 girls because he routinely listened to the chest and checked for inguinal hernia in all the girls during school sports physicals. His pregnant nurse-wife did the paperwork for these examinations five feet away from him behind a curtain. The charges were malicious, but his legal defense costs to date are $48,000. Patients and co-workers rallied and collected $8,000 to help him. Did some of the girls lie? Yes, and later said so. The physician's mother suffered a myocardial infarct, his wife a clinical depression through two long years of living in the headlines. He is now working tenaciously to avoid bankruptcy and must face still further legal battles.

How could these physicians have protected themselves? The former, even if the setting had been a four-bed pediatric unit, should have waited for a nurse to be free after report. The latter was simply in the wrong place at a time of parent-teacher battles and was caught in the cross-fire. Should every child physical and pelvic or rectal examination be both chaperoned and done on videotape for possible jury viewing later? How is protection against such incidents possible in today's judicial climate?

The time has come to look objectively at the overall topic of sexual abuse. Much progress has been made in educating the public about child sexual abuse. Newspapers, radio, TV all have made this issue top priority reporting. A "sex abuse industry" has rapidly evolved in the form of television documentaries; itinerant teams with video programs given to governmental child agencies, schools, day care centers for kindergar-

child service workers to establish that the child knows the difference between truth and falsehood.

Additionally, a child's responses can be conditioned by the complaining parent's and/or investigator's beliefs and responses (intentional and unintentional) to what the child says or does. And, as previously mentioned, the reinforcement the child typically gets in these interrogations is a powerful force in shaping its own responses and imbedding them in its conscious mind. Add repetition to this, and it is all too easy for the child to confuse objective and subjective reality. It is obvious that this can be tragic for the accused; it is also tragic for the developing child who, at an unconscious level, suffers disturbance resulting from this schism.

Just as these factors can affect memory, so can trauma. We know that the more traumatic an event and the greater the emotions aroused, the more poorly it is remembered. We sometimes alter our memory of events for self-protective purposes. Terr, in studying the children kidnapped in the Chowchilla bus incident, noted how they can actually misperceive events as a defense to the trauma;[4] Katan has pointed out that they can, at times, attribute sexual abuse to the wrong person.[5]

Recently, a child on the witness stand told a deliberately outrageous tale in order to be "naughty"; in this way, she was relieved of the burden of disappointing a complaining parent, children's service workers, a prosecutor, and the "support group," all of which clearly expected her to perform in a certain way.

These considerations make it basic, then, that the child be examined by an experienced, unbiased professional. There is reason to believe that a large percentage of false accusations brought by a parent during an acrimonious separation or divorce not only might have ulterior motives, but also might result from that parent's own personality disturbance.[6]

With all of the foregoing in mind, the following recommendations can be generalized:

(1) Interviews should be audio- or videotaped in their entirety.

(2) The setting should be open and nonpressured. Children should be encouraged to express themselves and tell whatever story they might have through the use of toys, drawings, stuffed animals, etc., with a minimum of direction by the interviewer. When left to their own devices in a relaxed and even playful setting, children who are abused (by having been abused or by having adults incorrectly act as if they have been abused) will sometimes spontaneously act out their experiences. It is up to the therapist to find out what this means.

(3) The therapist-investigator should obtain as much information about the child and the alleged incident as possible, including, but not limited to, police reports, children's service reports, medical and school records, and, if possible, observations of the child with the alleged offender.

(4) During interviews, one should establish the extent to which the child is in touch with reality, *i.e.*, to what extent does s/he know the difference between "pretend" and "real"?

(5) During interviews, one should be alert as to whether the child seems "programmed" and gives rote responses or is able to go from general to specific examples.

(6) Diagnoses and recommendations should rest on clear-cut, well-reasoned data, and not on anecdotal material or arcane psychodynamic formulations.

Finally, and perhaps most importantly, evaluators should be "exquisitely aware of their own biases and preconceptions."[7] Sadly enough, most of the "abuse professionals" are not in touch with their real motives and are "masquerading tyranny as charity."[8]

4. Terr, *Children of Chowchilla: A Study of Psychic Trauma*, 34 The Psychoanalytic Study of the Child 552-623 (1979).
5. See Katan, *Children Who Were Raped*, 28 Psychoanalytic Study of the Child 208 (1973).
6. While there is no large-scale study which supports this proposition, there has been particular treatment of the issue. See, e.g., [illegible] Schetky, *Allegations of Sexual Abuse in Child Custody Cases*, Emerging Issues in Child Psychiatry and the Law, Spring, 1985; A "must" for defense attorneys is [illegible], *False Allegations of Abuse in Child Custody Disputes*, New L. J., July, 1985.
7. Schuman, *False Accusations of Physical and Sexual Abuse*, presented at the Annual Conference of the American Academy of Psychiatry and the Law, October 25, 1984.
8. Whitefield, *Tyranny Masquerading as Charity: Who are the Real Child Abusers?*, Playboy, February, 1985.

tens; expensive "explicit" dolls and expansion of personnel in child protection agencies. Federal grants are available to those states (at least 45) that mandate the reporting of *suspected* sexual abuse to the local Division of Child and Family Services. They contact the police for criminal investigation under the Federal Child Abuse Prevention and Treatment Act (PL93-347, 1974).

Under this law, almost any act designed to stimulate a child sexually is criminal child abuse. While obviously created to protect vulnerable children, it is so sweeping that it gives great power to any anonymous accuser and in effect puts the burden of proof of innocence upon the accused. Is a kiss on the lips child sex abuse? Or acts such as changing a diaper? Repairing teeth? Doing a physical examination? Taking a sexual history on a 12-year-old girl with acute abdominal pain? All of these have been among the 1.3 million reported sex abuse cases in 1984. A judiciary spokesman on a recent television documentary stated that over 60% of these accusations are "unfounded." However, my documentation efforts through the US Department of Health and Human Services and the National Center for Child Abuse were unsuccessful. These agencies only have aggregates based on voluntary state reports and not all send annual reports.

The child worker or policeman (whose career is usually on the line) prefers to err on the side of child protection, saying: "I'm doing my job." "Rather safe than sorry" is a healthy maxim. I am troubled, however, by a new myth: "Children don't lie." But the fact is that some children do. The myth, however, has now become such a powerful shield that the child worker or policeman does not have to feel ethically obligated to get the essential further details for an adequate investigation, or to make a decision as to whether hearsay of a child's report is true or false. As a result, some people immediately rush to accuse, search, arrest and condemn. Sensational press coverage may then bring those involved even more notoriety than a murder story.

"Three police officers went to his crowded office with a search warrant to go through his patient's chart and file."

Obviously, if the sexual abuse story is true all health professionals agree the child must be protected. But what if indeed there are 60% false accusations? Does a police apology, or a fair hearing undo the falsely accused individual's personal devastation?

Does the accuser stop to consider the pain, shame, distress, humiliation, turmoil, career and family impact on the wrongfully accused? In many cases, such accusations are made by suggestible, overanxious parents concerned about their child, without intent to deliberately state a falsehood. But there are other adults who bring such accusations wrongly in custody battles, intending to cause harm to an ex-spouse or other person. Nor are physicians the only ones at risk of being falsely accused.

Consider the case of the dentist who was arrested and falsely accused of sex abuse by a 13-year-old babysitter later described by her parents as a "pathological liar." The dentist was eventually acquitted, but could not continue to practice in his community as a result of the publicity. His marriage broke up under strain.

Still another incident of wrongful accusation of sexual abuse involved a college student who had been caring for twin boys, age 20 months. She had been arrested and jailed following a sex abuse charge brought by the twins' parents who noticed "changed sexual behavior" in the toddlers. This consisted of body self-exploration and genital play, which is normal and common at this age, as is mutual sex play between twins. At great cost, her family obtained legal help for her. At a Grand Jury hearing, the case was labeled too "flimsy" for the student to be indicted. Nonetheless, she now has to live with the shame and trauma of a felony accusation.

And what about the young father who was arrested in his downtown Chicago workplace and jailed for making "kiddie porn" without adequate preliminary investigation into the charge? The manager of a photo shop had seen two prints on a roll of film he developed of this man's two-year-old daughter that showed her emerging from the shower naked.

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Because the child's genitals were visible the manager reported the snapshots as being "obscene" to a Child Hotline, under Title 18, Sec. 2251-55.

It is therefore pertinent to ask: What recourse does anyone have under the law after a wrongful accusation of sexual abuse? To say that it is better to apologize for a false accusation than to ignore a child in need of help may trivialize the destructive impact of a criminal charge. Doing so discriminates against the accused by allowing him or her fewer constitutional rights than the accuser. If child protection under the existing law is gained at the expense of injustice to others then reform of that dysfunctional law is immediately and urgently needed.

Facts to consider about a child's testimony:

- Children are not *born* knowing right from wrong, truth from untruth. They are taught these values directly or indirectly as they grow.
- A child may not know the meaning of grownup words such as molest, abuse, penis, vagina, or anus. "Do you know what it means?" must be a repeated validatory question asked by the child evaluator.
- Children are suggestible and compliant, especially with parents and those adults whom they seek to please and protect.
- Children imitate. This may be noted after any cowboy movie or a Michael Jackson videotape. Grownups, too, may copy headlines with a rash of reports after hearing of a sex abuse case. Some of these cases may be true and *must* be rapidly and thoroughly investigat-

ed. But others may be false and must be equally thoroughly and swiftly considered to protect the innocent.

- Children can be taught or rehearsed to say things.
- Children may not understand the consequences of their statements or acts. Nor are they usually informed of these when they consent to give evidence to please a parent or child worker.
- Desired solo child custody must be especially carefully screened and evaluated to protect the child from abuse, and the parent from wrongful accusations of sexual abuse.
- An absolute statement such as: "Children do not lie" is *incorrect.* Each child must be carefully evaluated for a) perception of the words and the question b) perception of the event c) perception of the consequences of what is told d) consistency of the child's report e) fusing or confusing the facts.
- A child takes longer to understand questions and to give answers. The younger the child the more careful the evaluation should be; it must be done by a professional *well* trained to work with large numbers of that age group.
- Memory of complex events is most subject to error upon recall. This has been repeatedly shown in studies of the memory of adults on the witness stand. For a child remembering dates may be impossible; dates are unimportant to a 5-year-old. Yet precise dates may be given by a very young child giving testimony. This should raise concern about the child having been coached. Memory of an event may be contaminated by memory of rehearsed lines. The two may fuse. It will need gentle yet very careful evaluation of a child witness' memory. This is difficult under the stress of a public courtroom. Yet hearsay evidence (report of a child's report) can be given in some jurisdictions, without the accused having the right to challenge it for accuracy.

Other considerations when evaluating accusations of sexual abuse:

- Explicit dolls or cartoons do *not* make an instant child expert out of a caseworker, police officer or state's attorney. Observer bias in any investigation has been well documented for decades. Each position seeks support or evidence by using leading questions, for example, "Did he touch you down there?" The child's own lawyer's courtroom objection to such a question may further confuse the child witness.

"Does the accuser stop to consider the pain, shame, distress, humiliation, turmoil, career and family impact on the wrongfully accused?"

The adult under sex abuse charges deserves the same constitutional rights as do others suspected of breaking a law. Lawyers consider child sexual abuse cases extremely difficult to prosecute. At present, despite constitutional guarantees of innocence until proven guilty, accused adults in child sexual abuse cases feel deprived of basic human rights and dignity. The pointed finger can thus turn into a destructive witch hunt.

- Placing a chid in foster care is not treatment. This, however, is the most common outcome when a father is accused. He is usually jailed. Foster placement may be highly traumatic due to the loss of home, security, mother, school, and friends. Protection from further abuse is not assured there. Separation anxiety or depression may follow for the child as well. If the accusation was true, intensive, court supervised family therapy could better promote stability and growth.
- What happens to the children and the family of the false accuser? Is there regret, remorse, shame or guilt? How do they cope? What is the developmental impact of having been a powerful false accuser? None of these persons have as yet been studied.

It seems fair to state that all physicians must now recognize that wrongful accusation of sexual abuse constitutes a new danger in practice. To date, male physicians have been much more vulnerable than female physicians. Anonymous reporting inevitably makes for an adversary situation that has already occurred in almost every hospital emergency room across the country, caused by the rush by support staff to report possible sexual abuse even before the physician has completed the evaluation. This may be understandable on the part of the concerned adults—who wish to help. But while we want to assure every child's protection, we must also bear in mind that the charge of sex

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abuse offers great power to the person who points the finger of blame.

At the very least, therefore, the prudent physician should routinely employ a reliable assistant to chaperone physical examinations if the child's parent is not present. Other situations likely to lead to false accusations of sexual abuse that require important protective measures are those in which a patient feels vulnerable: while lying in the dentist chair; positioned on an exam table, undressed; during evening hours; in an empty building; in the absence of support staff; under light anesthesia (chemical illusions occur); exposed to the use of sexual slang or endearments that may be considered inappropriate because the patient may not reciprocate. If a routine Sexual History Questionnaire is used, make it part of the patient's record. Use careful professional charting, ex: "Due to possibility of ectopic pregnancy, a detailed sex history was obtained." In fact, every complete medical history should include a basic sexual history.

The time for a sexual history in every child seen may be here if the currently widely held belief is correct that ". . . a child is abused in the US every two minutes . . ." The question remains: Is that really true? ♀♂

Suggested Readings:

— Bok S: *Lying.* New York, Pantheon Books, 1978.
— Bok S: *Secrets.* New York, Pantheon Books, 1982.
— Renshaw DC: *Incest: Understanding and Treatment.* Boston, Little, Brown & Co, 1982.
— Renshaw DC: *Sex Talk for a Safe Child.* Chicago, AMA, 1984.

that the nonmaternal parent accused the custodial parent of brainwashing the child to make a false allegation of sexual abuse in three of four sexual abuse evaluations during custody disputes. Ingram and Kaplan (1981) cited one case report of two children who falsely accused their father and paternal grandparents of sexual assault during the time that the parents and children were living together. These authors attributed the false allegations to brainwashing and the phenomenon of folie à deux.

Review of the Immediate and Long-Term Sequelae of Child Sexual Abuse

One must be familiar with the sequential development of the signs and symptoms of sexual abuse in children of various ages in order to make an accurate assessment.

Immediate Impact

Anxiety-related symptoms, such as fearfulness (Kempe and Kempe, 1978), sleep disturbances and nightmares (Lewis and Sarrell, 1969), somatic complaints and psychosomatic disorders (Adams-Tucker, 1982; Browning and Boatman, 1977), have been observed immediately following the sexual abuse. These fearful reactions of sexual abuse victims often extend to phobic avoidance of all males (Sgroi, 1982). Regressive behavior, such as enuresis, thumbsucking, clinging and separation problems, is frequently observed in younger children. Depressive symptoms, and running away are more common in older children and adolescents.

The degree of traumatization will be influenced by the age of the child, the extent of threats, coercion, or force, and concomitant physical injury. Severe traumatization can produce a full-blown post-traumatic stress disorder characterized by panic attacks, painful affect, helplessness, night terrors, and morbid fears of retraumatization. It is important to document the course and duration of the anxiety-related symptoms and their temporal relationship with the sexual victimization.

Long-Term Effects

General Psychopathology. Mistrust of adults is enhanced by the father's breach of his parental role and may be compounded by the mother's denial or failure to protect the child from incestuous activity (Herman, 1981; Knittle and Tuana, 1980). Through the process of generalization, other adults and potential love objects might be considered untrustworthy and unpredictable.

Poor self-concept may be associated with shame and guilt if the child experiences sexual pleasure (Sgroi, 1982). This may be reinforced by critical responses from the parents.

The guilt and self-blame for the family crisis following the disclosure of the sexual abuse can lead to depressive symptoms, running away, and suicidal behavior (Anderson, 1981; McVicar, 1979; Nakashima and Zakus, 1977).

Hysterical symptoms and character traits (Goodwin, 1982; Rosenfeld, 1979) might represent the child's attempt to "wall off" traumatic impressions of the incest through primitive defenses such as denial, isolation of affect, and splitting.

Social withdrawal and impaired peer relationships (Adams-Tucker, 1982; Tsai and Wagner, 1981) can be ascribed to interference with separation-individuation and social contacts by the incestuous families.

Impairment of body image is likely to be more pronounced in cases where actual genital injury or sexually transmitted disease occurs (Sgroi, 1982).

The sexually abused child's preoccupation with the incest and family tensions can interfere with concentration and result in poor academic performance and behavior problems in the classroom (DeFrancis, 1969; Goodwin, 1982).

Disturbances in Sexual Behavior and Gender Role. Child victims of sexual abuse often exhibit hypersexual behavior such as promiscuity, excessive masturbation, and frequently attempt to seduce other children and adults (Browning and Boatman, 1977; McVicar, 1979; Yates, 1982). While this active repetition of passively experienced trauma may have an adaptive value for children threatened with adult sexual contact, it is distinctly maladaptive in a normal environment. These children maintain a high level of sexual arousal and are unable to differentiate affectionate from sexual touching. Their tendency to provoke sexual contact places them at risk for repeated sexual misuse (Brant and Tisza, 1977). While sexually abused boys often become homosexually addicted, sexually abused girls may engage in homosexual activity in order to avoid sexual conflicts with males.

At the other end of the spectrum, phobic reactions and sexual inhibitions are frequent sequelae of incest which may result in adult sexual dysfunction (Steele and Alexander, 1981; Tsai et al., 1979). Tsai et al. (1979) related the degree of sexual inhibition with the age, frequency, and duration of molestation and associated negative affects.

In essence, two contrasting adaptive styles in sexually abused children have been described in the literature; one seeking mastery through active repetition of the trauma, the other coping by avoidance of sexual stimuli.

True and False Allegations of Sexual Abuse in Child Custody Disputes

ARTHUR H. GREEN M.D.

This paper describes a method of evaluating children referred for suspected sexual molestation based upon our current knowledge of the symptoms and sequelae associated with child sexual abuse. This evaluation is specifically designed to differentiate between "true" and "false" cases of sexual abuse. Important forensic issues are also discussed in order to prepare the clinician for the role of an expert witness in court. Case histories are presented which illustrate the typical problems and pitfalls encountered during these evaluations.

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The recent increase in reported cases of child sexual abuse and incest, and the numerous reports of the high incidence of childhood sexual abuse in the histories of psychiatrically impaired adults have resulted in an increased awareness of this phenomenon by mental health professionals, lawyers, judges, and law-enforcement personnel. Recently, the mass media coverage of cases of incest has made it a topic of conversation for the lay public.

More and more allegations of incest and sexual abuse by husbands are being made by their wives during custody disputes.

If the allegations are proven, the perpetrator, usually the husband/father is excluded from contact with his children. Visitation is suspended and the plaintiff is awarded full custody of the children. These cases comprise a continuum ranging from obvious cases of sexual molestation corroborated by the child, testimony of witnesses and physical evidence of sexual contact, to situations in which the allegations are firmly denied by the child and are held to be unlikely by all except the plaintiff and her counsel. Child psychiatrists are frequently used by both sides to evaluate the child and make a determination about the authenticity of the charges. The drama often unfolds in the following manner. The irate wife describes how she discovered the sexual abuse and brings in audiocassettes of the child's confession. The husband is outraged and indignant, and vehemently denies such perverse behavior. The key to the solution usually lies within the child and can be tapped by a sensitive psychiatric evaluation of the child and the parents, which should include observation of the child interacting with each parent. The child psychiatrist must try to provide the correct answer, which will be conveyed to the court. A mistake might jeopardize a child's future or destroy a man's family life and career.

This paper is devoted to preparing the child psychiatrist for this awesome task, by reviewing the expanding data base concerning child sexual abuse and suggesting a modification of the traditional child psychiatric evaluation designed to differentiate true victims of child sexual abuse from those falsely implicated in sexual activity with adults.

Review of the Literature

Despite the increasing numbers of sexually abused children referred to child psychiatrists for psychiatric evaluations, there have been very few publications dealing with the phenomenon of false allegations of sexual molestation. Peters (1976) reported 4 false accusations in a total of 64 children brought to a hospital emergency room for suspected sexual abuse. Goodwin et al. (1978) discovered that 3 of 46 sexual abuse cases reported to a child abuse agency were based upon false allegations. Thus 6% of reported cases of child sexual abuse could not be substantiated. Child psychiatrists who evaluate sexually abused children must be aware of this small but significant number of "false positives."

More frequent false allegations of sexual abuse are made by parents during court litigation involving custody and/or visitation. Benedek and Schetky (1984) failed to document charges of sexual abuse in 10 of 18 children evaluated during disputes over custody and visitation. This strikingly high (55%) incidence of false allegations is somewhat comparable to this author's documentation of 4 false allegations in 11 children reported to be sexually abused by the noncustodial parent in the context of child custody and visitation disputes (36%). Brant and Sink (1984) reported

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Evaluation of the Child

In addition to rendering an opinion about the validity of the allegations of sexual abuse, the child psychiatrist should initiate an intervention which will protect the child from further trauma, and deal with his or her emotional disorder. The standard psychiatric evaluation of children requires some modification. The assessment often requires more frequent contact over a longer period of evaluation, as the incest victims are often highly resistant to direct questioning about the traumatic events. If necessary, the initial sessions should be devoted to establishing an atmosphere of safety and trust. Many of the children will have previously been subjected to repeated questioning about the molestation by parents, child protective workers, police, and district attorneys. The defenses of the child should be respected at all times. The child's responses to the incest can be elicited indirectly through play, fantasy, and dreams, once a positive relationship is established with the interviewer. Some children will be able to describe the molestation openly, with a minimum of distress. In these situations, a description of the sexual encounters may be facilitated by the introduction of anatomically correct dolls. The child might also be invited to describe the nature of the sexual contact through drawings or clay figures.

A careful, detailed history should be obtained from the parent or guardian, in order to detect possible immediate and long-term sequelae of sexual abuse previously discussed. This should include a developmental history, to provide a contrast between pre- and post-traumatic functioning.

The usual psychiatric assessment designed to gather information about the child's ego strength, object relations, defenses, mood, affect, fantasy life, and cognitive functioning should detect the typical psychopathology and disorders of sexual behavior associated with sexual molestation. The nature of the child's responses to the examiner can be revealing. For example, if the child exhibits a frightened, avoidant, and mistrustful demeanor with a male examiner and is more spontaneous and friendly toward adult females, sexual abuse by a male is likely.

Needless to say, physical examination of the child should precede the psychiatric evaluation. The following diagnostic indicators provide direct or supportive evidence of possible sexual abuse: venereal disease, i.e., gonnorrhea, syphilis, or genital herpes, genital or anorectal trauma, foreign bodies in the vagina or rectum, evidence of sperm in vagina or rectum, perforated hymen with widened vaginal opening.

Reliability of the Child's Disclosure

The child's testimony is usually acceptable to the court if he or she is old enough to verbalize, knows what the truth is, and can distinguish right from wrong. The psychiatrist's criteria for reliability of the child's disclosure of sexual abuse are more complex. The child's verbalizations during the psychiatric evaluation cannot be accepted at face value, because they are subjected to powerful distorting influences from within, i.e., shame and guilt, and fear, from the environment. Superego pressures result in shame regarding participation in "forbidden" sexual acts accompanied by pleasurable sensations, and guilt concerning the prosecution of the father and the subsequent breakup of the family. External threats of retaliation and punishment for betraying the perpetrator might engender fear and anxiety. These pressures tend to inhibit disclosure of the sexual abuse, causing incest victims to deny any knowledge of the molestation. Therefore, denial of the incest allegations by the child has limited validity. On the other hand, if the child is able to describe the sexual abuse, one must give it credence. False denials, therefore, are common, but false disclosures are rare. These do occur, however, in the following situations:

1. The child is "brainwashed" by a vindictive parent, usually the mother, who fabricates the incest in order to punish the spouse by excluding him from further contact with the child. The accusation might be completely without foundation, but it is usually based upon a core of reality, i.e., observations of normal, affectionate physical contact between spouse and child with seductive overtones, or the spouse's bathing or cleaning the genital area of the child.

2. The child is influenced by a delusional mother who projects her own unconscious sexual fantasies onto the spouse. These women truly misperceive the relationship between spouse and child, and are usually diagnosed as histrionic or paranoid personality disorders, or paranoid schizophrenics. There is a frequent history of previous accusations of sexual misconduct by the spouse with other family members or other women. These women bombard their children with incessant interrogations about the alleged sexual contact, and pressure them to accept their delusions, creating a "folie à deux."

Both the vindictive and delusional mothers reinforce the child's compliance by withholding love and approval if he or she denies the incest or demonstrates positive feelings toward the father. These women foster abnormal dependency in the children to enhance their own narcissism and to compensate for their unsatisfactory love relationships.

The allegations of incest usually begin shortly after the marital separation, while the child is visiting the father. The object loss inherent in the separation and

impending divorce acts as the catalyst for this pathological process.

3. The child's allegations of sexual abuse are based upon sexual fantasies rather than on reality. This corresponds to Freud's early experience with adult hysterics whose powerful oedipal fantasies altered their perceptions and reality testing. Fantasied incest is more common in preadolescent or adolescent girls, who project their own sexual wishes onto the parent. They also exhibit hysterical personality traits; more rarely, they are frankly delusional and paranoid.

4. The child falsely accuses the father of incest for revenge or retaliation. Careful investigation will often reveal the underlying motivation for their allegation, i.e., anger over recent punishment or deprivation, or desire to remove the father or stepfather from the home.

False disclosures of incest by children possess the following characteristics. Details of the sexual activity are obtained rather easily during the initial interview, or may even be presented spontaneously by the child. The children are outspoken and nondefensive in their descriptions of sexual activity, without significant changes in mood and affect. They often use adult terminology to describe genitals and parts of the body. Genuine incest victims, on the other hand, are secretive about the molestation and their disclosure is delayed and conflicted, occurring only after weeks or months, if at all. Their allegations are often retracted and then restated.

Disclosure is usually accompanied by depressed mood and distressed or intense affect. They use age appropriate sexual terminology. With younger children, the incest is usually reenacted symbolically in play or fantasy before it can be verbalized. Some severely traumatized children will avoid symbolic play with dolls or puppets, and are unable to fashion human figures out of clay or with drawings because human interaction is too closely associated with the incest experience. These children are more comfortable engaging in repetitive, concrete play.

Interaction between Child and Parents

Initially, the young child is usually seen with the mother present, in order to reduce his or her anxiety and enable the child to feel secure. The mother-child interaction offers the clinician a standard upon which to assess the relationship between the child and the alleged perpetrator. Sexually abused children often exhibit signs of fearfulness and inhibition with the father. At times they might refuse to enter the office in his presence. If both parents are present, the victimized child might cling to the mother. However, if the sexual contact was subtle, gradual, and nonthreatening, the child might display seductive behavior with the father rather than a fearful response, especially if the victim is too young to appreciate the deviant nature of the molestation.

Delusional and vindictive mothers often control the child by monitoring his or her responses through eye contact and subtle facial expressions. The "brainwashed" children respond by "checking" with their mothers before proceeding. These children usually behave in a hostile manner toward their fathers in the presence of their mother, but revert to friendliness when they are no longer under her scrutiny. In cases of genuine incest, the mother-child relationship might appear hostile or strained, but the child is generally more fearful with the father. The true incest victim will rarely describe the sexual activity in the father's presence, out of fear and guilt, while the "brainwashed" child will do this if the mother is also present.

Observations of the child with both parents provides us with additional information which may confirm or refute original impressions derived from individual sessions with the child and parents separately, and from the history and physical findings.

Evaluation of the Parents

A separate psychiatric examination of each parent should complement the previous evaluations and provide additional clues about the reliability of the child's testimony and the family psychodynamics contributing to the incest. The evaluation should include a detailed sexual history from each parent. Both sexually abusing fathers and mothers of incest victims are more likley to have experienced physical or sexual abuse during their childhood than nonabusing fathers and their spouses. Thus with the fathers, the sexual abuse of the child might represent an active reenactment of a passively experienced trauma during a state of helplessness. Some of these mothers might consciously or unconsciously create situations in which their children are vulnerable to molestation as a means of mastering their own incest trauma. The fathers should also be questioned about other forms of abnormal sexual behavior, such as exhibitionism, rape, voyeurism, and other perversions, which have been often associated with pedophilia.

Depression in the father associated with the separation or divorce might trigger the incestuous behavior. Similar depressive reactions in the mothers might contribute to a withdrawal from their spouse and children, setting the stage for incest. The presence of hysterical, paranoid, or delusional psychopathology in the mother should alert one to the possibility of a false accusation.

Role of the Child Psychiatrist in Court

Evaluation of a child alleged to have been sexually abused inevitably leads to some type of court involve-

gent. Participation in the legal process may occur on many levels. The child psychiatrist might be appointed by the court as an independent evaluator, or he or she might be selected as an expert witness by the attorneys for the plaintiff or defendant. Some clinicians are directly employed in mental health clinics located within the juvenile or family court. Others might be subpoenaed as a result of therapeutic contact with the child in a child psychiatry or outpatient setting.

The child psychiatrist should act as an advocate for the traumatized youngster, and try to achieve the following goals in the court setting: (a) conveying the psychodynamics of sexual abuse and the impact of incest from the child's perspective to the attorneys, jurors, and the court. The nature of the child's adaptation to the trauma should also be explained; (b) minimizing the child's further traumatization by the legal system, i.e., ensuring that the child is adequately prepared for court appearances, and reducing the impact and frequency of interrogations by police and district attorneys. Many of these objectives may be achieved by the appointment of a guardian ad litem for the child; (c) recommending a pattern of custody and visitation that will protect the child from further molestation. One should determine the child's readiness for reestablishing contact with the perpetrator, and the format for these visits, such as their length and frequency, and manner of supervision; (d) assisting in the drafting of a realistic plan for crisis intervention and short-term treatment of the child and family; and (e) ensuring that these intervention strategies are implemented by the court and/or child protective services.

Some of these families are so resistant to outside intervention that a court mandate would be the only means of securing their initial engagement. Hopefully, the recent increase in our knowledge of incest and sexual abuse will lead to the formulation of a "sexually abused child syndrome" which would have evidentiary validity in the courtroom.

Case Illustrations

The following case histories demonstrate typical similarities and contrasts between true and false cases of sexual abuse.

A Sexually Abused Child

Case 1. Paul A. is a 5-year-old youngster who was allegedly sexually molested by his father, from whom his mother had been recently divorced. Paul's mother and father are successful professionals. Mrs. A. reported that Paul informed her that his father had played with his "pee-pee-er" and put his finger in his "butty butt" when he was 2 years old, just prior to the final marital separation. At the time of this disclosure, Paul acted depressed, exhibited sleep problems, and clung to his mother in bed. In retrospect, Mrs. A. recalled that Mr. A. often permitted Paul to touch his genitals when he was nude, without setting limits. She also described Paul's frequent fingering of his anus. Mrs. A. took the child for a psychiatric evaluation, to see if her suspicions would be confirmed. The psychiatrist, however, could not find evidence for the molestation. According to Mrs. A., Paul became increasingly anxious before and during visits with his father, and eventually refused to see him. After the visits had been terminated for 6 months, Mr. A.'s attorney filed a writ of habeas corpus and initiated a custody action. A court-appointed child psychiatrist also failed to confirm the sexual abuse, but recommended supervised visitation because Paul appeared to be so frightened. Renewal of the visits resulted in Paul's increased fearfulness with signs of regressive behavior, such as baby-talk and rocking movements. I was consulted to evaluate the child at this time. During the initial interviews, Paul would not permit his mother to leave the room. I could not elicit information about his feeling about his father until the third session. Then he told me that his father was bad and tried to choke his mother. He was finally able to talk about how his father would touch his penis, and fashioned a drawing of this experience. He then related a dream: "My father stabbed my mother in the nose, I killed him by cutting off his pee-pee-er." This dream followed an attempted visit by Mr. A. The major themes of the following sessions, consisted of small spaceships fighting off larger ones with missiles and laser beams, and tiny animals defending against dragon-like monsters.

The mother-child relationship appeared to be warm and loving, although Mrs. A. was somewhat overprotective and overstimulting. Mr. A. completely denied the allegations and was incensed that I would be so easily misled by his "hysterical, brainwashing ex-wife." Mr. A. did admit that he had been sexually fondled by his mother during childhood. She had been frequently hospitalized for a chronic schizophrenic illness.

When Paul was evaluated with his father, the child refused to enter the office unless Mrs. A. was also present. But even with his mother close by, Paul hid behind my chair so his father couldn't see him, while Mr. A. attempted to interest the child in a bag filled with Christmas presents. I recommended that Paul remain in play therapy with concomitant psychiatric treatment of each parent and that visits between Paul and his father be suspended until the child was ready for them.

False Allegations of Sexual Abuse

Case 2. Andy B., a precocious little boy of 3 years 10 months, was referred to me because he had been allegedly sexually abused by his father, Mr. B. Andy's mother, Mrs. B., had charged her estranged husband with kissing the child's penis and buttocks while playing "doctor" together. She also claimed that Andy became hyperactive and enuretic after his father's visits. Mrs. B. also observed her husband kissing the child with his tongue, and hired detectives to document this, and reported that Andy told her about white material coming from his daddy's penis which he described as "penis manure."

The B's were married 5 years previously after a whirlwind courtship which lasted for 2 weeks. It was the second marriage for each. Mr. B., age 59, was a successful self-made business man who had three grown children by his first wife. Mrs. B., age 35, had been briefly married to a man she now describes as a homosexual. The marital friction began shortly after Andy's birth, when Mr. B. became jealous of the baby, and resented the breastfeeding, according to Mrs. B. At this time he began to get angry and assaultive with her. She said he was "oversexed" and accused him of ejaculating six times a night during lovemaking, and masturbating in front of the child in the crib. Mr. B., on the other hand appeared to be depressed and weary from the entire litigation. He denied the allegations of sexual abuse, and said that marrying Mrs. B. was the biggest mistake of his life.

My evaluation revealed that Andy was a precocious, intelligent little boy who looked like a "little old man" because of his eyeglasses and serious expression. At his mother's prompting, Andy told me without the slightest hesitation how he saw his daddy's penis and how the "penis manure" came out of it. He said his daddy was mean and he didn't like him. He also mentioned that Betty, Mr. B's daughter, tried to drown him by pushing him into a swimming pool. When I registered surprise, Mrs. B. informed me that Betty was jealous of Andy and herself, and opposed her father's marriage, because they had been previously involved in an incestuous relationship.

When Andy was seen alone with his father, he was friendly, spontaneous, and affectionate, and seemed to enjoy the interaction. When Andy was seen with both parents, he was angry and hostile toward his father. He humiliated Mr. B. by spontaneously drawing a picture of his father with a big erect penis, and told me that he and his daddy played with each other's penises, while they were naked. During this narrative, which was presented without emotion, Andy's gaze frequently focused on his mother's approving expression.

As the evaluation progressed, Mrs. B. presented me with scores of taped conversations with Mr. B. in which he was either verbally abusive or sexually excited, while arguing or engaging in sexual talk.

Psychological testing of Mr. B. proved unremarkable, while Mrs. B's revealed faulty perception and paranoid, delusional ideation.

Case 3. Betty C., a 9-year-old girl, was referred to our treatment program because of alleged sexual abuse by her father, Mr. C., during weekend overnight visits. Mrs. C., Betty's mother, became suspicious of possible incest when the child returned from her father's home with blood-stained panties after the weekend visitation. This event confirmed Mrs. C's long-standing belief that her ex-husband had been molesting Betty since she was an infant. Mrs. C. recalled that Betty had sucked on a toy in a seductive manner during her baths, while saying "da-da." She concluded that Mr. C. forced the child to perform fellatio, when he bathed her as an infant. Betty appeared to be a rather shy and sensitive young girl who was quite resistant to questioning about the visits with her father. She reluctantly admitted that Mr. C. had rubbed against her in bed. Mr. C. denied these charges, and claimed that Betty came into his bed during the night while he was sleeping, because she was afraid of sleeping alone. In her psychotherapy, Betty became preoccupied with sexual themes, so we decided that a possibility of sexual abuse by Mr. C. was a distinct possibility, and we recommended that the contact between Betty and her father be limited to chaperoned, daytime visits. Mrs. C. felt that Mr. C. might evade the chaperone and proceed to victimize Betty, so she finally withheld Betty from the visits, which precipitated a second court hearing. Betty denied the most recent allegations and claimed that she wanted to see her father. She finally confided in her therapist that her original disclosure of her father's "rubbing against her" was not true. She felt that she had to perpetuate the false allegations in order to please her mother and gain respite from Mrs. C.'s relenteless interrogations about the suspected sexual molestation. Upon knowledge of Betty's retraction, the court ordered a gradual return to regular unsupervised visitation between Betty and her father. Mrs. C., however, remained convinced that the incest was still taking place, and she approached additional child protective agencies with the aim of initiating new investigations. She simultaneously accused our staff of producing false testimony in court and conspiring with Mr. C. to cover up the sexual molestation. Mrs. C. was felt to be delusional and suffering from a circumscribed paranoid psychosis.

Case 4. Barry D., a 4-year-old boy, was referred to me by a psychiatrist in another state, where he had

been living with his mother since the marital separation when he was 8 months old. The parents divorced a year later. When Barry was 4, Mrs. D. withheld the child from visits with his father after she determined that he had been sexually abused by Mr. D. during a weekend visit. Upon returning home from this visit Mrs. D. reported that Barry crept into her bed where she sleeps in the nude, and began to fondle her nipples. This seductive play was followed by Barry pulling off his pajamas and instructing his mother to lie on her belly, whereupon he rubbed his penis against her buttocks. This alarmed Mrs. D. and she asked Barry where he learned this behavior. The child allegedly responded that he learned the "love pat" game from his father, who had done it to him. Mrs. D. immediately obtained pediatric and child psychiatric evaluation. The child psychiatrist confirmed the sexual abuse after Barry had admitted it after prolonged questioning in the mother's presence. The case was then assigned to child protective services and Barry was referred to a second psychiatrist for treatment.

After several months of play therapy, Barry retracted his story about the "love pat" game with his father and claimed that he said it was true because his mother kept asking him about it, and he was tired of the questioning. After two court-appointed mental health professionals independently concurred with the treating child psychiatrist's impression that no sexual abuse had taken place, Mrs. D. took Barry to a series of pediatricians for rectal examinations which might demonstrate evidence of anorectal trauma. At this point, Mr. D. successfully sued for visitation rights and eventually was awarded temorary custody of Barry. Barry's behavior with his father was spontaneous, warm, and affectionate. While Barry was equally affectionate with his mother, Mrs. D. tended to be physically overstimulting and seductive with him, while pressuring Barry to tell me about the "love pat" game. My own evaluation and treatment of Barry during a period of 18 months did not yield any evidence of sexual traumatization.

He displayed none of the immediate or long-term signs and symptoms associated with incest, and functioned well at home with his father-step-mother, and baby half-sister. During a stormy joint interview with Mr. and Mrs. D., Mrs. D. once again accused her former husband of incest, stating: "I know you abuse him because Barry manipulates his foreskin just like you did." On psychiatric evaluation Mrs. D. received a diagnosis of histrionic personality disorder.

Case 5. Mr. E. was reported for the sexual abuse of Brenda, his 5-year-old daughter by a social worker from a child guidance center. The maternal grandparents had taken Brenda to the agency because the child protested about returning to Mr. E. after visits with them. Simultaneously, they noted that Brenda often slept in her father's bed and had recently complained of rectal and vaginal irritation. After Mr. E. ignored the social worker's request for an appointment, she filed the sexual abuse report.

Mrs. F, the maternal grandmother, became Brenda's primary maternal caretaker after her daughter's sudden death following Brenda's birth. Mr. E. and Mrs. F. cared for Brenda jointly, the child staying with Mr. and Mrs. F. while Mr. E. was at work. Mr. E. and Mrs. F. soon began to argue over the "possesion" of the child.

Mr. E. resented Mrs. F. for asking Brenda to call her "mommy," while Mr. and Mrs. F. felt that Mr. E. was limiting their contact with the child. After the allegations of sexual abuse were not confirmed by the child protective services caseworker, Mr. E. became convinced that the F.s were trying to take Brenda away from him. He then took the child to his own mother's house in another state for a month, and when he returned home he took a leave of absence from his job so that he could be Brenda's primary caretaker.

My evaluation of Brenda and her family also failed to confirm the allegations of sexual abuse. Brenda related warmly and spontaneously with her father,

TABLE 1

Characteristics of True and False Cases of Child Sexual Abuse

True Cases	False Cases
Delayed, conflicted disclosure, often with retractions	Disclosure easy and apparently spontaneous
Disclosure usually accompanied by painful and depressive affect	Disclosure with absence of negative affect
Child uses age appropriate sexual terminology	Child may use adult sexual terminology
Child initially reticent to discuss abuse with mother or others	Child discusses the abuse when prompted by mother-child checks with mother
Child rarely will confront father with the allegation, even with mother present	Child will often confront father with allegation in mother's presence
Child usually fearful in father's presence, congruent with ideation unless molestation was gentle and nonthreatening	Discrepancy between the child's angry accusations and the apparent comfort in his presence
Mothers often depressed; no other specific psychopathology	Prominent paranoid and hysterical psychopathology in mothers
Child usually demonstrates signs and symptoms of child sexual abuse syndrome	Child might be sexually preoccupied, but does not exhibit signs and symptoms of child sexual abuse

ough she expressed anger toward him for not
ng her spend more time with her grandparents.
did not manifest any of the signs and symptoms
sexual molestation. Her preoccupation with her
nus was a result of a chronic rash and skin irrita-
, which was confirmed by the pediatrician. Bren-
's reluctance to make the transition from the grand-
ents to her father and her insistence on sleeping
h Mr. E. was a reflection of her severe separation
iety which was fueled by the power struggle be-
een Mr. E. and his in-laws.

The characteristics of the children and parents in-
ved in true and false allegations of sexual abuse are
mmarized in Table 1.

Conclusion

The striking increase in the numbers of children
ferred for psychiatric evaluation because of alleged
ual molestation makes it imperative for the child
chiatrist to increase his knowledge of the child
ual abuse syndrome. Certain modifications of the
ditional child psychiatric evaluation are necessary
determine the extent of psychological impairment
tained by the child victims and to assess the de-
ant patterns of family interaction associated with
ild sexual abuse. The information derived from the
aluation should be used to design an appropriate
tervention strategy which will protect the child from
rther traumatization and strengthen parental func-
ning. Since many of the children evaluated for
leged sexual abuse have in fact not been molested,
e examiner must obtain the information which will
able him to differentiate the true and false allega-
ns. Child psychiatrists evaluating sexually abused
ildren are usually called upon to provide expert
stimony in court. Familiarity with forensic issues
ll be necessary to maximize the therapeutic poten-
l of the court while minimizing the traumatic im-
ct of court procedures on the child.

It should be stressed that, in a small percentage of
ses, even the best trained experts in child sexual
use will be unable to render a definitive opinion
out whether or not a molestation has taken place.

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False Accusations of Physical and Sexual Abuse

Daniel C. Schuman, MD

Child sexual abuse is sometimes mistakenly over-reported. This discussion of seven cases focuses on one potential area which can generate a substantial segment of false positives: conflicted domestic relations litigation situation.

Such situations generate striking, regressive affect and behavior especially when issues of child custody or visitation erupt. Parental regression has been discussed in the literature, but children regress too: behavioral symptoms erupt with vegetative and social disruption, and instinctual material regarding both sex and anger is more accessible to consciousness than is age-appropriate.

Heightened instinctual forces in children and regressive loosening of pre-litigation character defenses in adults, both in the context of stressful family breakdown, combine to generate genuine perceptions of abuse but invalid reports.

Incest and other forms of abusive physical/sexual behavior by adults toward children have gone underreported for years. Whether for traditional reasons of children being considered chattel, because of lingering lack of recognition that childhood is a unique and different status from adulthood, or because of societal and adult denial, repeated anecdotal information on child abuse has been discounted. Even now, true prevalence and incidence rates on incest are unreliable.

Recently such bias toward underreporting of child abuse has begun to be corrected. Nowadays child abuse by physical and/or sexual behavior on the part of adults gets wide attention. There is increasing public recognition that such behavior is much more common than was previously believed. Recent literature has criticized some traditional psychoanalytic theories which tended to ascribe such reports of child incest to children's fantasies.[1] Both medical and legal communities have been criticized for presuming that mothers who report child sexual abuse are either paranoid or vindictive.[2]

In some quarters there is such degree of sensitivity or outrage about possible child abuse that a presumption exists that such abuse has occurred whenever it is alleged.[3] It is possible for a reverse skew to evolve, in which incest or other child sexual abuse can be overperceived and overalleged.

Validated cases of overperception of sexual abuse which were independently examined separate from their psychiat-

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reared in an intact family. His father had been alcoholic for a time but had been sober for many years. There was no family history of psychiatric disease or abuse. A high school graduate, Mr. X joined the Army a year later for three years and was discharged honorably as a sergeant. He married his first wife while in the service. Shortly after his service discharge, he went to work for a technical chemical firm, where he had been employed steadily for 17 years at the time of this evaluation. He had risen to the rank of senior supervisor of a production facility. There was no history of alcoholism, drug abuse, authority or legal problems, or any prior psychiatric contact.

With respect to sexual development history, Mr. X reported puberty at around age 12. He remembers his first orgasm as occurring two years later, in heterosexual intercourse. That episode did not fulfill his notions of what it was supposed to be like: he had thought that, "It would be great," but instead he felt scared that his parents would find out or that the girl might get pregnant. He felt awkward and clumsy sexually. He masturbated about twice a year during his teens and no longer masturbates at all. His sexual contacts have been exclusively heterosexual and genital. He has never had any interest in other erogenous areas. He has never had any sexual symptoms or venereal disease. He has never had any fantasies or actions linking sexual behavior with violence. At the time of the evaluation, he could not remember how long previously he had last had intercourse; it was at least many months. He said that he was so preoccupied with his domestic difficulties and/or with his work that he did not miss sex too much. He had no findings of vegetative depression on mental status examination.

Mr. X and his first wife both reported that their marriage had cooled over the years and that they had grown apart for reasons neither of them understood. They had parted amicably after 16 years and remained in frequent, cooperative contact around issues of childrearing. At the time that Mr. X's ex-wife had introduced him to his second wife, Mr. X had three teenage children from his first marriage. Two were in the custody of his ex-wife, but the oldest had died shortly before the allegations of abuse toward his "second family" were brought by his second wife. That child had had intractable temporal lobe epilepsy for years and died during an experimental neurosurgical diagnostic procedure.

Detailed psychiatric and psychologic examinations of Mr. X included many hours of clinical psychiatric interviews by both psychiatrists, computer-scored MMPI, and independent projective psychologic testing. Findings from this evaluation revealed an obsessive character structure with strong passive trends and defensive use of reaction formation to deal with grief and his own unsatisfied dependency needs. He was a repetitive caretaker and a "workaholic," with repressed anger and libido. Serial observations of Mr. X over many months of evaluation and legal proceedings showed him to continue to evince beneficence rather than resentment. His own attorney was surprised at how little anger he

displayed. In sum, all clinical and test findings on Mr. X were consistent with each other but were at odds with his second wife's genuine perceptions.

The X's marriage was stormy, with many arguments and mutual accusations of aberration. Mrs. X perceived her husband as violent and threatening, and Mr. X saw her as devious, needy, and distorting in her reports. At the time of the court-ordered evaluation and marital separation, there were three children, two girls aged four and two and a boy aged one. Mrs. X had named the two-year old, her third daughter, after her deceased first daughter. At the time of the separation, all three children lived with her in the marital home from which Mr. X had been involuntarily vacated by court order because of her reports of his abuse and violence.

The report of child abuse began when Mrs. X told her attorney that several months earlier, the two older children (the girls) had cried when their father bathed them and that the girls had said that their father had hurt their "bummies." Later, it was reported that Mrs. X's mother, who lived downstairs and who was a frequent visitor in their apartment, had witnessed "fresh evidence" of the father's abuse of the children. Mrs. X's attorney referred her and the children to a major Boston psychiatric teaching center with a child abuse unit, where they were seen in emergency evaluation.

When first seen, mother and children were terrified. Mother reported details of crazed and violent behavior on the part of her husband. She said that he had on one occasion barricaded the house and had placed vehicle traps like tank traps in the driveway to ward off "intruders." She said that he had threatened her with a loaded rifle which he had slammed down on the kitchen table one night after rousing the entire family to harangue them about outside dangers. She said that he had brandished a knife at her, leaving her convinced that he might soon attack her with it. The mother reported that the father had beaten her and said that her older daughter had told her that daddy had manually penetrated her vagina and had hurt her "bum."

The four-year-old daughter was seen individually in clinical psychiatric interview and communicated graphically both with play techniques and in words that her father had beaten her and had penetrated her vaginally and anally by hand. She repeated that her father had beaten her two-year-old sister. The two-year-old girl merely sucked her thumb, hugged her blanket, showed immature and inappropriate emotions, and was otherwise uncommunicative.

Based on the initial examination, the center recommended psychiatric evaluation of the father, no paternal visits with the children, "consideration" of criminal action against the father, and offered a diagnosis on the father of either posttraumatic stress syndrome or psychosis of undetermined etiology. After discussion among several of that institution's psychiatric staff, a second evaluating psychiatrist stated that she herself would be in physical danger from the father if she were to interview him alone. The team and the child psychiatry department was convinced of the veracity

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of the child abuse and stated that they never had had a four-year-old misreport abuse; they said, "Children don't lie."

Mr. X's attorney pressed the family court for further evaluation, which was ordered to be done by the original evaluating institution and by an independent psychiatrist in concert. In the course of that extended, multifaceted contact, additional data emerged including the psychologic testing reported above.

The mother had also taken the four-year-old girl to another academic medical center for pediatric neurologic evaluation of reported "absence episodes"; the neurologic evaluator was blind to the domestic difficulties and instituted antiseizure medications, although his report was skeptical and guarded. Mother had also taken the girls to a psychologic counselor but had never told the counselor about the psychiatric evaluations or the neurologic evaluation and had obscured knowledge of the counseling to the psychiatrists until she was directly asked about it late in the evaluation. Expanded, supportive evaluation sessions with the children revealed the four-year-old girl to have a "canned" story about the alleged abuse which had no affective depth (in contrast to her initial terror) and which was belied by her subsequent warm, easy, spontaneous contact with father during visitations that ultimately were allowed.

Ultimately the mother reported that she had not believed that the children had suffered sexual abuse. She then reported the inciting incident differently: she said that what had really happened was that she had objected to the father's roughness or roughhousing the children during a bath several times. Mother then reported that her attorney had intimidated her into reporting the incident as abuse and said that she had gone over the story many times with her daughters.

Until the family court reinstituted paternal visits, the three young children had not seen their father for almost 1½ years. Following a period of gradually lengthened paternal visits, first supervised and then "solo," Mr. X was given sole legal custody of all three minor children. Follow-up nine months later revealed the children to have no psychiatric symptoms.

Results

Six additional cases along with the X family (Case 1) are summarized in Table 1.

All of the cases presented involve contested, acrimonious domestic litigation. Some of the marital families were in the process of splitting apart via separation and/or divorce; some had been reconstituted through subsequent remarriage. In five of the seven cases, custody and/or visitation was an express element of dispute before the allegations of child abuse occurred, but in the other two cases the alleged offense seemed either incidental to the marital litigation (Case 2) or a distraction from it (Case 6). In six of the cases the alleged victims were female, while in one the alleged victim was male. All of the accused offenders were male.

In all cases, the initial reports were said to have come from the alleged victims. In one of the seven cases, the alleged victim maintained an active role

Table 1
Summary of Seven Cases

Case	Victim and Age	Reporter's Relation to Victim	Alleged Offender	Domestic Status of Offender	Pertinent Domestic Situation	Primary Moving Party in Allegation	Alleged Offense	Offender's Sexual Adjustment by History	Alcohol/ Drug Use by Offender	Ultimate Disposition of Case
1	Female, age 4; female, age 2	Mother	Father	Married, separated from mother	Divorce in progress, property and visitation dispute	Mother and/or mother's attorney	Anal and vaginal penetration by hand, beating	+/–	–	Custody of both children to father
2	Female, age 10; "female," age 3	Mother	Father	Married, separated from mother	Divorce in progress	Mother, then state Social Service department	Sleeping in bed with daughter, fondling the other "female"	+	–	Custody of daughter to father
3	Female, age 13	Self and father	Stepfather	Married to victim's mother	Mother remarried, chronic custody dispute, daughter wants to live with father	Victim and father	Breast fondling; lingual kissing, vaginal intercourse	+	–	Charges dismissed; victim recanted; custody changed to father
4	Male, age 6	Mother and stepfather	Father	Divorced from victim's mother	Mother remarried, chronic visitation dispute between father and stepfather	Stepfather (sister) via mother	Homosexual fondling during visits with father	+/–	+/–	Charges dismissed; visitations allowed
5	Female, age 6; female, age 4	Mother	Father and his daughter by first marriage	Married, separated from mother	Divorce in progress, visitation dispute	Mother	Beating of one daughter; burn of other; father cross-dresses during visits	+/–	+/–	Unsupervised visits allowed
6	Female, age 6	Father	Teenage friend of family	Single	Stormy remarriage for father, victim's brother recently came to live with father and stepmother and victim	Father, with some support from stepmother	Fondling chest and crotch; penile vaginal penetration	–	–	Charges dismissed
7	Female, age 4 or 5	Mother	Father	Divorced from victim's mother	Mother remarried and wants to move out of state, contested visitation	Mother, then father seeking to be cleared	Erotic licking; hitting to orgasm; vaginal intercourse, year-long course	+	–	Not guilty of all charges at criminal trial

in pursuing the case (she was the oldest of the alleged victims); in the other six cases, the reporting children took a back seat to adults who pursued the abuse allegations in their behalf. The alleged victims ranged in age from 2 to 13 years at the time of the alleged offenses.

The nature of the offenses had a wide range. They included burning of a victim on a radiator, physical beating, various sexual caresses, erotic kissing, manual vaginal and anal penetration, and vaginal intercourse. In one case there were innuendos of links to pornographic materials.

One familiar hallmark of abuse is equivocal in this series. It has been imputed that males with good sexual adjustment do not commit sexual misconduct; the implication is that inadequate male sexual adjustment may be one indicator of possible perpetration of abuse. In this cohort one of the seven accused males had chronically poor or inadequate sexual adjustment, three others had notably diminished libido or equivocal adjustment, and two of the remaining three men had transiently impaired libido during the stress of the accusations.

In Case 2, the mother was distressed at parenting difficulties she herself had with her daughter and perplexedly asked many people how much caretaking of their daughter would be appropriate on the part of her husband. She was nonplussed at his desires to be involved in parenting; she felt aimless and unidentified without the social mission of motherhood and this was aggravated by her husband's desire to be an active parent. After her initial report that her husband "had slept with" their daughter, a social agency intervened and pressed an investigation of the father beyond what the mother said that she had intended. She said that she had never thought that he had molested their daughter. She and her daughter, and then she and her husband, had discussed the matter; all three agreed that it had been unwise for him to have slept in the same bed with the child on a single visitation occasion, but that that was all that had happened. Later, she passed on a "neighborhood report" that her husband had "fondled a three-year-old named Greta." The social service agency took that report seriously, but subsequent investigation revealed the "three-year old" to be a dog.

In Case 3, the alleged victim's biologic father had told the mother at the time of their divorce that he "would do anything" to obtain custody of their daughter and for years he had told their daughter that he wanted her to live with him. The girl confirmed that her father had offered her many material advantages if she agreed to change her domicile. She had been involved in many disciplinary disputes with her mother, especially after the mother's remarriage, and after one of them the daughter swallowed an overdose of aspirin. When she was admitted for psychiatric evaluation of the overdose, she reported the alleged offenses against her stepfather (who was a moralistic, obsessive, "straight arrow") No gynecologic evaluation was obtained despite the request of the girl's (custodial) mother. After the mother agreed to a change in custody, the girl retracted all of her accusations, saying that she had intended them as a means of changing

custody for herself. She showed no conflict or anxiety about her previous accusation and was content with the outcome.

The mother in Case 4 felt caught between her ex-husband (who wanted desperately to maintain a parenting relationship with their son) and her current husband (who was sterile and who revealed a compelling need to be a parent when he was evaluated). Her ex-husband admitted having a collection of "soft-core pornography" which was readily available to their son if he was left alone at his father's house. When the boy "acted strangely" after visits with his father, the mother complained to her attorney, but only at the behest of her husband. A police rape crisis evaluator reported a conclusion that homosexual fondling had occurred during visits, but the basis of that conclusion was never clarified; the boy had never spoken of such activity. Two separate psychiatric evaluations of the adults and the boy could detect no reports of sexual misbehaviors, though the father's questionable judgment about his erotic material and the stepfather's compulsions about parenting combined to create an atmosphere of charged sexuality surrounding the boy. The boy was sensitive to the adults' animosity and was intimidated by his stepfather's temper. He said that he had looked at his father's "Playboy" magazines and that he was afraid to disagree with his stepfather, but that his father had never fondled him. He knew that his stepfather did not want him to see his father. Mother concurred that she had never believed that her ex-husband had molested their son, but she had felt obliged to acquiesce in her husband's demand that they use the rape counselor's opinion to try to terminate paternal visits.

In Case 5, the mother's third attorney was vociferous in demanding vindication for her and her two daughters. A former nun, the mother had married a divorced man with a daughter from his first marriage. He was a withdrawn, guarded, evasive fellow from whom it was very hard to get information about his life. After a visit with the father, the youngest girl was found with a burn on her wrist. How that occurred was never made clear, but one version said that her elder half-sister had pressed her arm to a hot radiator while father was out of the house. Subsequently the half-sister was sent out of state to live with her mother, but the mother of the two alleged victims continued to elaborate further reports of abuse. She accused her estranged husband of transvestism during visits and of harsh discipline that amounted to battery. She placed stringent limitations on what psychiatric evaluation she would permit, but when she finally assented, her own frank thought disorder was revealed. Father was considered to have a stable obsessive/schizoid personality disorder with no acting-out proclivities and generally diminished libido. Eventually mother's accusations became so elaborate as to be insupportable.

In Case 6, a six-year-old girl was said to have reported to her family that she had been vaginally penetrated in her house by a teenage family friend who had often been her babysitter; the offense was alleged to have occurred dur-

ing a picnic attended by both families. The accusations were zealously pressed by the victim's father, who was involved in a stormy second marriage that had many heavily sexual overtones (reportedly frank pornographic video cassettes were left available to the children and the adults' sex life was a matter of intrafamily discussion). The child's original words were lost in the later tumult. Father's reconstituted family banded together in the cause of the prosecution. The father's son by his first marriage had just come to live with them, and the father's second marriage had shown signs of substantial deterioration just prior to the allegations of the daughter's abuse. No medical examination was obtained despite the fact that the alleged victim's father was a physician. Psychiatric evaluation showed the alleged offender to be a passive, slightly withdrawn youngster with delayed sexual maturation and low levels of libido, fantasy, and aggression. When further evaluation was pursued, the victim's father refused to cooperate and withdrew all charges.

In Case 7, during a visitation dispute, the mother reported her "concerns" about the father's conduct with their daughter during visitations. She had remarried and wanted to move their daughter out of state, to which the girl's father objected. Mother then sought to limit visits because of the father's alleged sexual misconduct.

The mother reported to family court that months earlier her daughter had told her of the father's repeated penile vaginal penetration. Mother had not discussed the matter again with the girl until the visitation dispute arose. The only medical examination ever obtained by mother showed no physical penetration or soft tissue injuries to her daughter. The girl had never complained of any pain and mother had noticed nothing amiss while bathing her a few hours after the first alleged rape had been said to occur.

The family court judge reported the case to the state Social Service Department and the district attorney's office, but prosecution was not pressed until the father demanded a trial to vindicate himself in view of continuing visitation problems. The Social Service evaluation included psychologic testing which was performed with the presumption that the abuse had occurred. The girl's responses were fluent, showed unexpectedly little sexual anxiety, and no fear or guilt concerning male images; these results were interpreted as her being defensive. The evaluation results were based partly on drawings that the mother had made for her daughter and which were then interpreted as manifesting sexual anxiety. Mother's history of being sexually abused as a teenager and her own sexual anxieties were apparently not known or inquired into at that time. Father was never evaluated by the Department of Social Services or by the prosecution; his pursuit of evaluation was characterized as being defensively manipulative. In the course of months of trial preparation, father and daughter were quarantined from each other and the daughter was prepared in detail for testimony.

Father had been in long-term weekly

psychotherapy since his marital breakup for more than two years. He had initially felt depressed, helpless, and angry and had done considerable grieving for his wife in therapy. His work history and social relationships were productive. He continued to miss his daughter but felt only mild annoyance at his ex-wife, whom he perceived as acting characteristically self-serving. He was very angry with state social service agencies, but did not personalize how his case had been handled.

Psychiatric evaluation was first conducted blind to the father's therapist's assessment of him. It showed an energetic man with well-compensated obsessive character structure and flexible access to robust libido, humor, appropriate self-assertion, and insight. He was affectionate, earthy, and action-oriented alongside his awareness of inner motivations. He considered his life's largest error to have been a hasty marriage to a narcissistically appealing, beautiful young woman. There were no other indications of psychosocial maladaptation in his history.

Ultimately the girl testified some three years after the initial incident was alleged to have occurred. She graphically described several occasions of oral and vaginal intercourse to orgasm, some of which she said occurred at times when she had not even been with her father. Her testimony was friendly, casual, and sincere, including her report of having behaved in a "weird" fashion after the alleged abuse. Asked how she knew that she had acted weird, she said that her mother had told her so. At the jury-waived trial, the father was found not guilty of all charges.

Psychiatric evaluations in these cases offered affirmative alternative explanations to the accusations of various forms of abuse. In only one of the seven cases was any accuser diagnosed as mentally ill (Case 5), although intrapsychic and familial dynamics were active in generating the accusations in all cases. In none of the cases did the original reporters recant (i.e., state that they had been wrong) but in only two cases (5 and 7) did they persist in the accusations. In Cases 1, 2, and 4, the reporters demurred in the end, saying that they had been misunderstood by state social service agencies and had never meant to allege true abuse. In Case 3, the teenager shrugged off her accusations as having been trivial and undeserving of further thought. In Case 6, the accusations were retracted in full without explanation by the child's custodial father. Such evasions would be meaningless in and of themselves in the absence of alternative psychodynamic explanations of the accusations and then independent legal-system investigation.

In all of the cases, a final judicial or prosecutorial determination of nonmisconduct was made. In three of the cases, judicial determination was assisted by formal social service agency input. Three cases were handled by family court alone, one case was processed by concurrent jurisdiction by family and criminal court (in which the criminal charges were prosecuted to a not guilty verdict), two cases were handled by both the family court and district attorney's

office (no prosecution was made in either case), and one case was prosecuted in criminal court alone (charges were dismissed).

Discussion

An earlier publication[11] has discussed the nature and etiology of psychiatric regression in adults during domestic relations litigation. Such regression in adults has instinctual, defensive, and behavioral components. Each component is unique in its degree of regression in an individual caught in a specific domestic tangle, and the whole regressive syndrome was seen as *potential* rather than as inevitable.

The hypothesis was offered that a primary dynamic etiology was the loss of a "parenting fantasy" which had served to restitute in psychic function for early developmental losses. This hypothesis serves to account for abrupt appearance of some of the "out of character," regressed behavior which is often seen in otherwise intact people who become caught up in contested domestic relations litigation.

One aspect of potential regressed behavior on the part of adults is an increased focus on sexuality, as well as a maladaptive amalgamation of bitterness, vindictive anger, or loss with sex. These emotional forces accrue great power to generate aberrant sexual actions by adults. Marital breakdown as one form of family disorganization and the social isolation that often accompanies "involuntary single parenthood" are additional causative factors of adult sexual actions that can be abusive to children.

All of the factors described above bear upon situations in which sexual aberrations can or *do* occur. But sometimes the actions have *not* occurred, and such factors also bear upon parents' or stepparents' nonvalid *perceptions* of abuse as a regressive phenomenon in its own right. Stepparents are drawn into the vortex too and become active participants as is demonstrated in three of the cases discussed above. Stepparents' nonsexual fantasies are central to the operation of "reconstituted" families, as are their reactions or sensitivities to issues of loss, blame, failure, control, and territoriality.

It is equally noteworthy that children's reactions to stresses of marital breakdown can contribute to nonvalid reports of sexual abuse such as the cases reported here. In children, family turmoil is well known to elicit regression of analogous variety: in affective instincts, defensive adaptations, and behavior. Children have no parenting fantasy to lose, but marital breakdown presents them with unavoidable real and intangible losses that must be of even greater magnitude than those their parents sustain.

Children of divorce, in addition to the primary experience of intangible emotional loss, are confronted with actual and intrapsychic conflicts beyond their realistic capacity to resolve. "Actual" conflicts, whether tangible or not, are often presented to children for their opinions or choices; they may involve issues of custody, visitation, or property/financial matters. Intangible conflicts of divided loyalty, children's sense of failure or guilt about the failure of parental

marriage or happiness, or inexpressible sadness or anger are even thornier issues.

The doctrines of "expressed preference of the child" in domestic civil litigation and "right to testify" in criminal and/or child abuse litigation have generated increased resort to such use of children as witnesses in litigation, irrespective of a child's more basic right to be cared for in supportive fashion by all of the adults around him, including the legal system.

In many cases, a child witness's competency to testify may well be impaired by the existence of cognitive/intellectual or emotional conflicts.[12] This is especially true in cases of criminal prosecution for alleged intrafamily incest when the child victim testifies against an alleged parental or close relation perpetrator. Testimonial impairment in such cases goes far beyond the truism that no witness is fully accurate.

Elaborate "preparation" of a potential child witness,[13] including rehearsal of testimony and role playing, does nothing to resolve or mitigate such conflict in the child's mind. In some cases, a child has been taken into an unoccupied courtroom and has been encouraged to recite anticipated testimony while sitting on the trial judge's bench.

Potential causes of regression in a child's developmental level of emotional instinct during domestic breakdown involve, among other possibilities, the following: (1) impact of loss and the child's idiosyncratic vulnerability to it based in part on the child's preexisting developmental level; (2) emergence of punitive or primitive guilty feelings in the child for "causing" the divorce, with impulses toward self-recrimination; (3) loosening of Oedipal restrictions through loss of traditional, restraining family structure; and (4) existence of relatively less tabooed sexual(ized) opportunities through relationships with stepfamily or other cohabitors.

Potentials for regression in defenses in children at times of stress are now a traditional element of the psychiatric literature. Less well remarked is the truism that divorce should be *expected* to evoke regressions in children because of its stressful nature. Many otherwise sophisticated parents are genuinely surprised that the children react "so strongly." Some slippages in developmental staging of defenses (or adaptational maneuvers) in children include: (1) increased resort to fantasy, with sexual and/or reunion themes; (2) increased credulousness, related to increased need for replacement of depleted dependency gratification; (3) increased susceptibility to influence by caretakers, related to need for security and acceptance; and (4) decreased ability to achieve ambivalent internal representations of object relations and concomitant inclination to perceive relations in polarized/split concepts.

Potentials for such increased primitivity or regression in instinct and/or defensive structure in children leads to the likelihood of some variety of regressed behavior for a greater or lesser time. Examples of such regression include: (1) increase in aggressive behavior, including frank resort to aggressive acting out to discharge unpleasant affect; (2) regression in motor control (sphincter control

or walking ability in younger children, gastrointestinal tone or handwriting capacity in older children, etc.); (3) regression in developmental level of speech and/or learning ability, evident either at home or at school; (4) increase in elemental pleasure-seeking behaviors, including overeating or increase in masturbatory activity; and (5) search for immediate or indiscriminate satisfactions, including petty thievery or sexual behaviors which may be linked so directly to emotions of sadness and loss that they cannot fairly be described as formal "acting-out."

In all of the potentialities listed above for children, the basic theme is that a child faced with domestic turmoil is thrown into acute (or chronic) severe stress which creates a ripe setting for regressed psychic function and/or behavior by the child. In other words, the child may misinterpret the actions of grownups (toward each other or toward the child himself/herself), or the child may affirmatively act out some of the child's own anxiety in ambiguous but worrisome fashion (e.g., the child who masturbates after visits with a noncustodial father). These regressions are sometimes, but not always, more obvious in younger children.

It is entirely possible for otherwise ambiguous activities then to be elaborated by the child[12] or other reporters into genuine, truthful, but nonvalid perceptions of abuse. A poignant emotional reality is that children in such situations are not "lying" but are not "telling the truth" either in the customary or testimonial sense. The child may have sufficient *abstract* concepts of right/wrong or truth/falsehood to qualify as a competent witness *in general*, but in the particular matter at hand the child may well be incapable of distinguishing an "objective" truth from inevitable subjective interpretations.

Lying is a separate and later developmental *capability* of children which involves knowing use of mistruths with the intent to deceive. It often appears in the late latency age range. This may have been the situation in Case 3, which involved the oldest alleged victim in this series. In early latency years, discerning the difference between "make-believe," a "lie," and a child's genuine belief that happens to be inaccurate (including some wishes by the child) is extremely difficult. The emotional stress caused by domestic relations problems makes such distinctions even more difficult in children caught up in domestic turmoil.

The psychiatric point of view[13] aims to discern and clarify motives and then to *explain* them, not just to report. This should take into account the phenomenon that a child may serve as a relatively passive screen for projectional fantasies by adults who are regression prone under the influence of domestic stress at first, but that the child may later on become an active protagonist on his/her own in the drama. As noted above, the child may be a producer of an ambiguous report which then gets magnified and projected back onto the child in a "positive feedback loop" which increases the ultimate distortions. The children in this series were not thought by any investigator to have been consciously, deliberately "brainwashed," and with the possible exception of the teenager in

Case 3, they were consistently perceived by everyone as sincere.

Additional sources of potential regression in domestic relations litigation are to be found in attorneys and in the adversary system itself. On occasion, attorneys become overinvolved in cases and supply some of their own interpretations and motivations for litigation. Such was the case with the X family described above. It is understandably difficult for everyone involved in domestic relations cases to remain "passionately detached" at times when potentially lurid matters are discussed. There are fine lines to be drawn between representing a client (including the State as client for prosecutors), attending to the rights of children who are not clients, trying to serve the ends of an abstract concept of "justice," and being manipulated.

Finally, the adversary system itself has inherent limitations when the task at hand requires evaluation of family situations which contain a network of conflicting loyalties. Often there are no clear-cut adversaries and parties cannot meaningfully be distinguished on one "side" of a case or another; sometimes the same party has two conflicting interests in the same case. This is often true of children caught up in incestuous families.

The adversary system tends naturally to generate "part investigations" with the hope that a modified trial by combat will reveal the most truthful party. Often, there is little discerning revelation or evaluation of the mixed motives of a reporter, or if there is concern about such motives, full examination may be impossible. In Case 7 described above, it was impossible to uncover all of the mixed motivations of the seven-year-old girl who testified against her father at his rape trial, though most of the trial participants sensed that there was more to the story than the criminal court was presented with. Rules of evidence do not always do full justice to human entanglements in civil litigation either.

Recommendations

Five clear-cut recommendations emerge from the discussion above.

1. Evaluators charged with examining children who have been involved in stressful, domestic situations and who are involved in allegedly abusive episodes should obtain as much data on the children as possible from all available sources: educational, psychiatric/medical, extended family, etc. Domestic relations cases are unfortunately fertile ground for nonvalid perceptions and/or allegations of misconduct of all forms.

2. It is essential for any evaluator of a reportedly abused child, especially one involved in domestic relations litigations, to gather information from *all* previous or concurrent investigators/treaters/examiners. This is true even if such persons will not seem to have immediately relevant information on the case at issue; it is the *way* in which they have been utilized which may be as revealing as *what* task they are performing with the family. With the X family, the mother's use of fragmented counseling/neurologic services provided early indication of her mixed compliance-evasion patterns.

3. Psychiatric evaluators of cases of child abuse must insist on adequate time

to perform adequate examination. It is impossible reliably to obtain intimate, sometimes frightening details of a child's inner experience on a single interview. The use of "anatomically correct" dolls as a shortcut to introduce explicit sexual-aggressive material in an initial interview with a child who has possibly been traumatized is often poor practice. Obviously an evaluator must be receptive to a child's revelations as early in an evaluation as they emerge, but the child must not be coerced by the evaluator's time constraints.

4. There should be less emphasis on *what* a reported victim of abuse says or on "fact-finding" in evaluations. There should be more emphasis on the illumination of *motivations* of both victim and "prime movers" in the case: why are they doing and saying whatever they are? This is not at all to cast doubt on their truthfulness but to clarify the interplay between their emotions, their statements, and their actions, which is what psychiatry is all about. Evaluators, including interpreters of psychologic tests, should be exquisitely aware of their own biases and presumptions.

5. When a false accusation of sexual misconduct is suspected, psychiatric formulation should rest on affirmative psychodynamic grounds, not mere anecdotal material. Retraction of accusations per se is no assurance of nonabuse. In addition, *independent* factual investigation should corroborate the psychodynamics.

6. Finally, it seems from this series of cases that family court, with its emphasis on civil procedures and its "network" orientation, is to be preferred as a forum for evaluation of child sexual abuse cases rather than the criminal courts. Criminal courts are hamstrung by the need not to involve a defendant in the evaluation of the victim and vice versa. Family court operates on the premise that in sexual abuse cases, a victim and perpetrator usually will continue a relationship long after the legal case is completed.

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ALLEGATIONS OF SEXUAL ABUSE IN CHILD CUSTODY CASES

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Review of the Literature

In recent years, sexual abuse of children has received much attention both in the psychiatric literature (1, 2, 3, and 4) and popular media. No longer are children's accusations assumed to be fantasy as in Freud's time. Rather, most professionals look upon such charges as valid distress signals worthy of careful investigation. In our experience in dealing with many cases of possible sexual abuse, we have found children to be generally truthful in their allegations of sexual abuse. However, we have recently evaluated several children and families who have made false accusations of sexual abuse. These allegations arose in the context of child custody and visitations disputes. The underlying psycho-dynamics and family situations in these cases are complex and varied.

In contrast to the literature which abounds on true incest, reports of false accusations of incest are scant. Ferenzi has noted that young children often have difficulty separating reality from fantasy.[1] Their feelings of helplessness and need to preserve their image of the good parent may cause them to "forget" what actually transpired. Alternatively, as noted by Katan, they may attribute the sexual abuse to the wrong person.[2] Terr has elaborated on misperception as a defense to trauma.[3] Terr also believes that child victims of trauma are not amnestic. Rosenfeld et al discuss factors which may aid in determining the

validity of a report. They report that parents may accuse one another of sexual molestation as a means of terminating visitation rights in absence of proof of reality.[4] Kaplan and Kaplan discuss the problem of the custodial parent who may coach the child to make accusations of sexual abuse against the non-custodial parent and provide one case report. They note the clinical dilemma created in evaluating whether the child has been prompted or whether in fact the sexual abuse did occur. They suggest, in their case allegations of abuse arose because the child now felt safe in making the accusations because of geographical separation from the offender.[5] Peters, in reviewing 64 cases of alleged sexual abuse found only four cases where it was concluded that no sexual abuse occurred.[6]

A study out of Tufts University of 100 children alleging sexual abuse found that the abuse was substantiated in all but 5% of the cases.[7] Goodman, Sahd, and Rada discuss clinical aspects of false accusation and false denial of incest. In their review of 46 families presenting with the complaint of sexual abuse within the family they found one case of false accusation by a child, two cases of false accusations brought by psychotic mothers and two cases of false retraction of valid accusations. The false accusations all involved adolescents who readily admitted that they had lied and later retracted their accusations when confronted by a psychiatrist. In contrast, false denial of incest occurred in response to threats from the father, infatuation with their father or out of fear of disrupting their family. These

authors conclude that a judgement of false accusation should be made positively not by inference or exclusion, i.e. the clinician needs to come forth with a psycho-dynamic explanation of the hoax.[8]

Overview

Common questions we were asked to address by referring sources included the credibility of the allegation, the child's ability to distinguish fact from fantasy, the nature and extent of the abuse, and the duration of the abuse. We have also been asked to evaluate children's ability to be credible witnesses in court and ability to withstand cross-examination and to prepare children for court appearances. A peripheral question sometimes concerned the long-term effects of false accusations on the child and the child's relationship to the parents. We have noted the number of psychiatric evaluations in our practice prompted by allegations of sexual abuse have increased. Coupled with the numerical increase of contested custody evaluations is the current public attention paid to sexual abuse of children.

Allegations of sexual abuse in contested custody cases arise at all stages of determination. Parental separation may be precipitated by the crisis which develops when a child accuses a parent of sexual abuse. Case Example: Susan, age two and one half, spontaneously asked an adolescent boy at the beach to pull down his pants so she could see his "ding dong". She then shared

with her mother the fact that she had seen daddy's "ding dong" and daddy had asked her to "ring his bells". Susan's mother asked for a pre-separation evaluation in regard to sexual abuse because she could not "believe" her husband had exhibited such behavior with this child.

Allegations of abuse also emerge at the time of divorce. Such an allegation is used as evidence in regard to a temporary custody determination as clearly custody with an abusing parent would not be "in the best interest of the child".

Allegation of sexual abuse in our experience have been most common in disputes about child custody that arise after a divorce has been granted and center around issues of visitation. Custodial parents may allege sexual abuse to prevent noncustodial parents from exercising their visitation rights. Conversely, noncustodial parents allege sexual abuse in an attempt to get the court to change the permanent custody that was awarded at the time of the divorce. In one case changes arose only after the mother realized she had unwittingly signed papers agreeing to joint custody.

The request for evaluation of an allegation of sexual abuse may come from either parent, grandparent, courts, attorneys, teachers or physicians. Marcie, age two, was referred for psychiatric evaluation by her grandparents who were concerned when she began giving them "lizard kisses", e.g., thrusting her tongue into her

grandparent's mouth seemed inappropriate. The nature of such kisses described by Marcie's grandparents as "quick thrusts of her tongue", seemed bizarre to this elderly concerned couple. Marcie told the evaluator that her dad had taught her to "lizard kiss" and demonstrated them.

In an evaluation of alleged sexual abuse in custody cases, it is critical that the child psychiatrist be clear about the questions posed and attempt to answer them. It is important to articulate the facts and observation which form the data which led to one's conclusions. Recommendations regarding treatment may also be requested.

Special Issues

Reality Testing

Special problems occur when evaluating the very young child in regard to allegations of sexual abuse. These problems center around the young child's inability to distinguish fact from fantasy, problems with language, and wish to be "good and helpful" or to protect a parent. In regard to distinguishing fact from fantasy, three and one half year old Yvonne steadfastly denied her mother's allegations that her father's roommates had exposed themselves to her or that her father had molested her. Her mother, however, had tape-recorded a conversation with Yvonne in which Yvonne spoke of her father's friend having a "long

body", a term the mother insisted that her daughter used for genitalia, and from this she began to build a case for sexual abuse. The evaluator began to question the child's ability to distinguish fact from fantasy when during the evaluation she began to cook a toy mouse for dinner and insisted that she had once eaten a mouse while at her father's. Further questioning on the part of the evaluator revealed that Yvonne was not cognitively mature enough to understand the difference between reality and fantasy. Cognitive ability is not just a function of age and may vary greatly from one child to another. Clear questions to this end such as "Is that pretend or is that real?" are both helpful in offering an opinion and in subsequent reports or testimony.

Language

The problem of language is a difficult one and yet one which can be useful in conducting the evaluation. The language for describing male and female genitalia used by children is often not anatomical. In addition, the language for severe abuse is rarely technical. John, age five, accused his stepbrother of "fellatio". Besides having problems pronouncing fellatio, John could not explain what fellatio meant except to say that his brother fought with him. Fellatio was in no way consonant with John's more appropriate five year old language development and

suggested he might have been coached. It is also important to find out what sexual terminology parents have used with the child.

In a play interview, it was apparent to the evaluator that above-mentioned Yvonne had no terminology for male genitalia, e.g., she showed much curiosity about the penis of an undressed baby doll and when asked if she knew what it was, giggled and said, "A dinosaur". When asked what she meant by the term "body" she pointed to her own pubic area. She was then asked if the doll had a body and she turned the male doll over and pointed to his buttocks. On questioning she said she had seen her father's body but never his roommate's. In contrast, adolescents, although inhibited about the scientific names of body parts, use age appropriate language in describing molestation.

Brainwashing

As the primary psychological bond may be with the parent who alleges sexual abuse and has custody of the child, the child may also be "brainwashed" by parents into supporting a series of allegation. As noted by Green because of defensive operations children rarely spontaneously talk about sexual abuse and when they do the story usually emerges gradually accompanied by appropriate affect.[9] It is helpful to support one's clinical opinion with examples and dynamics which make it possible either to support or refute the possibility of brainwashing. For

example, Susan, age two and a half, talked with the evaluator about ding dongs and bells, then drew pictures of teddy bears with enlarged genitalia, cut out pictures of teddy bears whose bodies were dwarfed by the size of their genitalia and finally pulled down her pants and told the evaluator that her daddy put his ding dong "right here", pointing to her vagina. The clinical activity which began with excitement and terminated with a graphic demonstration of the abuse left little doubt in the mind of the evaluator that there was no possibility of coaching the two and one half year old to sequentially demonstrate her anxiety and preoccupation with the abuse.

In contrast, five year old Carla very matter of factly volunteered the same litany of complaints against her father each time she was seen using ~~the~~ identical language. When pressed for specifics she would change the subject and become evasive. There were no sexual themes evident in her play. Her statement that "We want Bill out of our lives because we have a new daddy now" raised suspicion of collusion with her mother. This was further confirmed when she was overheard in the waiting room telling her mother, "I told the doctor all the things you told me to. Aren't I a good girl?" Katie, age 11, on the other hand, gave a credible and consistent story of her stepfather tickling her private parts but then under pressure from her mother retracted her story saying she'd been mistaken and that his hand must have "slipped".

Factors Which May Aid in Assessment

Play and Drawing

Many children, especially young ones will be more comfortable playing out their sexual trauma with dolls and puppets than talking about it. Play, in addition to helping them deal with their feelings about sexual abuse, may provide valuable material for corroborating it. For instance, eight and one half year old Maria had been held down in bed by her mother while her mother's boyfriend sexually abused her. Maria refused to speak directly of her mother who was by now incarcerated, yet in her play built a fortress around a little boy's bed so he would be "safe from his mother." She later depicted the mother saying to the boy "I hate your guts" and explained "that's what my mother said to me once."

Stacey, age three and one half, handled her sexual trauma by compulsively talking about it using a very precocious vocabulary. Upon entering the clinic waiting room with her foster mother she announced in a loud voice, "Do you know what my daddy did to me? He put his penis in my vagina!" This was said without much affect, in what appeared to be her way of shocking others much the way she had been shocked. Further, by this time it had become a guaranteed way of getting attention. Aware of this, the examiner opted to focus on play and avoid further interrogation. Stacey began inserting marbles inside some hollow

dolls and in and out of a kangaroo's pouch. She put some naked dolls in bed together and seemed unduly curious about their buttocks. She then spoke of her father putting his penis in her vagina. When asked if he'd put it anywhere else she mentioned her mouth where it "tickled" and her "butt" where it hurt. She then said the boy doll was feeling very angry but her own anger remained subdued.

In her second interview, she drew a picture of a man with a very low slung "belly button". She was asked to tell a story about him whereupon she turned the man into a gorilla who was about to be eaten by a ghost. She explained "him (the gorilla) was mad because he didn't have any fingers or hands" and "If him was angry he would eat the ghost but him wasn't angry, just mad." When asked if she was mad, she replied, "I'm still mad about daddy putting his penis in my butt and vagina". She was then asked if she ever worried about getting eaten up and she said, "If somebody is mad they might eat me up" and she went on to say that somebody might be her dad. In this case, play was consistent with verbal accusations.

A contrasting case is that of two year old Anna Lisa whose mother accused her father of spreading ant poison on the floor and forcing her to eat it up while holding her face in the poison. The mother also accused Anna Lisa's daddy of licking Anna Lisa's genitalia, while changing her diapers. The mother presented with a detailed list of 49 separate complaints of physical and sexual

abuse on the father's part. Yet, in joint interview, Anna Lisa showed delight in seeing her father, and played freely with him. There was no trace of symbolic or overt sexual play with her father during extensive observation, as important to the examiner's conclusion of false allegations was the fully complete age appropriate interaction with the child. Brant however, cautions that children can be affectionate and angry at the same time and that closeness to a parent per se does not rule out sexual abuse.[10]

Direct Questions

In our experience, the clinician should always ask directly, in child appropriate language, about the alleged sexual activity. Questioning should proceed from the general to the specific. After rapport with the child has been established, one may inquire about the child's relationship with the parent in question and what games they play together. Specific questions should be asked about physical abuse and sexual activity. It may be helpful to frame questions to a young child in the third person. For example, "Sometimes people touch children in private parts, or in ways that make them feel uncomfortable--(pause) Do you know any children who have had that happen to them?" And finally, "Has this ever happened to you?" If the clinician fails to ask, the child may feel that his or her thoughts or feelings associated with the abuse are so terrible

that the "doctor" is afraid to ask. A direct admission can be helpful for a child. A denial, however, does not in itself mean that no sexual abuse occurred.

Precocious Sexual Vocabulary and Preoccupation with Sex

Precocious sexual vocabulary should raise suspicion that a child has been sexually overstimulated. Often the vocabulary has been taught and reinforced by the perpetrator. Cassandra, age seven, showed a preoccupation with sex from an early age and spoke freely of sexual activities beyond the domain of most children, and at six worried that she might be pregnant. Athena, age five, was reported by her mother to frequently be seen "humping her dollies" and once her brother. In her case, she had been exposed to much adult sexual activity but there was no evidence that she herself had been sexually abused.

Evaluation of the Family

Evaluation of Both Parents

As with a standard evaluation, it is important to get past history, current functioning and history of the parent/child relationship. Care must be taken to ask about and document allegations against former spouses. It often becomes necessary to structure the interview in such a way as to keep it child focused rather than becoming bogged down in areas of spousal

conflict. It may be helpful to remind the parent that it is not your role to decide who did what, to whom, when in regard to the other parent, but rather to evaluate and recommend what is in the best interest of the child.

Parental attitudes towards sex need to be explored. We have found that in these families several mothers had a history of sexual problems or themselves had been molested. The latter may often render them hypervigilant to the possibility the the same fate befalling their daughters. Some on the other hand may be jealous of any attention their former spouse shows their daughter and allegations of sexual abuse then becomes a way of gaining control over their daughters and limiting their access to their fathers. One mother, Mrs. F., was totally obsessed with the conviction (in absence of evidence) that her husband whom she'd accused of molesting her daughters was a homosexual. She seemed much more interested in his homosexual tendencies than in what he was purported to have done to her daughters and had great difficulty focusing on her children. In spite of her disapproval of his sexual conduct, she made several efforts at reconciliation in the course of the evaluation. In this case, it was decided that she had an underlying thought disorder with paranoid traits. Obviously, past history of any deviant sexual behavior in the alleged offender is also very important.

psychiatric diagnoses in the parents are relevant. For instance, hysteria, borderline personality or thought disorder may contribute to parents's distorted perceptions of events and tendency to overreact. Substance abuse in the offender may impair judgement and alter inhibitions, thereby contributing to sexual abuse. Similarly, the presence of thought disorder does not necessarily mean that allegations are delusional. In the case of Cassandra, the mother's thought disorder led to her insistence that the clearly documented sexual abuse of her seven year old daughter had not occurred. She insisted that the child's father had not molested her, saying, "I know because I checked her vaginally myself". In another case, Mrs. F., exaggerated some inappropriate sexual behavior on the part of the father (back rubs and pinching nipples) whereas in the case of Mrs. G., allegations were totally delusional.

Observation of Child with Parent

Observation of the child with respective parents provides valuable information which might not be picked up in the course of taking a history. For instance, three and one half year old Yvonne displayed much sexual curiosity while playing with dolls which her mother seemed to be at a loss to know how to handle. In contrast, her father when seen with her was able to respond to her queries in a simple matter-of-fact manner. These observations were consistent with the father's comments that the mother had "sexual hangups". He stated he did not believe in

flaunting his sex life before his daughter but saw nothing wrong with them observing each other nude or bathing together. His interactions with her, i.e., tickling her, stroking her legs and fondling her hair had highly seductive overtones about which he seemed totally unaware. In this case, it was concluded that Yvonne had been sexually overstimulated but not abused and that her mother's anxieties and mistrust of her former husband had caused her to overreact to the situation.

Often a custodial parent will strenuously object to the child being observed with the estranged parent on grounds that it would be too traumatic for the child. While these concerns may, at times, be valid one should wonder what information that parent might also be trying to suppress or avoid. For instance, Mrs. E. insisted that Carla was terrified of her father and had no relationship with him. When they were observed together, Carla had not seen her father for six months as her mother had failed to comply with visitation orders. Her father was extremely anxious and Carla initially withdrew totally from him, opting to sit in the psychiatrist's lap with eyes averted. She then berated her father with allegations of abuse and flaunted the fact that she now had a new daddy and didn't need him anymore. He accepted her anger and gradually was able to engage her in appropriate play. By the end of the hour, she was calling him daddy and attempting to prolong their time together. The ease with which this about face occurred strongly suggested that there

had been a positive bond between them in the past counter to mother's insistence that the relationship had been a totally negative one.

Equally informative were observations of Carla with her mother. The child seemed totally dependent on her mother's approval for her every move and even had to confer with her as to which color magic markers to use in her drawings. She was apprehensive about using them and fearful that her mother would become angry if she made a mess and indicated that she was not allowed to use them at home. She seemed much more inhibited in her mother's presence than father's and later indicated that she was afraid of her mother.

Use of Collateral Information

As in any custody evaluation, credibility of parents is an important issue. Psychiatrists tend to believe patients but must realize that in the adversarial system each party is putting their best foot forward and is likely to be presenting a biased perception of the facts. Collateral information provides a check on this and also an outside impression on the child and family. Important sources of information may be siblings, grandparents, babysitters, teachers, medical records, police reports, employers of parents and the family's clergyman. For instance, Carla's babysitter described her as "a little Sarah Bernhardt." When asked what she meant by this, she said, "She is good at

acting out a role when she thinks she is supposed to be that way". She went on to describe the infectious nature of mother's hysteria prior to father's visits and how this would generate anxiety in Carla and lead her to feel that she would not be safe with him.

After the evaluation of Carla had been completed, the examiner received in the mail a clipping detailing a one car accident her father had been involved in. The article said he was being charged with drunken driving. The mother, at this point, alleged that her husband had abused alcohol during the marriage, a fact she'd never brought up during the evaluation. This seemed out of character given the fact that he held down two jobs with an excellent work record, and had said he rarely drank because of a seizure disorder. Hospital records were obtained which verified that the examiner had surmised namely that he had had a seizure while driving and no where in the records was there any mention of intoxication.

In summary, in our experience, false allegations of sexual abuse by children and their parents are rare. They do, however, occur particularly in custody cases. Much as in malingering, which is generally rare in psychiatric patients, but can be found in the specialized population of forensic patients where secondary gain from a malingered illness is high, so an allegation of sexual abuse may be for secondary gain on the part of a child or parents. Parents may use such allegations to obtain sole

custody, to terminate visitation, to terminate parental rights or to harass a noncustodial parent. Children may allege sexual abuse falsely because of their own psychopathology, a wish to please a parent, anger at a parent, or fantasies of sexual feelings toward the parent. Such allegations need careful evaluation by experienced child psychiatrists as the outcome of such allegations has serious implications for the child's future relations with her parents.

Formulating Recommendations

It is important to stay with facts and first hand information and observations. If quoting a parent, it should be clear that this is their perception of events, not yours. Direct quotes from children and adolescents are helpful if available. Drawings and cutouts are also admissible. If allegations are believed to be false, there should be a psychodynamic formulation to explain them, e.g., a borderline mother trying to expunge the "bad" father and replace him with the "good" father or the paranoid mother who projects her own thoughts onto her former husband. Or in the case of brain washing -- a child's developmental immaturity, extreme dependence on her mother (often fostered by the mother out of her own narcissistic needs) and need to please her and fear of her as factors in her coming to believe everything her mother told her about her father. Other less dynamic explanations may focus on parental rage, desire for revenge, or dissatisfaction with custody arrangements.

In many cases, evidence will not be clearcut, and the psychiatrist must learn to live with irresolution and formulate a plan which offers the child reasonable protection in the interim. Several possibilities exist--none of them very satisfactory. These include supervised visitation by a third party, monitored visitation whereby the children are periodically seen by the psychiatrist, mediated visits in the presence of the therapist, parental guidance, psychotherapy for the parent, and periodic court review. Parameters may also be placed on visits as to location and duration.

In cases of brainwashing, irrevocable damage may have been done and attempts at reconciliation with the other parent may cause the child to feel disloyal and vulnerable. If the custodial parent remains unyielding one may wish to consider recommending change of custody but one must weigh this against the likelihood of further trauma to the child. In our experience, where one is dealing with vindictive parents who may have character disorders, court-ordered visitation or therapy for the parent is not apt to alter attitudes toward the former spouse. Parents will continue to try to fortify their cases, often interrogating the child post visits in attempts to gather evidence for the next round in court. The child suffers, attorneys' fees mount and nothing gets resolved. One must then weigh whether preserving the child's relationship with the noncustodial parent is worth the trauma to the child that surrounds visitation.

Summary of Cases

In our limited sample of 18 cases (see chart) we attempted to discern whether there were any features which distinguished cases of false accusation of sexual abuse from documented ones. Sixteen of the cases involved girls with ages ranging from two to fourteen years. Two cases involved boys ages five and eleven years. The alleged offenders were fathers in all but two cases (#6 stepfather, #1 boyfriend). Sexual abuse seemed clear-cut in eight cases and alcoholism was present in the offender in 3/8 of these cases versus 1/10 of the unconfirmed cases. In terms of the mothers' diagnoses, hysteria and schizophrenia seemed equally divided between the confirmed and unconfirmed groups whereas four mothers bringing about false accusations were diagnosed as having paranoia and none in the confirmed group. One distinguishing feature in the cases of false accusations of incest was the fact that charges were uniformly brought about by the parents, not the child. In our experience, working with incest cases, we have found this to be atypical, i.e., most often it is the child who initiates the charges. Secondly, in the four unconfirmed families versus two confirmed, allegations did not arise during the marriage but only after separation or divorce, which raised questions as to possible ulterior motives of the parent. Some of the more common motives we encountered were: 1) wish to get former spouse out of life; 2) vindictiveness; 3) crying wolf--the allegations of sexual abuse as a sure fire way of getting the

judge's attention and suspending visitation in situations where the parent was dissatisfied with the custody arrangement. Third, in confirmed cases, themes of the child's play or drawings were generally consonant with the accusations.

Of particular hazard for the child psychiatrist working with these cases are counter-transference feelings. Such feelings may be directed to the child/victim as the material he or she presents reactivates helpless or incestuous feelings in the therapist. These may be evident as when the therapist labels the child as seductive. Counter-transference may be directed to the alleged perpetrator, preventing the child psychiatrist from hearing his or her side of the story. In particular, when allegations are false and there is question that the child has been coached, it is important to evaluate the other parent. This evaluation of the other parent has been discussed in evaluating contested child custody cases and is now a clinical axiom. However, transference feelings in these cases toward the perpetrator may make such an evaluation difficult.

In summary, the authors discuss problems in assessing allegations of sexual abuse which arise in the context of custody or visitation disputes. Clinical examples are provided as is discussion of factors facilitating the evaluations. The most important consideration is the safety and development of the child. All accusations must be carefully evaluated and considered in the light of the total clinical picture.

Child	Age+Sex	Custody	Content of Dispute	Charges Brought By	Abuse Documented	Mother's Diagnosis	Father's Diagnosis
1. M.R.	8F	State	TPR. Should child testify?	Child	Yes	Not seen	Not seen
2. S.P.	3F	State	TPR. How to convince court	Child	Yes	Drug Abuse	Drug Abuse
3. A.C.	14F	State	TPR. Should child testify?	Child	Yes	Not seen	Not seen
4. C.Y.	7F	State	Custody Mo. v. state	Child	Yes	Schizo-phrenia	Alcoholism
5. C.F.	3F	Mother	Post Divorce Visitation	Child	Yes	Anxiety	Transvestite
6. K.W.	11F	Mother	Custody	Child	Yes	?	Org.br.syn?
7. B.M. Siblings	11M	Mother	Post Divorce Visitation	StepMo.	Yes	Hysteria	Alcoholism
8. G.M.	13M	Mother	Post Divorce Visitation	StepMo.	Yes	Hysteria	Alcoholism
9. S.M.	2F	Mother	Custody	Mother	No	Paranoia	Depression
10. A.L.	2F	Mother	Custody	Mother	No	Paranoia	Anxiety
11. S.G.	3F.	Mother	Post Divorce Visitation	Father	No	Character Disorder	Character Disorder
12. S.B.	5M	Father	Custody	Mother	No	?Alcoholism	0
13. S.D	3F	Mother	Post Divorce Custody	Mother	No	Hysteria	Alc.Abuse
14. K.E.	5F	Joint	Post Divorce Custody	Mother	No	Borderline Paranoia	0
15. A.F. Siblings	10F	Mother	Separation Visitation	Mother	No	Paranoia Hysteria	0
16. B.F.	13F	Mother	Separation Visitation	Mother	No	Paranoia Hysteria	0
17. A.G. Siblings	7F	Father	Post Divorce Custody	Mother	No	Schizo-phrenia	Ob-comp.
18. B.G.	6F	Father	Post Divorce Custody	Mother	No	Schizo-phrenia	Ob-comp.

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Exhibit C
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A CONCEPTUAL MODEL FOR JUDGING THE TRUTHFULNESS OF A YOUNG CHILD'S ALLEGATION OF SEXUAL ABUSE

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Because of the increased number of allegations of sexual abuse made by young children and the often severe legal penalties given to adult perpetrators, there is reason for concern about false or mistaken accusations. This paper develops a conceptual model for judging the truthfulness of such allegations by a young child.

Child sexual abuse has emerged recently as a major social problem in this country. Although there is a great deal of historical evidence to suggest that it has been, to varying extents, a feature of every generation and each culture,[11,43] it has been only within the last decade that both public and academic attention has been keenly focused on it.

Wolock and Horowitz[54] noted that

> . . . public attention to a social problem does not depend solely, or even mainly, upon the objective characteristics of the phenomena or even upon conditions that ultimately come to be recognized as a social problem. (p. 530)

That attention, instead, is more a product of those who *define* the problem; their status and power allow them to describe the nature and extent of the problem and grant them the influence to keep the problem in the public limelight as they encourage the development of strategies for its resolution.[38]

Child sexual abuse has been defined as a social problem by sociologists,[53] psychologists,[35] behaviorists,[23] and feminists,[26] as well as by the general public.[20] The other group which describes the problem is composed of children who have made allegations of sexual abuse against adults. To dispute the nature and extent of child sexual abuse or its categorization as a social problem, one could challenge the research methodologies and conclusions of the social scientists, confront the lack of knowledge and emotionalism of the general public, or cast doubts upon the truthfulness of a child's allegation. It is on this last process, especially as it concerns young children between the ages of two and seven, that this paper will focus.

Before child sexual abuse was defined

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as a social problem, the veracity of a young child's allegation against an adult was routinely disputed.[34, 43] As both the times and the definition of that social condition changed, however, the pendulum began to swing in the other direction, so that a child who gave an account of sexual abuse, even a very young child, often was believed without question. With that swing came such broad generalizations as, "children never lie about sexual abuse," or, "the younger the child, the more likely the story is true." A few recent and notable cases, such as the preliminary hearing testimony of the alleged victims in the McMartin Preschool case, and the charges dropped against a large number of citizens accused of sexual abuse in Jordan, Minnesota, have called into question the credibility of that position, although some researchers and practitioners still espouse it. Doubts are now so strong for others, however, that their reaction is reminiscent of the historical skepticism and seems to challenge the very wisdom of categorizing the abuse as a social problem at all. That position is illustrated by the following statement made by psychologists Underwager and Wakefield:[52]

> The exploding number of allegations and the procedures followed by child-protection teams, police, and prosecutors match the Salem witch-hunts and the McCarthy anti-communist hearings . . . Politicians, prosecutors, mental-health professionals, and the media are riding a wave of hysteria about sexual abuse of children. We believe the truth eventually will be known. But in the meantime, thousands of Americans will have their lives shattered by their government. (p. 59)

Since the greatest doubt seems to be about the accusations of young children,[19, 41] this paper will present a conceptual model for judging the truthfulness of a young child's allegation of sexual abuse. It is hoped that this model will be a logical, systematic paradigm that will direct the user to each relevant facet of the experience of child sexual abuse, highlight the developmental issues that mitigate or enhance each facet, suggest the social and psychological dynamics of each, and show the interaction between these various facets. Rather than serving as a kind of conceptual lie detector test, the model will outline a sequence of investigative steps that need to be taken in judging the truthfulness of a young child's allegation. It will assess the type and quality of information about both the alleged abuse and the child's development that are needed at each step to increase or decrease the index of suspicion that the sexual abuse did occur. Theoretically, the use of this model can circumvent the broad-brushed generalizations of "a child never lies," on the one hand, and "a child is never to be believed," on the other, and the doubt that lies between can be addressed and resolved.

In this model, the Brant and Tisza[3] definition of child sexual abuse will be used:

> . . . the exposure of a child to sexual stimulation inappropriate for the child's age, level of psychosexual development, or role in the family. (p. 81)

This paper will focus on children between the ages of two and seven, and will consider both intrafamilial and nonfamilial sexual abuse.

JUDGING THE TRUTH OF ALLEGATIONS

The model for judging the truthfulness of a young child's complaint of sexual abuse begins with the allegation itself. If accusations were always made with clarity, celerity, certainty, and consistency, few doubts as to their truth would ever arise. The literature, however, demonstrates that this is rarely so and for that reason, if for no other, such an

accusation should never be summarily dismissed as false.

Clarity. A child between the ages of two and seven is in the preoperational period of development[39] characterized by a cognitive style that would work significantly against clarity in an allegation of sexual abuse. The child's tendency for centering in thinking, for example, causes perception and definition of an object in relation to its particular function;[39] thus, a child may refer to ejaculation as urination since that is the perceived function of the penis. Similarly, the lack of conservation characteristic of this developmental period prevents the child from understanding that objects remain the same despite a change in physical appearance;[48] in the child's perception an erect penis, for example, may no longer be thought of as a penis because of its change in size and shape.

The tendencies for concreteness and egocentrism in thinking[48] also will cloud an allegation. Pervasive transductive reasoning, which causes a child to reason from one particular idea to another without logically connecting them,[39] creates a vague, free-associative style of communication which, further encumbered by difficulties with language, precludes any real clarity. These developmental facts, then, diminish the likelihood that a young child's allegation will be so clear that it could stand alone as a measure of its truth.

Celerity. The literature demonstrates that children are seldom swift in reporting sexual abuse. Conte and Berliner,[6] in their study of 583 sexually abused children, found that only 16% of them told anyone about the incident within 48 hours of its occurrence. Delays in disclosure lasting anywhere from days to years are frequently reported in the literature;[18, 24, 27, 53] they are largely attributed to the pressures for secrecy placed on the child by the offending adult and to the child's developmentally-based tendency to accommodate the demands of adults.[9, 49] Delays in disclosure, then, are more the rule than the exception and, once again, should not be used as a rationale for doubting the truthfulness of an allegation.

Certainty. The same cognitive processes and lack of sophistication with the language that interfere with the clarity of an accusation will also hinder its certainty. Further, in an effort to assure the secrecy of the behavior, the adult may tell the child that the sexual contact is normal, desirable, or the fault of the child.[9, 10] This reinterpretation of reality and attribution of blame may create enough dissonance to leave the child confused and uncertain.

Is it possible that a young child's uncertain disclosure might result from difficulty in distinguishing fantasy from reality? There is considerable debate as to whether a young child fantasizes about sexual acts with adults.[34, 41] While a child's fantasy life is unquestionably rich and varied and includes both sexual and aggressive themes,[2, 22, 28] several other developmental features restrain and shape these motifs. First, a child between the ages of two and seven does not yet have the mental structures needed for logical or abstract thought,[48] hence the term "preoperational." This leaves the child dependent on actual experiences for producing the images of fantasy. Second, the fantasies of a child this age are generally reflective of wishful thinking and are so tightly bound to the pleasure principle that they invariably have a hedonistic tone.[22] In fantasies the child gets what he or she does not have, removes sources of irritation and annoyance, goes where he or she cannot go, develops relationships with others, and figures out problems, all with posi-

tive, rewarding results. Third, the fantasies at this age stress mastery and competence: that is, the child as hero and as problem-solver,[28] as victor rather than as victim. Finally, the secondary process, the thinking that is characteristic of the ego and is influenced by the demands of the environment, grants a child not only the ability to test reality, but to distinguish it from fantasy.[2, 22]

These developmental aspects of fantasy and imagination, then, argue against a young child fantasizing about being sexually abused in the first place, and against the child reporting fantasy as if it were reality because of an inability to distinguish between the two. While more research and analysis need to be done in this area, existing data imply that the more details a young child can give, the more negative in feeling the experience is that is being related, and the more the child describes sexual acts that exceed in maturity, sophistication and ability what would be considered normal for that child's psychosexual level of development (after the variables of class, culture, and individual differences are taken into account), the more likely is the child to be describing real as opposed to imagined events.

Consistency. Because of the pressure for secrecy by the offending adult and the often unsettling reactions of others to the complaint, the child may amend or even retract an accusation.[7, 8, 49] The intervention skills of the person(s) to whom the account is being told will also affect consistency: what a child tells different adults may vary with the adult's style of communication.

Elaborated Details

An allegation of sexual abuse by a young child, although it may lack clarity, celerity, certainty, and consistency, should be taken seriously and should serve as a basis for eliciting elaborated details, which is the second step of this conceptual model. Before embarking on the child's version of what happened, it is necessary to determine from the child's caretaker how much sexual knowledge the child had before the complaint was made. Since there does not appear to be a norm for what a child that age will know,[28] it is imperative that care be taken in soliciting this information and that preconceived notions that may be tainted by racial, class, or cultural bias be checked. It is also necessary to determine the child's names for the various body parts and functions; the evaluator should then respect the child's lexicon and use the child's words during subsequent discussions.

Specific action. The child can be asked to describe the sexual action in words, drawings,[5] and/or demonstrations with anatomically correct dolls.[18] Again, those described acts that exceed in maturity, sophistication, and ability the psychosexual level of the child are especially noteworthy. Similarly, since so much intrafamilial and nonfamilial sexual abuse involves a progression of acts over time, from fondling, to oral contact, to penetration,[11, 35] a young child's description of such a sequence would raise the index of suspicion that the incidents really did occur.

Context. Contextual details which next must be determined include information about who allegedly perpetrated the abuse, where it occurred, and when it took place.

Some concern has surfaced in the literature that a young child may attribute sexual abuse to the wrong person.[41] While this certainly may occur if the perpetrator is a stranger, anecdotal and case study evidence support the conclusion that even a young child is capable of correctly identifying the person responsible, especially if that person is known

to the child. But is it also possible that the child could displace responsibility onto an innocent person as a way of avoiding the reality of who was responsible? Certainly, displacement plays an important role in a child's fantasies and play[22, 28] but its significance in the attribution of harmful acts has not yet been explored. Given the possibility that displacement could occur, however, the accumulation of other elaborated details should serve as a check. Finally, data from developmental psychology find that a young child is no more likely to fabricate incorrect responses when memory fails than are adults.[33, 39] Evidence thus weighs against the child attributing the blame to a convenient person.

If the place in which the alleged abuse has taken place is unfamiliar to the child, it may have to be described rather than named. Specific details such as the color of the room, the style and location of the furniture, or the pattern in the wallpaper would enhance the child's credibility and serve as a check on the identification of the perpetrator. These details are best elicited by short, direct questions that stimulate memory retrieval cues in a young child.[29, 33] A problem arises when the child alleges that there were multiple acts in many different places over a period of time; in that case, the child may demonstrate significant confusion in identifying the places in which the alleged acts took place.

Time is a difficult concept for a young child to master.[48] At the preoperational level of development, time is often confused with distance or length: it is often thought of as a place, such as suppertime in the kitchen or bedtime in the bedroom; and the past is perceived of as indefinite, that is, it is simply the time before and has no sequential order. Given these developmentally related features of a young child's perception of time, this is one elaborated detail that *pro forma* is likely to be confused and inconsistent.

What further complicates the time issue for young children, as recent evidence shows,[50, 51] is that psychic trauma can significantly interfere with perception of the duration and sequence of time. For a young child who has indeed experienced sexual abuse and who has suffered a traumatic reaction to it, as some victimized children will,[17, 42] the details about time will be particularly difficult to determine.

Secrecy details. The child should be questioned next about any pressure for secrecy placed upon him or her by the alleged perpetrator. An adult who sexually abuses a child obviously has a vested interest in keeping the behavior secret and will use a variety of techniques to coerce the child into silence.[9, 49] These may include threat of death or bodily harm; second-party threats against the child's family or friends; threats of abandonment or withdrawal of love; bribes that may include toys, clothing, or special favors; the reinterpretation of reality that defines the sexual act as normal, healthy, or desirable; or the attribution of blame that holds the child responsible for the act and its consequences. The more details the child can offer about the pressure for secrecy, the higher the index of suspicion that the alleged abuse did actually occur.

Affective details. The young child should be questioned next about his or her feelings, beginning with how the sexual act *per se* felt: painful, neutral, or pleasurable. A young child may have difficulty in separating the act from its context, so once again it would be helpful to use drawings or anatomically correct dolls when gathering these details. Affective responses to the context of the act(s) and to the pressure for sec-

recy should also be elicited: the more congruent those feelings are with the nature of the specific act, the higher the index of suspicion that the act did occur. For instance, if a young child describes feeling hurt by an act of digital penetration, but feeling happy about the toy he or she got for keeping the secret, there is a high level of congruence between details and feelings.

Feelings about the alleged perpetrator should also be elicited. Some children, upon appreciating the wrongfulness of the act, or upon being frightened or hurt, will describe the person in negative terms. However, a high level of congruence between the alleged act and the child's feelings toward the actor is *not* a necessary factor in raising the index of suspicion: a young child cannot predict or judge character because of a developmental inability to use stable, dispositional constructs in descriptions;[37, 40, 45] thus, the child is likely to judge a person by possessions or appearance rather than by behavior. This lack of attribution skills may, consequently, lead a child describing a painful act of molestation in a frightening context to portray as nice an alleged perpetrator who has a new car or video games for the television.

Once the allegation of sexual abuse has been made, therefore, the child should be asked to elaborate on the details of the action, the context in which it took place, the pressure for secrecy, and the emotional responses to each. The more specific the details and the more congruence between feelings and details (except those about the alleged perpetrator), then the higher the index of suspicion that the abuse did occur and the more imperative it is that the evaluator examine the indicators of abuse. In the absence of such consistency, however, a margin of error must be considered based on the child's ability and willingness to communicate, the circumstances of the interview, and the skill of the evaluator in eliciting this information.

Indicators of Sexual Abuse

Since the definition of child sexual abuse as a social problem, the literature has been rife with references to behavioral, emotional, and physical symptoms of that abuse.[13, 14] The vast majority of these studies forego empirical methods and rely, instead, on clinical assessments of samples of sexually abused children;[1, 42] retrospective reviews of hospital, mental health center, or court records;[3, 6] case studies of small samples of sexually abused children with similar symptomatology;[12, 31] and theoretical approaches that hypothesize as to the types of symptoms that are likely to be seen or that review the symptoms detailed in the literature.[16, 46] A review of the literature shows that certain symptoms are reported with some degree of consistency from one study to another, others are not, and still others are unique and abstruse at best.

In what may have been a rush to address this social problem and to identify sexually abused children, many studies have offered indicator lists that inventory the behavioral, emotional, and physical symptoms that are thought to be indicative of sexual abuse. Since the indicia are derived from such a wide variety of samples and from such disparate methodologies, there is little consistency among the various indicator lists. The net effect is a kind of mélange—a veritable grab-bag of indicators that potentially lends itself to much abuse, and most certainly to false positive identifications.

An additional problem with the indicator lists is that they rarely differentiate between symptoms that may be pro-

duced by other stressors in a child's life and those that are produced by sexual abuse; symptoms such as social withdrawal or not wanting to go home from school could as easily be found in a child whose parents are going through a divorce as in a child who is being sexually abused. Because all young children show behavioral disorganization under stress,[22, 32] it is necessary for an evaluator to identify the stressors other than sexual abuse in a young child's life, and to assess which symptoms may be related to them.

That task is made considerably easier by the use of Finkelhor and Browne's[21] conceptual model which organizes clinical observations of the child sexual abuse indicators that are reported in the literature. They posit four traumagenic dynamics in the experience of child sexual abuse that "alter children's cognitive and emotional orientation to the world and create trauma by distorting the children's self-concept, world view, and affective capacities" (p. 531), so that these children's attempts to cope with the world through these distortions may result in symptoms that can be used as indicators of sexual abuse.

One of the posited traumagenic factors is traumatic sexualization. This is inherent in the abuse experience when the perpetrator rewards the child for sexual behavior and fetishizes some parts of the child's anatomy; the process shapes the child's sexual feelings and attitudes in developmentally and interpersonally inappropriate ways. As a result, the sexually abused child may learn sexual behavior as a strategy for manipulating others. Symptomatically, the child may become sexually aggressive, engage in repititious play with a sexual theme, compulsively masturbate, or demonstrate age-inappropriate sexual knowledge and interests.

Betrayal is a second traumagenic factor intrinsic to the sexual abuse experience: the child's trust and dependency are betrayed by the offending adult and the child may react with grief, depression, or extreme dependency and clinging behavior.

A third traumagenic factor in sexual abuse is disempowerment, in which the child's needs, desires, and will are continually contravened by the offending adult. Symptoms related to this facet may include anxiety, fears and phobias, nightmares, and hypervigilance.

Stigmatization is the final traumagenic factor posited. Messages that have to do with shame, guilt, blame, and fault are often communicated to the child by the offending adult. Resultant symptoms may include guilt and shame, low self-esteem, suicidal ideation, and self-destructive behavior.

Much research is needed on symptoms and on the development of instruments to assess the impact of sexual abuse on children. In the meantime, the Finkelhor and Browne scheme is the most systematic, the most closely tied to empirical and clinical research, and the most specific to the sexual abuse experience. Thus, it is particularly useful as an indicator list in the proposed conceptual model for judging the truthfulness of a young child's allegation of sexual abuse.

In summary, the evaluator should get a base reading from an adult caretaker as to the child's physical, emotional, and behavioral functioning before the time of the alleged abuse and then document the nature and extent of changes the child demonstrates. Any other stressors in the child's life must be carefully examined and then, by using the Finkelhor and Browne scheme, the evaluator can check which of those changes is specifically related to the abuse experience; more elaborated details may then be obtained from the child.

Vulnerability of the Child

The next step in the conceptual model is to assess the child's vulnerability to sexual abuse. The fact that some children are molested and others are not may be more than just a matter of circumstance; there is some evidence in the literature that certain types of children may be more vulnerable to sexual abuse.[20] These would include a young child who has little accurate sexual knowledge,[25] has few self-protective coping skills,[10] has been sexually abused before,[12, 36] has a stepfather living in the home,[20] or has a weak or conflictual bond with the mother.[11, 20] Specific inquiries regarding this potential should be made by the evaluator.

If none of these factors exists, it will be necessary to reexamine the context of the alleged abuse carefully, together with the pressure for secrecy surrounding it: the offending adult may have been so physically or emotionally forceful as to have overwhelmed the young child's repertoire of strengths and coping mechanisms. If the elicited details do not bolster this hypothesis, however, and no vulnerabilities are found in the child, then the last step in this conceptual model may be the litmus test for judging the truthfulness of the allegation.

Motivation for Lying

The literature suggests that one reason for a young child to lie is to give verbal expression to an image or scenario that exists in the imagination.[22, 48] As discussed previously, the fantasy of young children is so inextricably interwoven with actual experience, so reflective of wishful thinking and pleasure principle material, so likely to have mastery as a theme, and so easily differentiated from reality, that sexual abuse is not likely to be a theme of the fantasy in the first place, and therefore will not be the stuff of lies.

But can a child be pressured into lying by someone else? Certainly the power of an adult to inveigle or coerce a child into a false allegation must be taken very seriously. In the wake of sexual abuse allegations being used as weapons in divorce and custody battles, enough anecdotal and case study evidence has been accumulated to show how real the problem is.[15, 30] A young child who is being forced to lie experiences the pressure as stress just as surely as does a child who is being coerced into secrecy by a sexual abuser.[4, 44, 47] The symptoms of that stress are likely to reflect some kind of behavioral disorganization;[22, 32] however, they are not likely be of the same type as those specifically related to the actual abuse. Once again, the use of the Finkelhor and Browne scheme will assist in differentiating one type or cluster of symptoms from another.

Finally, a young child coerced into lying is probably unable to give elaborated details of the alleged abuse, show abuse-specific indicators, and demonstrate the kinds of vulnerabilities that are documented in the literature. Devotion to the step-by-step process presented in this conceptual model will serve as a sound check and balance against false accusations. When there is a reasonable suspicion that a child is being pressured into lying, the focus should shift to evaluating the suspected person. At the same time, care must be taken to develop a supportive and trusting relationship with the child, who may then come to feel free and safe enough to discuss the pressure to lie.

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Distortions in the Memory of Children

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One does not have far to go to find expressions of the belief in the extreme suggestibility of children. But are children more suggestible than adults? The memory of adults is readily contaminated; by comparison, children appear to be more easily influenced in only some instances. If an event is not encoded well, or if a delay weakens the child's memory relative to an adult's, then differences in memory may emerge. On the other hand, if an event is understandable and interesting to both children and adults, and if their memory for it is still equally strong, there may be no differences in suggestibility. If a suggestion is accomplished through the subtle use of language, or if well-developed knowledge structures are required to comprehend the suggestion, then children may actually be less easily influenced. In short, whether children are more or less suggestible than adults probably depends on the interaction of age with other factors.

Over the years, social scientists and members of the legal profession have been concerned with the susceptibility of children to potential biases. In many discussions of this issue, we find examples of a firm belief in the view that children are not only inaccurate but also highly suggestible. The view is stated most strongly in the words of Brown (1926): "Create, if you will, an idea of what the child is to hear or see, and the child is very likely to hear or see what you desire" (p. 133). Varendonck (1911) provided a dramatic piece of evidence for this negative view of children in his experiments pertaining to the testimony

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of two young girls who were questioned in a suggestive manner (see Goodman, 1984).

Concern over the suggestibility of children becomes especially crucial when one thinks about the frequency with which children witness crimes, accidents, and other legally relevant events. Subsequently, these children are questioned about those events. Even interviewers aware of the danger of "leading" child witnesses may do so, perhaps inadvertently. Dent (1982) reports in detail several instances in which child witnesses have been led to give erroneous accounts. While interviewing one child ("fourth year"—exact age not given) who had witnessed a staged incident involving three men and a woman, an experienced police officer inquired about the woman's appearance.

Q: Wearing a poncho and a cap?
A: I think it was a cap.
Q: What sort of cap was it? Was it like a beret, or was it a peaked cap, or . . . ?
A: No, it had sort of, it was flared with a little piece coming out. It was flared with a sort of button thing in the middle.
Q: What. . . . Was it a peak like that, that sort of thing?
A: Ye-es.
Q: That's the sort of cap I'm thinking you're meaning, with a little peak out there.
A: Yes, that's the top view, yes.
Q: Smashing. Um—what colour?
A: Oh! Oh—I think that was um black or brown.
Q: Think it was dark, shall we say?
A: Yes—it was dark colour I think, and I didn't see her hair. (p. 290–291)

The woman was, in fact, not wearing anything on her head, nor was she wearing a poncho. Yet the child came to recall these items, and later volunteered that the woman carried a dark-colored purse that matched the cap. The dialogue between officer and child demonstrates how a child can be led into compounding an initial error by the persistent request for details of every item mentioned. Although the child had at one point been uncertain about whether or not the woman was wearing a cap, the child came to be quite confident about it, even volunteering further information about its characteristics. Note also how the police officer, through suggestive questioning, gradually brought the child to accept the image of the cap as having a peak, even though this was earlier rejected. By the end, the child had come to recall the top view of the cap as one that would contain a peak. Even if the woman had been wearing a cap, the child would have been too small to see the top view.

Dent's example confirms something many psychologists have strongly suspected for quite some time. Over 70 years ago, Whipple wrote that "children are well known to be more open to suggestion than adults" (1918, p. 245). The belief in children's suggestibility has been pervasive (see, for example, Burtt, 1948; Marple, 1933; Stern, 1910; Trankell, 1958; Whipple, 1911), as has been the belief that they are more suggestible than adults. Burtt (1948) explicitly held this view: "Suggestion is especially apt to play a role in the testimony of children because they are more suggestible than adults" (1948, p. 307). Why are children thought to be more open to suggestion? According to Whipple, it is because the child does not distribute attention the same way as the adult, and because "the child is uncritical in filling out gaps in his memory and uses freely material supplied through custom, through his own imagination or through suggestion" (1912, p. 264). McCarty (1929) worried that a devious lawyer could easily control the testimony of a child by means of suggestion and could consequently elicit from a child evidence that is wholly false and unreliable. McCarty's fears anticipated by more than 50 years the recollection of a dark colored cap that never actually existed.

Suggestibility in Memory

Since Whipple's day, psychologists have begun to appreciate the degree to which adults' reports are also quite susceptible to influence. In light of this new evidence, it seems time to reexamine Whipple's claim. In the present paper, we will compare recent studies of adults' and children's suggestibility. We will not cover the entire literature on this topic, but will restrict our discussion to recent studies that try to simulate the type of situations or the type of questioning to which witnesses are exposed. We will use the term *suggestion* in a rather narrow way. Our concern is with the extent to which individuals, whether children or adults, can be made to believe events occurred that did not, or that details were different than they really were. In short, our concern is with the malleability of memory. Changes in memory can, of course, be brought about in many ways. In a legal situation, witnesses are questioned by relatives, police, and attorneys. What they report may be a blend of information they themselves have experienced and new details provided or constructed in the course of questioning. Information from dreams can be confused with information from true perception. Intimidation and pressures to conform to preconceived notions of the crime may aggravate such effects. To the extent that a person is easily manipulated, we will say that the person is suggestible.

It is one thing to claim that children are suggestible, but quite a different matter to claim that they are more suggestible than adults. In assessing this latter claim, several methodological difficulties arise. These are discussed in the next section. To assess age trends in suggestibility, it is necessary to know the extent to which adults are also susceptible to suggestion. A subsequent section addresses the issue of adult memory change, and the section that follows it explores the extent to which there are developmental differences in the malleability of memory. The final section discusses practical implications of this research.

Studying Age Trends in Suggestibility

As Goodman (1984) points out, the issue of whether children are more suggestible than adults is not quite as simple as our predecessors would have us

believe. To put the complexity into a larger perspective, it is useful to consider the overall process by which information is stored in memory and subsequently retrieved. Nearly all theoretical analyses of the process divide it into three stages (see for example Crowder, 1976; Loftus, 1979). First there is the acquisition stage—the perception of the original event—in which information is encoded into memory. At this time people store only fragments of their experience. Second, there is the retention stage, the period of time that passes between the event and the eventual recollection of a particular piece of information. Third, there is the retrieval stage, during which a person recalls stored information. Memory can fail because of a breakdown in any of the three stages.

Children's memory could be different from adult memory because of differences in any of the stages. Children, like adults, store fragments of their experience, but their fragments may be less complete; this difference would occur in the acquisition stage. In fact, there is good reason to suspect that a child's stored fragments are different from those of an adult. Investigations into the role of expertise in areas such as chess (Chase & Simon, 1973) and physics (Chi, Glaser, & Rees, 1982) indicate that experts encode different features of their environment than do nonexperts. Children, who are "less expert" at encoding many types of stimulus inputs than are adults have been shown to be less likely to know which aspects of the stimuli should be encoded in a particular situation; the resulting memory representations are likely to be less rich (Siegler, 1983). Recent work with adults has shown that when the initial representation is impoverished, people are more susceptible to postevent suggestions, probably because they are less likely to detect a discrepancy between their original memory and the postevent input (Loftus, 1983). The expectation, then, is that children might be especially vulnerable to suggestion.

Another factor that could contribute to heightened suggestibility in children is the rate of forgetting. The memory of a child may fade more quickly than an adult's, and thus be vulnerable sooner to postevent suggestion. This difference would occur in the retention stage.

Apart from actual memory loss, developmental differences in the ability to retrieve information could also lead to age differences in individual degrees of suggestibility. If, in general, children have greater difficulty than adults in retrieving information from long-term memory—and there is quite a bit of evidence to suggest that they do (e.g., Brown, 1979; Chi, 1976; Goodman, 1980; Johnson & Foley, 1984)—perhaps children would be especially prone to rely on new (retrievable) information in their reports. The new information would simply be more accessible. One source of new information would be suggestive questioning. If retrieval failures can account for heightened suggestibility in children, the report of new but incorrect information might occur even though some of the original memory fragments were still intact. According to this conception, greater suggestibility of children could arise from developmental differences in the retrieval stage.

But other considerations lead to the prediction that children may at times be less suggestible than adults. Efficient information-processing often involves the ability to integrate diverse pieces of information. Occasionally this involves the generation of inferences that go beyond what is explicitly presented. Sometimes the integration process, which usually serves us quite well, leads to the creation of inaccurate memories (Harris & Monaco, 1978). If children are less efficient at integrating information or less likely to generate inferences spontaneously, then they may also be less suggestible (see Paris & Lindauer, 1976). More generally, it is well established that people's learning and remembering is strongly affected by what they already know (Chi, 1978). Such knowledge-dependency could mean that children may not process postevent inputs as efficiently, and would thus be less infuenced by them.

The possibility also exists that children are more suggestible to certain kinds of information and less suggestible to others. In a study that explored sex differences in adult suggestibility (Powers, Andriks, & Loftus, 1979), it was found that women were more accurate and more resistant to suggestion about female-oriented details, whereas men were more accurate and resistant to suggestion about male-oriented details. This result was related to a general tendency for accuracy on a specific item to lead to an improved ability to resist a suggestion about that item. A reasonable hypothesis would be that items that are especially important or interesting to children might be less vulnerable to suggestive influences, and that in recalling such items, children would outperform adults.

Despite the heuristic value of the three-stage framework for speculating about the relative suggestibility of children and adults, numerous methodological and interpretive difficulties arise when one tries to compare their respective suggestibility in memory. Any assessment of the malleability of children's memory must take into account age changes in linguistic and mnemonic competence. For example, many demonstrations of postevent effects in adults involve complex sentences or subtle manipulations of meaning, to which a young child may be oblivious. When suggestion occurs through such words as *smashed* as opposed to *hit* (Loftus & Palmer, 1974), it is conceivable that children's relatively short experience with language is not sufficient for them to realize the subtle change. Thus, younger children may fail to show evidence of distortion in recognition or recall, not because they are any less suggestible than their older peers, but simply because they failed to make the appropriate semantic inferences from the interpolated material.

A second factor clouding any simple analysis of age trends in suggestibility is the growing competence of the child at "deliberate" memory tasks. Increasing age brings with it increasing sophistication in the exercise of memory skills, such as rehearsal, use of mental imagery, and semantic organization. The sophistication of memory strategies and their use increases steadily with age (Brown, 1979; Brown, Bransford, Ferrara, & Campione, 1983; DeLoache, Cassidy, & Brown, 1984). This growing competence in "Knowing how to know," to use Brown's

(1975) phrase, accounts in part for the growth in recall performance with age (Flavell, 1970). The implication for the suggestibility issue is that any changes with age in reaction to contaminating information may be masked by a general improvement in accuracy on tasks involving memory. It is with these difficulties in mind that the existing work on developmental trends in memory malleability needs to be viewed. Before examining these trends, it is important to consider the extent of memory change in adult witnesses.

The Malleability of Adult Memory

A person who witnesses an important event, such as a crime, a traffic accident, or a fire, is often asked to recall the details of the event. It is common after such an event for people to talk about it, to overhear conversations, to be questioned, or in some way to be exposed to new information about the event. This new information can alter the witness's memory. Loftus (1979) reports the results of numerous studies in which subjects are presented with a film of a complex event, and afterward are asked a series of questions. Typically, some of the questions are designed to present misleading information—that is, to suggest the existence of an object that did not exist. In one study, some subjects who had watched a film of an automobile accident were asked, "How fast was the white sports car going when it passed the barn while traveling along the country road?" In reality, there was no such barn. But these subjects were more likely later to "recall" having seen the nonexistent barn than were subjects who had not been asked the misleading question. Why does this occur? One hypothesis is that the questions contain information—in this case false information—that becomes integrated into the person's recollection of the event, thereby supplementing that memory.

In other studies reviewed by Loftus (1979) it was shown that new information can do more than simply supplement a recollection: It can occasionally alter, or transform, a recollection. Thus, in one study, subjects saw a series of color slides depicting successive stages in an accident involving a car and a pedestrian. In the midst of the series, the car, a red Datsun, was shown traveling along a side street toward an intersection at which there was a stop sign for half of the subjects and a yield sign for the remaining subjects. The subjects then were asked the following question: "Did another car pass the red Datsun while it was stopped at the stop sign?" For the half who actually saw a yield sign, this question contained misinformation. The subjects were then tested for their recollection of the sign. Depending upon the time interval between the slides, the intervening questions, and the final recollection, the recollections of as many as 80% of the subjects were influenced by the misinformation. Subjects were especially prone to suggestion when considerable time, say several days, had elapsed between the initial event and the introduction of misinformation. Apparently, when the initial

memory is weakened over time, it becomes especially vulnerable to the introduction of new inputs.

In other experiments, new information presented as another witness's description, or by allowing the subject–witness to overhear a conversation, caused similar changes in memory for details. For example, Loftus and Greene (1980) showed subjects photographs of individuals. Afterward, subjects read descriptions of these individuals that were attributed to another witness. For some subjects, the description contained an erroneous detail. In one case, a person with straight hair was described as having curly hair. When tested later, 22% of the subjects who had received misinformation included it in their own verbal descriptions of a target face, and 33% included the detail in their visual reconstructions of the face. The erroneous details rarely occurred when they had not been mentioned by the other witness.

These experiments, and others that used variations of this procedure (see for example, Christiaansen, Sweeney, & Ochalek, 1983; Dodd & Bradshaw, 1980; Read & Bruce, 1984) show that people will pick up information, whether it is true or false, and integrate it into their memory, thereby supplementing or even altering their recollection.

Many interesting questions about the alteration of memory have been investigated. For example, can a nonexistent object be introduced into memory without actual mention of the object? The answer appears to be "yes." Loftus and Palmer (1974) showed subjects films of automobile accidents followed by questions on the film. The question "About how fast were the cars going when they smashed into each other?" elicited higher estimates of speed than the same question asked with verb *hit*. On a test administered one week later, subjects who had been given the verb *smashed* were more likely to answer "yes" to the question "Did you see any broken glass?" even though broken glass was not visible in the film. This result also tells us something about the scope of memory modification. Supplying a specific postevent detail can have effects on memory that go beyond the representation of that single detail. Christiaansen et al. (1983) also demonstrated this in a study in which some subjects were told that a man they had seen was a truck driver, while others were told the man was a dancer. Those who thought they had seen a truck driver remembered him as being heavier than those who thought they had seen a dancer. Lehnert, Robertson, and Black (in press) also investigated the scope of memory modification in an experiment in which subjects, through suggestion, were caused to "remember" that a man closed a window rather than opened it. The suggestion had an additional effect: it caused subjects to "remember" that the window was closed because the visitor was cold rather than warm. Such indirect memory modifications that result from misleading postevent inputs indicate that direct memory modifications force a "ripple effect" throughout the memory representation.

Could these effects be due to the demand characteristics of the experimental

situation? Weinberg, Wadsworth, and Baron (1983) considered this possibility. They suggested it might be the case that when subjects are asked questions such as "How fast were the cars going when they smashed?" they infer that the person asking the question already feels the cars were moving at relatively high speeds. A subject could easily deduce that giving a high-speed answer to this question is the best means of being viewed as a perceptive observer and of obtaining social rewards from the questioner. By analogy, subjects who must choose between a stop and a yield sign might believe that they actually saw a yield sign, but choose the stop sign because they think the experimenter wants them to. Weinberg et al. devised a clever way to explore this possibility; their experiment used a test that did not easily allow subjects to accede to demand pressure. Their experiment used a three-stage procedure: (a) subjects saw an event depicted in slides, with one slide showing a yellow yield sign; (b) some subjects received misinformation suggesting that it was a stop sign; (c) subjects were then tested with either the stop/yield option used in prior work, or a yield/yield option. In the latter case, subjects had to choose between the original yellow yield sign and one that was red. Those tested with the stop/yield option showed the usual effects of misinformation, but this observation could have been due to demand characteristics. However, in the yield/yield case, subjects could not comply with any hypothetical demand to choose *stop*. If those given misinformation are still less able than control subjects to discriminate between the two signs, this would argue against a demand explanation. In fact, subjects did show an impairment in ability to discriminate even with this modified test; this indicates that simple compliance to demand pressure cannot explain the altered recollections.

Discovery of the ability to alter adult memory is a robust finding. Once alteration occurs, it appears to be very difficult to induce a witness to retrieve the original memory. Although an occasional attempt to recover the original memory is successful (Bekerian & Bowers, 1983), most are not. With this background, we can now ask whether there are parallel effects with children.

Suggestibility in Memory of Children and Adults

Relatively few developmental studies of memory change have been conducted in recent years. Of those that have been, the majority have adopted the three-stage paradigm used in adult work: subjects are first exposed to a film or slide sequence portraying a simple story. Subsequently, subjects are asked a series of questions that contain embellishments or distortions of the story. Finally, subjects are tested for the degree to which their memory for the original theme has been distorted by assimilation of the information contained in intervening questions. Any memory changes are thought to be reflected in verbal reports or distorted recognition of items portrayed in the original story. In terms of applied

issues, these "leading question" studies examine effects similar to those that can result from interrogation, or other postevent inputs, upon accuracy of subsequent testimony.

One of the first of the recent crop of systematic investigations on the impact of leading questions upon children was conducted by Dale, Loftus, and Rathbun (1978). They showed short film clips to 4- and 5-year-old children and questioned them as to the content of the film. The form of the questions was systematically manipulated so as to be either misleading or congruent with the content of the film. The young children were significantly more likely to answer "yes" to a question posed in the form "Did you see the . . ." as opposed to "Did you see a . . ." when no such object or event had been present in the film. Similar, though weaker, effects were observed for the use of "Didn't you see some . . ." and "Did you see any . . .". However, these effects were entirely confined to situations where the objects or events had not been present. When the objects actually had figured in the film, the form of the question had little or no impact on the numbers of subjects responding positively. In such cases, accuracy was fairly high (73–90%). It should be noted that where positive effects were observed, they were usually quite small in absolute terms.

It is tempting to attribute the rather small "leading question" effects to the lack of linguistic sophistication among the young subjects, though additional data, perhaps from an older group, would be needed to confirm this. To explore the longer range effects of leading questions, Dale et al. included a follow-up procedure where subjects were encouraged to provide a free-narrative account of the films they had seen, and found that erroneous objects and events suggested by the earlier misleading questions were occasionally (4 out of 32 children) mentioned spontaneously. For example, one child who had been asked "Didn't you see a bear?" later recalled "I remember a bear." It is not clear from these results whether the leading questions affected the content of memory or simply biased the subjects to respond "yes," or, because of demand pressures, biased subjects to include particular items in their free recall. In short, the study demonstrated that children are influenced by leading questions, but it did not show why or how.

Leading questions were also included as part of a more general study of juvenile testimony by Marin, Holmes, Guth, and Kovac (1979). Subjects aged 5 to 22 years were taken individually into a small office, where they witnessed a live confrontation between two experimenters and a confederate who unexpectedly entered the room. After a brief altercation, the confederate left and the subject-witness was asked to provide a free-narrative account of the incident, answer a number of questions, and attempt to identify the intruder in a photo lineup. The questions included one leading question which implied the presence of either a nonexistent object ("Was the package the man carried small?") or

event ("Did the man slam the door as he closed it?"). A follow-up two weeks later checked to see whether the new material was incorporated into the subject's memory of the incident.

As in Dale et al.'s study, the simple questions probing memory for the main events were answered with a fair degree of accuracy (74%) by subjects of all ages. The presence of the leading question increased the likelihood that subjects would give an answer consistent with the misleading information after a two-week delay. The authors noted the absence of any discernible fluctuation in performance on the leading question with age; however, due to the sparseness of data, few inferences could be drawn. Readers are told for example, that of those subjects who received the leading questions, 50% of the younger subjects later gave false positive responses, whereas 46% of the older subjects later gave false positive responses. Readers are not told, however, how control subjects of various ages performed, so critical comparisons cannot be made.

A more substantial study of suggestive questioning was undertaken by Cohen and Harnick (1980). Subjects of approximately 9 years, 12 years, and college age observed a short film depicting two petty crimes. Immediately after the film, subjects were asked 22 questions relating to the content of the film. Half of the questions were orthodox ("What was the young woman carrying when she entered the bus?") and the remainder were leading ("The young woman was carrying a newspaper when she entered the bus, wasn't she?" when the woman had carried a shopping bag). A week later all subjects took a multiple choise test in which each item corresponded to one of the previous questions and, in the case of the leading questions, one of the alternatives had been implied in the question.

In contrast to Marin et al., Cohen and Harnick reported a large increase in accuracy with age on the questionnaire. Compared to 9-year-olds, 12-year-olds and college students answered a higher proportion of the straightforward questions correctly and were more ready to disagree with the implications of the leading questions. Performance on a follow-up test administered a week later stroagly suggested that the misleading information had been incorporated into subjects' memory: subjects were much more likely to make erroneous responses in the multiple-choice test when leading questions had previously been asked. Once again, the two older groups were more accurate and less likely to be affected in their responses by previous exposure to leading questions than was the youngest group. In discussing these findings, the investigators suggested that the younger children were more influenced by the leading questions because of the "inferior initial encoding of the film," and not necessarily because "their memory traces were markedly more distorted by suggestion than those of the older subjects" (p. 208–209).

A recent study by Duncan, Whitney, and Kunen (1982) provides a close analogue to the adult leading-question studies. In their research, subjects ranged in age from 6 years to adulthood. In the first experiment, subjects were shown a slide sequence about which they were asked a series of questions. In addition to orthodox questions ("When the bear appeared, where did it chase the man?"), there were questions embodying information consistent with the slides ("When the bear appeared and broke the man's spear, where did it chase the man?") and inconsistent ("When the bear appeared and broke the man's fishing pole, where did it chase the man?"). Any changes in memory were monitored by follow-up questions later in the series ("Were the men fishing when the bear appeared?").

As in Cohen and Harnick's study, proficiency at answering orthodox questions improved steadily with age. However, contrary to the earlier result, no simple relationship emerged between age and susceptibility to leading questions. When scores on all trials were analyzed, children and adults were found to be equally influenced by postevent questions. However, Duncan et al. suggested that the generally lower overall accuracy of the younger subjects on the follow-up questions might have masked any real effects. So a second analysis explored the effects of postevent information only for those instances where correct memory of the visual sequences was demonstrated. In this case the younger subjects appeared to be *less* influenced.

A similar pattern emerged from the second experiment when memory change due to questioning was monitored not by further questions, but by a slide recognition task where some of the distractor items embodied the erroneous information conveyed by the questions. Again, accuracy both in the questioning phase of the study and the slide recognition task increased with age. Further, when the data were partitioned on the basis of good performance in the questioning phase, younger subjects again failed to show a disproportionate effect for misleading questions in their recognition of slides. On the contrary, the relative effect of these latter questions was greatest among the older children and college-age subjects.

Which shall we believe: The analysis of all trials showing no age trends, or the conditional analysis showing the young are less easily influenced? One problem with the conditional analysis is the classic subject-selection problem—i.e., comparing the very best younger subjects with the majority of older subjects. Clear interpretations are difficult. But in any case, these results, in contrast to Cohen and Harnick's (1980) data, suggest that children are no more suggestible than adults.

The important role of the form of the leading question has been demonstrated recently at Aberdeen University by Murray (1983). Her work suggests that with simplified forms of leading questions, children may be especially vulnerable. In her study, 7- and 11-year-old children heard a story which was illustrated at several points by pictures. Subsequently, subjects were probed for their knowledge of the pictures with a series of either neutral or leading questions. For instance, one picture depicted a woman waiting at a bus stop. The neutral question asked "Was the woman waiting at the bus stop carrying a hat or

a bag?" The leading question referred to the woman as a nurse. One day after being presented with the story, subjects participated in a forced-choice recognition task designed to probe assimilation of the information contained in the questions. In the example above, subjects had to choose between the original picture and a foil where the woman was clearly dressed in a nurse's uniform.

The 11-year-olds were significantly more accurate on the recognition task than the 7-year-olds, and leading questions led to lower accuracy compared to neutral questions for all age groups. (An age interaction was not found.) Although unrelated to the issue of age trends, it is worth noting that asking the leading questions immediately prior to the recognition test increased their suggestive effect relative to a condition where the questions were put immediately following exposure to the story, a result that mirrors the adult data (Loftus, Miller, & Burns, 1978).

What Can We Conclude?

Taken together, the results of these studies support the conclusion that adults spontaneously recall more about events they have witnessed than do children, but not the simple notion that children are always more suggestible than adults.

Nearly all laboratory studies report that children are less efficient than adults in recalling events they have witnessed. It seems plausible to attribute such failings to two main factors: (a) a combination of encoding and retrieval inefficiencies caused by a dearth of mnemonic skills, and (b) lower levels of comprehension springing from the child's more limited knowledge base.

No clear developmental trend emerges, however, from recent studies on the effects of leading questions. This may surprise those who believe that suggestibility is a general characteristic of childhood. It certainly would have surprised Whipple, Varendonck, and other early researchers who assumed children were more suggestible than adults, but who rarely included in their studies adult comparison groups that would have enabled them to test that assumption explicitly. There are, however, several possible explanations for the absence of a clear developmental progression in the recent findings.

The studies we have reviewed all used different age groups, making comparisons across studies difficult. Moreover, the youngest children studied were 4 and 5 years of age (Dale et al., 1978; Marin et al., 1979). It is possible that the greatest changes in suggestibility take place even before that time. It should be noted, however, that this possibility does not explain why Cohen and Harnick (1980), whose youngest age group consisted of 9-year-olds, uncovered developmental differences, and at the same time why Marin et al. (1979), whose youngest age group consisted of 5-year-olds, did not. More must be involved than a simple change in suggestibility due to age.

Another difference across the various studies concerns the intervals of time between the initial event, the suggestive information, and the final test. With adults, the interval between the event and suggestive information is critical. Longer intervals are associated with greater influence. In Cohen and Harnick's (1980) study, the suggestive questioning took place immediately after the event and the final test took place a week later. In Duncan et al. (1982), a mere 30 seconds intervened between the slides and the suggestive information, the final test was given immediately thereafter. In Marin et al. (1979), there was a 10 minute or 30 minute delay between the event and the suggestive information, and the subjects' memory was tested two weeks later. If longer delays between event and postevent suggestion are more likely to increase vulnerability to memory change, such change should have been most clearly apparent in the Marin et al. study. In fact, those researchers did not find age differences.

Another difference between the studies was in the type of stimuli employed. Only Marin et al. exposed subjects to a real-life event. Other researchers asked subjects to watch films. In some studies the films were realistic depictions of crimes (Cohen & Harnick, 1980); in others they were cartoons (both Dale et al., 1978 and Duncan et al., 1982). For children and adults, the films undoubtedly varied in interest value. If one assumes that a real-life event or a cartoon is more likely to interest children than a filmstrip of criminal events, one can partially explain the difference between the studies. The children in the Marin et al. and the Duncan et al. studies would have retained the information well and would have been resistant to suggestion, while the children in Cohen and Harnick's study would not. But the assumption of unequal interest value or memorability across the studies seems quite risky, given the popularity with children of television shows that capitalize on the depiction of criminal events.

Probably no single factor can by itself explain the discrepant findings of these studies. This points to a possible resolution of the discrepancy. Perhaps age alone is the wrong focus for these studies. Whether children are more susceptible to suggestive information than adults probably depends on the interaction of age with other factors. If an event is understandable and interesting to both children and adults, and if their memory for it is still equally strong, age differences in suggestibility may not be found. But if the event is not encoded well to begin with, or if a delay weakens the child's memory relative to an adult's, then age differences may emerge. In this case, the fragments of the event that remain in the child's memory may not be sufficient to serve as a barrier against suggestion, especially from authoritative others. Of course, if the child's grasp of the language is so weak as to make him or her oblivious to the subtle implications in the suggestive information, then the child may be immune to the manipulation regardless of the interest value or memorability of the stimuli, or the loss of an accurate memory record.

In addition to factors such as interest value, delay interval, and language

sophistication, another factor is the type of final test given. One recent study that found convincing age differences employed a written, four-alternative multiple-choice test (Cohen & Harnick, 1980), whereas many of the other studies employed other types of memory tests, such as free recall or simple recognition. If children's performance on multiple choice tests drops more than adults', this difference may contribute to the heightened suggestibility of the 9-year-olds in Cohen and Harnick's study.

Of the many factors mentioned above that could affect suggestibility, recent studies have concentrated on varying only one of these—age—without sufficiently considering the interaction of age with other significant variables. A productive approach for future research would be one that explores how these other variables promote or mitigate against age trends in suggestibility.

Practical Implications

Although it is not always possible to predict whether children or adults will be more susceptible to suggestive information, it is fair to say that in many situations both groups are susceptible. From a practical standpoint, the study of age trends in suggestibility is important, since witnesses of all ages are continually called upon by the legal system. Dent's (1982) example of the interrogation that produced a memory for a nonexistent dark-colored cap illustrates how a suggestion can be absorbed by a witness and elaborated upon. Presumably this is possible no matter what the age of the witness, but we need to know more about when it is likely to occur, and what methods are available for minimizing such contamination of memory. Optimal methods may differ between adults and children. Stafford (1962) seemed to recognize this when he said: "Questions should be kept within the grasp of the child's mind. . . . Interrogators should remember that questions which seem simple and direct to them may be confusing or absolutely meaningless to a child" (p. 314). Dent's example serves as a further reminder of counterproductive techniques for interviewing witnesses that must be avoided. She discovered that the most counterproductive interviewing occurred when the interviewer held a strong preconceived impression of what had happened in the incident. Often this led to the phrasing of highly suggestive questions, and a lack of receptiveness to relevant information that did not fit into the interviewer's preconceived version.

The current state of research on the development of suggestibility in memory has revealed a few useful suggestions, even though we have a long way to go. It has warned us to be cognizant of the slender knowledge base of young children, of the tendency of interviewers to form preconceived ideas that interfere with effective interviewing, and of the possibility of heightened suggestibility in both children and adults under certain circumstances.

For those who are still worried about the susceptibility of children to suggestion, there are steps that can be taken. These would be borrowed from the set of procedures currently used with witnesses who are hypnotized. In the legal system, the use of hypnosis to facilitate memory has raised some profound and complex issues. Because of the enormous change that hypnosis can cause in an individual's subsequent testimony—changes that are apparently nonreversible—Orne (1979) has proposed that a minimum of safeguards be required before the testimony of a hypnotized witness be admitted in court. These include such measures as (a) insuring that hypnosis is carried out by a psychiatrist or psychologist with special training in its use, (b) videotaping all contact between hypnotist and witness from the moment they meet until the entire interaction is completed, and (c) allowing no one other than hypnotist and witness to be present in the room before and during the hypnotic session (see also Orne, Soskis, Dinges, & Orne, 1984).

It is tempting to recommend a set of parallel safeguards for use when interviewing witnesses who are thought to be especially problematic. If we knew more about the circumstances under which children's testimony was prone to inaccuracy and suggestion, we might require that such safeguards be invoked in order for the child's testimony to be allowed in court. Until that time, the idea is provocative but premature.

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NR-83 SPOKEN INTERACTION BETWEEN ABUSED CHILDREN AND THEIR MOTHERS. S. Salzinger, Ph.D., NYC Psychiatric Institute, Div. Child Psychiatry, 722 W. 168th St., New York, NY 10032. S. Wondolowsky-Swensson, M.A.; S. Kaplan, M.D.; T. Kaplan, M.A.; and J. Kristal, B.A.

Viewing child maltreatment as the end product, or outcome, of a breakdown in the normal processes of communication between parents and children suggests that the difficulties in their verbal interaction are pervasive and, as such, can be found in practically all of their interactions with each other. It was hypothesized that the usual constraints of the listener upon the speaker, where the speaker's uterances tend to reflect the listener's speech and are fashioned to optimize the listener's positive response, would be different in maltreating pairs of mothers and children. This was expected to result in less cohesion in their discourse, in more maternal dominance or control, and in more instances of aggravated, and fewer instances of mitigated, forms of spoken utterances. Conversations between 19 pairs of parent perpetrators of child abuse and/or neglect and their children and between a control sample of 19 pairs of nonmaltreated children and their parents, matched for child's age, sex, SES, and ethnic group were videotaped in a 15 minute standard laboratory situation and coded blind by two coders from audiotapes and typed manuscripts. Reliability assessments will be presented, and coding manuals will be available for the audience.

NR-84 CLINICAL DIAGNOSIS OF SEXUAL ABUSE OF CHILDREN ZERO-THREE YEARS. M. Gean, M.D., New England Medical Center, 171 Harrison Ave., Box 395, Boston, MA 02111. C. Mitkus, M.S.W.

This paper discusses whether it is possible to establish varying degrees of clinical certainty regarding the occurrence of sexual abuse in infants and toddlers. A review of the literature revealed a paucity of information specific to evaluations and symptoms in this age group. A sample of 57 children zero through three years of age were seen in a large urban child psychiatry clinic over a 4-year period. A retrospective chart review was carried out and data was tabulated. The protocol that was developed was used to record demographic features, interparental problems, the nature of the abuse, a description of the alleged offenders and clinical variables such as the presenting symptoms, information from physical examination and data form psychiatric clinical assessments. The data from the clinical assessment was evaluated by the presentation of verbalizations, anatomically-correct doll play, and unstructured play. Data describing the population, the offenders, and interparental problems were tabulated. The data was analyzed using 1 to 5 ratings of the likelihood that sexual abuse occurred, this was compared with the findings of the physical exam, clinical psychiatric interview, presenting symptoms, and interparental problems. A second analysis compared the population by age groups; those children greater than 36 months and those less than 36 months at the time of the alleged abuse. Conclusions from this study suggest that it is possible to diagnose sexual abuse in children generally considered to be less verbal and cognitively capable than the older pre-schooler.

NR-85 ARE THERE DIFFERENCES IN THE PLAY WITH ANATOMICALLY COMPLETE DOLLS: ABUSED VERSUS NON-ABUSED CHILDREN. J. B. Jensen, M.D., University of Minnesota, Box 95 UMHC, Minneapolis, MN 55455. G. V. Realmuto, M.D.; S. G. Wescoe, M.D.; & B. D. Garfinkel, M.D.

Sexual abuse investigators contend that observation of a child's play with anatomically complete dolls is sufficient to determine whether the child has been abused, though no systematic study has been done. To test this hypothesis, 15 children were videotaped while engaging in a one hour semi-structured interview that included play with a set of anatomically complete dolls. The children were from 3 to 8 years old; 5 had been sexually abused, 5 were psychiatric patients without an abuse history and 5 were normal controls. The same child psychiatry fellow conducted all interviews. The videotapes were then blindly rated for likelihood of sexual abuse by 3 board certified child psychiatrists, by 3 attorneys experienced in sexual abuse cases and by 3 social workers experienced in child protection. A systematic questionnaire about the interview and the sexual play with the dolls was administered and a global score for the likelihood of sexual abuse was assigned to each child. Evaluation of the results demonstrated that the children with a history of sexual abuse could not be discriminated from psychiatric controls or normal children on the basis of their play with anatomically complete dolls. This study strongly suggests that the play with sexually complete dolls is not determined by actual past sexual experience. The implications for professionals asking the question of sexual abuse showed found answers through a broad base of evidence, differential diagnosis and psychiatric clinical formulation of the data are mandatory.

NR-86 LATCHKEY CHILDREN: A PILOT STUDY INVESTIGATING BEHAVIOR AND ACADEMIC ACHIEVEMENT. J. Diamond, MD, Psychiatry, ECU School of Medicine, Greenville, NC 27834. S. Kataria, MD; S. Messer, BA.

Recent demographic changes have led to the phenomenon of latchkey children. A survey of the literature failed to reveal a consistent definition of latchkey status. We surveyed fifth and sixth graders and were able to define three groups based on self-care arrangements. Demographics, behavioral effects, and academic achievement were explored.

NR-87 REACTIONS TO FUNERAL PARTICIPATION IN PREPUBERTAL BEREAVED CHILDREN. S. E. Cain, M.D., Univ. of Kansas Medical Center, Dept. of Psychiatry, 39th & Rainbow, Kansas City, KS 66103. E. B. Weller, M.D.; R. A. Weller, M.D.; M. A. Fristad, Ph.D.; C. Spohn, R.N.; J. F. Bober, M.D.

Little is known about the process of grieving in children, despite the fact that nearly 5% of children in the U.S. lose at least one parent by age 15. Theorists from various perspectives have made conflicting claims; however, literature addressing the subject has been anecdotal rather than empirical. The purpose of this study was to investigate bereavement inn non-clinical families to determine: 1) to what extent prepubertal children participate in funeral activities; 2) children's reactions to this participation; and 3) the individual, familial, situational, and sociocultural variables that contribute to adaptive versus maladaptive out-

Exhibit I
Date 2-5-85
HB #262

first states to enact this type of statute. Research reveals that at least four other states—Washington, Colorado, Utah and Arizona—have recently adopted similar statutes. See Wash.Rev.Code Ann. § 9A.44.120 (1985 Supp.); Colo.Rev.Stat. § 13-25-129 (1984 Supp.); Utah Code Ann. § 76-5-411 (1983 Supp.); Ariz.Rev.Stat. Ann. § 13-1416 (1984 Supp.). The Supreme Court of Washington has found Washington's new hearsay exception to be constitutional. *State v. Ryan*, 103 Wash.2d 165, 691 P.2d 197 (1984). Before turning to the constitutionality of the Kansas statute, we will briefly discuss the purpose and function of the child-victim hearsay exception in criminal proceedings.

The rule against admission of hearsay statements stems from the long-established belief that cross-examination is the best vehicle for discovering the truth and that the most reliable statements come from the witness stand. *California v. Green*, 399 U.S. 149, 158, 90 S.Ct. 1930, 1935, 26 L.Ed.2d 489 (1970). Despite the importance of cross-examination, exceptions to the hearsay rule have long existed in evidentiary law. Two principles—trustworthiness (or reliability) and necessity—serve as the underlying rationale for exceptions to the hearsay rule. By enacting K.S.A. 60-460(dd), the legislature was recognizing the necessity and inherent reliability of hearsay statements of a child victim.

Often the child victim's out-of-court statements constitute the only proof of the crime of sexual abuse. Witnesses other than the victim and perpetrator are rare as people simply do not molest children in front of others. See Note, *The Sexually Abused Infant Hearsay Exception: A Constitutional Analysis*, 8 J.Juv.L. 59, 59-60 (1984). Most often the offender is a relative or close acquaintance who has the opportunity to be alone with the child. See Note, *A Comprehensive Approach to Child Hearsay Statements in Sex Abuse Cases*, 83 Colum.L.Rev. 1745 (1983). Depending on the type of sexual contact, corroborating physical evidence may be absent or inconclusive. Skoler, *New Hearsay Exceptions for a Child's Statement of Sexual Abuse*, 18 J.Mar.L.Rev. 1, 5-6 (1984). The child may be unable to testify at trial due to fading memory, retraction of earlier statements due to guilt or fear, tender age, or inability to appreciate the proceedings in which he or she is a participant. Therefore, these hearsay statements are usually necessary to the proceedings as the only probative evidence available.

It is also beginning to be recognized that a child's statements about sexual abuse are inherently reliable. First, it is highly unlikely that a child will persist in lying to his or her parents, or other figures of authority, about sexual abuse. Second, children do not have enough knowledge about sexual matters to lie about them. 83 Colum.L.Rev. at 1751 (1983). Consequently, in light of the need for child hearsay statements in sex abuse cases, as well as their potentially superior trustworthiness to in-court testimony, the traditional reasons for barring use of such hearsay statements become less compelling.

Moreover, the incidence of sexual abuse of young children has increased dramatically in recent years. 83 Colum.L.Rev. 1745. Statistics show that there has been a 200% increase in the reporting of sexual abuse since 1976. By 1980, there were 25,000 reported cases annually. A substantial number of cases are never reported; estimates of the actual incidence vary from 100,000 to 500,000 per year. 83 Colum.L.Rev. 1745, n. 1.

The hearsay exceptions that existed prior to the enactment of K.S.A. 60-460(dd), even when stretched beyond their logical limits, are inadequate for the admission of necessary child-victim hearsay. In the past, courts employed several means by which the child's out-of-court statements could be admitted. When the child was able to appear and answer questions, his or her prior statements were admitted under K.S.A. 60-460(a). *State v. Fisher*, 222 Kan. 76, 563 P.2d 1012 (1977); *State v. Jones*, 204 Kan. 719, 466 P.2d 283 (1970). This exception was used even when the prior statements were retracted by the child at trial. See

EXHIBIT J
DATE 2-5-87
HB # 262

WITNESS STATEMENT

NAME Mary Peterson BILL NO. 262

ADDRESS 1819 Lockey, Helena DATE 2-5-87

WHOM DO YOU REPRESENT?

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I support this bill, it provides protection for children that at present they are denied.

Often the perpetrator is a family member or someone close to the family, and for many reasons the custodial parent supports the defense of the perpetrator. (Reasons such as they can't believe this would occur, they may be financially dependent on the perpetrator, etc.)

Children too young to offer testimony need the opportunity to be protected.

At present children unlucky enough to be victims of sex assault, and too young to testify, are "sitting ducks" for bad guys.

This bill protects future victims.

(over)

CS-34

One case ~~example~~ I worked on is an example of this. Brothers ages 2 and 3 sexually assaulted by their parents' friend who baby-sat one afternoon. They could describe the sexual assault incident, but the perpetrator could not be stopped, due to age of children, and their inability to testify due to age. The perpetrator was free to continue to prey on the young. The children went into therapy. The perpetrator walked. This has ending I liked. He assaulted a seven year old who disclosed immediately, and we had such significant physical evidence that she didn't have to experience testifying at a trial, and he is locked up, no longer a threat to the young in this area

re: HB 305
EXHIBIT A
DATE 2-5-87
HB #305

HASH, O'BRIEN & BARTLETT
ATTORNEYS AT LAW
PLAZA WEST - 138 FIRST AVENUE WEST
P.O. BOX 1178
KALISPELL, MONTANA 59903-1178

406-755-6919

CHARLES L. HASH
KENNETH E. O'BRIEN
JAMES C. BARTLETT

C. MARK HASH

January 23, 1987

Representative Ben Cohen
House of Representatives
State Capitol
Helena, MT 59620

Dear Ben:

I have received a copy of the first draft of a bill to amend certain provisions of the criminal code to raise the cut-off for misdemeanor to felony from $300 to $800. I had suggested this to Judge Keedy so that he could relate it to the local representatives at the meeting that he held. I am pleased that you sponsored that bill, but I heard that there is not much support for it in Helena.

The justification for the bill, in my opinion, is the economic reality that every 12 years the price of consumer goods doubles. The criminal code was passed in 1973. Fourteen years have passed and therefore $800 is equivalent to the $300 figure in terms of price of goods. Therefore, it is appropriate to raise the value of $300 to $800.

I am sure that those in Helena who are economists will agree with the 12-year rule to which I make reference. I would ask you to continue your support for the bill based on that argument. Thank you.

Sincerely,

HASH, O'BRIEN & BARTLETT

James C. Bartlett

JCB:af
cc: Judge Michael H. Keedy
Judge Stewart E. Stadler
Judge Dale Gifford

WITNESS STATEMENT

NAME MARK J MURPHY BILL NO. 301

ADDRESS 3840 KIKI DR DATE 2/5

WHOM DO YOU REPRESENT? MONT. COUNTY ATTY ASSOC

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. HB 262 DATE Feb. 5, 1987

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Mary Peterson	1819 Lockey, Helena	✓	
Mike McGrath	728 Broadway	✓	
Ed Sheehy, J.	301 N. Cruse		
John Madsen	1814 Livingston	✓	
Sandi Astley	625 2nd St.	✓	
Sandy Chaney	Women's Lobbyist Fund	X	
Naomi Powell	Corvallis		
W L Bennett	1621 Canyon St Helena	X	
Jackie Ameden	Women's Lobbyist Fund	X	
Carolyn Clemens	Helena	X	
Mike Milburn	"	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. HB 301 DATE Feb. 5, 1987

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Mike McGrath	Lewis & Clark County	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33