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February 1995

3. Lyon, T.D. (1995). False allegations and false denials in child sexual abuse. *Psychology, Public Policy, & Law*, 1, 429-437.

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FALSE ALLEGATIONS AND FALSE DENIALS IN CHILD SEXUAL ABUSE

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The amicus brief in the Kelly Michaels case ignores the risks that abused children will fail to reveal abuse unless direct and sometimes leading questions are asked. Although the brief correctly criticizes previous research for understating the risks that aggressive interviewing practices will lead young children to make false allegations of abuse, it overstates the likelihood that false allegations occur by overlooking the aspects of the Kelly Michaels case and the research it inspired that are unlike the typical abuse case. The author discusses factors that lead abused children to falsely deny abuse and that minimize the likelihood that nonabused children will allege abuse.

Interviewers who question children about suspected sexual abuse must avoid two types of error: eliciting a false report of abuse and failing to elicit a report of abuse when abuse in fact occurred. A decision regarding how to proceed is properly based in part on the risks that a particular method of interviewing will lead to a false allegation or a false denial. The decision is also dependent, however, on the interviewer's judgment regarding the damage caused by each type of error. If one seeks to avoid false allegations at all costs, then one simply does nothing that might prompt a child to assert falsely that abuse occurred. If one wishes to minimize false denials, on the other hand, one does everything one can to encourage a young child to acknowledge abuse.

That one's judgment about the relative risks of different types of interviewing practices is based on a mixture of empirical beliefs (how likely is this practice to result in error?) and value judgments (how harmful is it to commit each type of error?) muddies the debate over children's suggestibility. Although social science research may make it possible to estimate the rates of error, it does not address the value judgment regarding how different types of error should be weighed. When researchers focus only on risks of one type of error (whether it be false allegations or false denials), they preempt the value debate, substituting their own value judgments for those of policymakers.

The amicus brief in the Kelly Michaels case rightly criticizes previous research on children's suggestibility for understating the risks of aggressive interviewing practices with young children. However, it fails to acknowledge any middle ground; it ignores the likelihood that abused children will fail to reveal abuse unless direct and sometimes leading questions are asked. It fails to consider whether the Kelly Michaels case—a case involving alleged multivictim abuse by a preschool teacher—is representative of child sexual abuse cases in general, or whether the research inspired by cases like Michaels's accurately portrays the risks of false allegations of

I thank Karen Saywitz for the ideas she contributed to this article.

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abuse. The brief thus simplifies a difficult question—how best to interview young children about abuse.

Underestimating False Negatives

The brief does not acknowledge seriously the possibility that abused children will not reveal abuse. The perspective taken is that the only mistake worth considering is the false allegation of abuse. Such a position makes it easy to recommend that interviewers simply avoid all leading questions. Moreover, a failure to understand children's reluctance to acknowledge that sexually abusive acts have occurred makes it easy to argue that when children are led in research to "remember" fictitious events, they can just as easily be led to "remember" sexual abuse that never occurred.

The only acknowledgment of the difficulty that truly abused children have in revealing their abuse occurs in passing, when the authors attribute to "some investigative and therapeutic interviewers" the view that it is "necessary to use all available strategies," including bribes, threats, and the induction of stereotypes, to convince children to reveal abuse (Bruck & Ceci, 1993/1995, p. 274). By attributing such a view to interviewers who elicit reports of abuse at all costs, the brief makes a straw man out of a serious claim: Abused children are unlikely to reveal their abuse readily, and specific ("leading") questions may be necessary when the interviewer has good reason to believe that an abused child is having difficulty disclosing.

Sexual abuse is embarrassing. Five- and seven-year-old girls undergoing genital examinations are unlikely to recall genital and anal touching accurately; most do not disclose that either occurred. A "leading" question is therefore required ("Did the doctor touch you here?") to elicit true reports, though many still (falsely) deny being touched (Saywitz, Goodman, Nicholas, & Moan, 1991). Children who have not been subjected to intimate touching or to physical or sexual abuse are less inclined to falsely affirm abuse than they are to agree to other types of misleading questions (Goodman, Aman, & Hirschman, 1987; Rudy & Goodman, 1991; Saywitz et al., 1991). Indeed, this is a point acknowledged elsewhere by Ceci and colleagues, who note that children will obviously be reluctant to state that someone took their clothes off and kissed them while they were naked, because such acts are naughty and embarrassing. Three-year-olds are reluctant to acknowledge that their parents kissed them in the bathtub if they are told that such behavior is naughty (Ceci, Leichtman, Putnick, & Nightingale, 1993). If 5- and 7-year-old children are reluctant to acknowledge having received a genital examination by a doctor, a socially sanctioned form of intimate touching, one suspects they might be even less willing to acknowledge "coercive, repeated abuse that can instill high levels of fear, shame, and mistrust" (Saywitz et al., 1991, p. 691).

Reluctance to report negative events that have in fact occurred suggests that children will be similarly reluctant to report negative events that are only imagined. Indeed, Ceci, Loftus, Leichtman, and Bruck (1994) found that "88% of children were more likely to assent to fictional neutral events (participant or nonparticipant) and positive events than to negative events" (p. 312). Bruck, Ceci, Francouer, and Barr (1995) successfully influenced children's memory of a year-old inoculation, but only led children to *understate* their tears and hurt. Even without any feedback, children reported less hurt a year after the shot (though not less crying).

Children are often reluctant to reveal abuse because of their desire to protect the offender. Children are most often abused by a member of their family (Smith & Elstein, 1995; Langan & Harlow, 1994). Such cases constitute a majority of the cases heard in court (whether criminal, dependency, or family court). A child who is abused by a family member will often have mixed feelings regarding the offender and not wish to cause the offender harm. Even if the child is inclined to reveal, the nonoffending parent may not be inclined to support the allegation; in one study of maternal reactions to children's reports of sexual abuse, 24% were nonsupportive or rejecting of the child and her allegations, and 32% were ambivalent or provided inconsistent support (Everson, Hunter, Runyon, Edelson, & Coulter, 1989; it is possible that many of the allegations were false, but then one wonders who is coercing the child to make a false accusation). Sometimes, the offender explicitly asks the child to keep the abuse a secret. Ceci and Bruck (1993) reviewed research demonstrating that 4- and 5-year-olds will keep secrets when asked to do so by a wrongdoer. (None of this research is mentioned in their brief.) Even an implicit request may be effective; 5-year-olds in Clarke-Stewart's janitor study failed to report that the janitor was playing inappropriately when they believed that revealing the wrongfulness of the janitor's acts would get him in trouble (Clarke-Stewart, Thompson, & Lepore, 1989).

Research supports the commonsensical notion that children are reluctant to accuse their parent of wrongdoing. In one study (Bottoms, Goodman, Schwartz-Kenney, Sachsenmaier, & Thomas, 1990), 5-year-olds were reluctant to acknowledge that their mother had broken a Barbie doll (see also research discussed in Ceci et al., 1993). To my knowledge, experimenters have not encouraged children to make false allegations against family members. Bruck and Ceci (1993/1995) might argue that to do so would be unethical, but they should acknowledge that a failure to do so leads to an exaggeration of children's susceptibility to suggestive questioning in general and stereotype induction in particular.

Leichtman and Ceci's (1995) research on stereotype induction minimizes the likelihood that children's familiarity with and respect for the alleged wrongdoer militates against their suggestibility. First, facts are suggested about a virtual stranger, Sam Stone; unlike a family member (or even a nursery school teacher), he spent only 2 min interacting with the children. As one child later correctly recalled, "Sam Stone had come into the classroom and said hello and looked around [while the children were engaged in listening to a story read by the teacher], but that 'nothing happened' " (Leichtman & Ceci, 1995, p. 575). A child who knows next to nothing about Sam Stone is both less inclined to disbelieve a negative stereotype and less able to rebut such a stereotype with recollections of his or her own. Second, Sam Stone's mishaps are characterized as something to laugh about, thus minimizing the child's assumption that naming Sam Stone might get him in trouble.

Even if one assumes that children are fully motivated to reveal sexual abuse, a purely cognitive variable makes it difficult for young children to discuss abuse. Young children can often acknowledge what they cannot recall. Direct questions (which are answered "yes" or "no") are sometimes considered leading, because they tend to suggest a "yes" response. At the same time, direct questions minimize the need for the child to generate the to-be-remembered material, thus tapping recognition rather than recall performance. As Ceci and Bruck noted, "age differences in recognition memory are far less pronounced than age differences in free recall, and

at times these are nonexistent” (1993, p. 404). Hence, asking young children direct questions allows them to perform more like older children, eliciting more details about the to-be-remembered event (e.g., Baker-Ward, Gordon, Ornstein, Larus, & Clubb, 1993, in which “specific” questions plus “open-ended” questions led to 3 times as much information being produced by 3-year-olds as open-ended questions alone). As always, however, an increase in accurate information is accompanied by an increase in false affirmations as well.

Research on children who have in fact been sexually abused confirms their difficulty in revealing abuse. Sorenson and Snow (1991) found that 72% of abused children initially denied having been abused when questioned by a family member or as part of the investigative process. One might argue that some of the nondisclosers were not in fact abused, because the abused group included children whose abuse was confirmed only by a guilty plea (presumably in exchange for a more lenient sentence). Therefore, it is instructive to consider children who present with specific physical findings of abuse (e.g., sexually transmitted disease, recent or healed lacerations of the hymen and vaginal mucosa) but who have not reported abuse. Only about half of such children reveal abuse when questioned (Lawson & Chaffin, 1992; Muram, Speck, & Gold, 1991).

It is possible that abused children are so reluctant to reveal that in many cases no amount of suggestive questioning will be effective. It might even be the case that nonabused children in such circumstances are even more likely than abused children to report abuse. Although the latter possibility seems unlikely (because most of the pressures that discourage true reports also operate to discourage false reporting), we must be cautious in using the reluctance of abused children to disclose as justification for coercive methods of questioning.

Recognizing that a trade-off exists between false denials and false allegations, however, is preferable to pretending that error only occurs when someone is falsely accused. Abused children have difficulty in discussing abuse. Specific questions about abuse enable and encourage some abused children to reveal, but they also necessarily increase the risk of false allegations of abuse. I believe that “leading” questions (which directly ask the child about abuse) are appropriate when a child shows other evidence of being abused (a spontaneous disclosure, suspicious medical evidence, sexualized behavior) but does not freely recall abuse when asked for free recall.

Of course, my opinion reflects both my understanding of the risks of error and my value judgment regarding the appropriate weight attributable to each type of error. In part, this is because I work in dependency court, where our actions determine whether a child will be returned to the custody of a suspected abuser, rather than whether a suspected abuser—typically already separated from the child—should go to jail. I suspect that Bruck and Ceci (1993/1995) did not acknowledge the difficulty faced by sexually abused children in revealing abuse because of their own value judgment that false allegations should be avoided at all costs.

Overestimating False Positives

The brief reviews the research of suggestibility in light of the facts of the Kelly Michaels case. Doing so evades the need to question seriously whether the case is representative of sexual abuse cases in general. The authors explain their focus on Kelly Michaels by pointing out that this case is only about Kelly Michaels (Bruck &

Ceci, 1993/1995). Surely they appreciate the precedential impact of a state supreme court opinion in a highly publicized case. Indeed, the authors' use of the Michaels case as a "window" through which child sexual abuse cases in general can be viewed (Ceci & Bruck, 1993, p. 403) evinces a belief that the facts of the case are common, if not typical.

As already noted, most cases of child sexual abuse are unlike the Michaels case in that children are most often abused by a member of their family. Closeness of the offender and the victim increases the child's resistance to report abuse, whether abuse in fact occurred or not. Stereotype induction is less likely to be effective; indeed, it is reasonable to suppose that interviewers are less inclined to demonize alleged offenders when the child has positive feelings for the accused. Family members are less likely to encourage the child to name a family member as an abuser.

Moreover, most cases of abuse involve a single victim (Smith & Elstein, 1995; Whitcomb et al., 1994). Multivictim cases present special problems. Parents of alleged victims are likely to share stories of abuse, as are the interviewers themselves. As soon as one child has disclosed abuse, interviewers are more inclined to single-mindedly seek allegations from other children, even if those children steadfastly deny that abuse occurred. The temptation is great to use other children's revelations in a coercive manner, either to convince the child that abuse occurred, or to make the child feel disloyal by failing to confirm abuse. Children who have neither revealed nor displayed any other signs of abuse will be vigorously questioned, increasing the potential for a large number of false positives. Repeated interviews regarding previously undisclosed allegations are more common; over time, various children name other children as participants. In the single-victim case, the chances for contamination of a child's responses by the responses of other children or the shared stories of parents and interviewers are minimized.

Other features of the Kelly Michaels case make it unusual. The average age of alleged victims in criminal child sexual abuse cases is 10 years (Whitcomb et al., 1994). I suspect that the average child in dependency court is somewhat younger than 10 but older than preschool age. Prosecutors have difficulty in obtaining convictions when the victim is a preschool child (Ceci, Leichtman, & White, in press), which naturally makes them less inclined to pursue such cases. Although prosecutors have an easier time in dependency court, preschool children make poor witnesses, even when thoroughly "prepared." Therefore, although the number of cases involving preschool children has increased in many jurisdictions, the most striking facts about the Kelly Michaels case concern the prosecutors' willingness to pursue the allegations, the children's ability to testify, and the jury's willingness to believe them.

In the Michaels case, multiple (and delayed) interviews took place regardless of the child's initial statements. Similarly, long delays occurred between the target events and the repetitive suggestive questioning in the Bruck et al. (1995) inoculation study and the Leichtman and Ceci (1995) Sam Stone study. In the typical case, a child's nondisclosure of abuse will mean that multiple interviews over a long period of time will not occur. If the child refuses to speak at the initial investigatory interview, removal of the child and initiation of dependency or criminal proceedings is unlikely (Hechler, 1988). This interview takes place soon after a child abuse report is filed, given the immediate risk of harm to the child (e.g., California Penal Code Section 11166). In turn, most reports are filed soon after suspicions of abuse first

arise (Whitcomb et al., 1994; median = 2 days), and those suspicions are most often attributable to a statement by the child (Whitcomb et al., 1994: 86% of the cases). Reports of multiple interviewing in the literature typically refer to cases in which the child *has* revealed, leading to criminal and dependency proceedings necessitating continued contact with the child.

It is unknown whether the coercive interviewing practices used in the Kelly Michaels case are typical. The methods violate both state and national codes of interviewing practices (Ceci, 1994), and “[e]ven those researchers who emphasize the strengths of children’s memories are highly critical of interviewing tactics like those used in the Wee Care investigation” (Bruck & Ceci, 1993/1995, p. 307). Of course, it is entirely possible that most interviewers fail to live up to professional standards. However, even were we to judge by Ceci’s own sample of transcripts sent to him by defense attorneys and law enforcement, two thirds fail to contain the “potentially suggestive and stereotype inducing” methods he condemns (Ceci, 1994, ms. p. 26). I also do not know how common it is for interviewers to ask the sort of “suggestive questions” used by Ceci and others in the most recent wave of research on children’s suggestibility. It seems likely that interviewers do in fact ask a significant number of leading questions (Ceci, Leichtman, & White, in press; Goodman, Sharma, Golden, & Thomas, 1991; Pettit, Fegan, & Howie, 1990). What is leading and what is suggestive, however, is an important but often overlooked distinction.

One significant feature of the suggestive questions Ceci and others typically use is that they *tell* rather than *ask* the child what occurred. In the inoculation study (Bruck et al., 1995), children were “given multiple suggestions in repeated interviews” (Bruck & Ceci, 1993/1995, p. 281). In one suggestive condition, for example, the interviewer told the child that she worked with the pediatrician, that the research assistant (RA) worked with him as well, and that the RA was present when the child received a shot; for 65% of the children (who could not identify the RA in a photographic lineup), she pointed out a picture of the RA. In suggesting that the child had not cried and that the RA had in fact given the shot, the interviewer quoted the RA as remembering what had occurred. The questions asked presupposed the truth of the suggested material and requested elaboration. In the Sam Stone study of stereotype induction (Leichtman & Ceci, 1995), children were given four “suggestive interviews” (Bruck & Ceci, 1993/1995, p. 288). The first suggestive interview presented the child with physical evidence that a bad act occurred, and the interviewer asked the child to speculate as to who might have committed it. The second, third, and fourth interviews consisted of questions that presupposed that Sam Stone had in fact performed the bad acts. Children were not asked to affirm or deny whether Sam Stone committed the misdeeds but were given a forced-choice question regarding how the acts were performed by Mr. Stone. Similarly, in the “subtle intervention” (Bruck & Ceci, 1993/1995, p. 295) used by Poole and Lindsay (in press) in the Mr. Science study, parents were instructed to read a story to their child containing fictitious events. The three readings were not accompanied by any questions regarding whether the illustrated acts in fact occurred.

The importance of telling children what happened as opposed to asking them what happened is perhaps best illustrated by the pair of studies Ceci and colleagues performed in which young children were repeatedly asked whether particular events occurred. When preschool children were simply read short statements describing

events and asked whether they occurred (having been informed that some of them had and some of them had not), children did not increasingly assent to nonexistent events over time (Ceci, Crotteau, Smith, & Loftus, in press). (The initial rates of false affirmation were alarmingly high, however, hinting that something about the method is unusually suggestive.) In contrast, when preschool children were told that the events had in fact occurred and were helped to imagine surrounding details, the expected increase in false assenting over time occurred (Ceci et al., 1994).

In recommending that interviewers avoid leading questions and in equivocating about whether leading questions are ever justified (by crediting “some interviewers” with the belief that leading questions should be used as a “last resort”; Bruck & Ceci, 1993/1995, p. 307), the authors make no distinction between suggestive questioning and leading questioning. The possibility that the research methods explored in the brief may exaggerate children’s suggestibility when asked leading questions is answered by the argument that the research is less coercive than the methods used in such cases as the Kelly Michaels case. That answer is satisfactory, however, only if one’s choice of interviewing methods is limited to coercive bribes, threats, and stereotyping on the one hand, and open-ended questions on the other.

A final point about the applicability of the research discussed in the brief to actual court cases of sexual abuse concerns the potential for cross-examination to undermine the confidence of children falsely claiming that they were abused. It is important to note that the New Jersey Supreme Court’s decision to order taint hearings in some child abuse cases is due to the supposition that some interviewing practices may give rise to “irreparably mistaken or false recollection” (*State v. Michaels*, 1994, p. 320). The justification for a taint hearing—at which a court may prevent the child witness from appearing before a jury—is that the usual means by which truth is tested by the judicial system are subverted by pretrial techniques that render the child unshakably certain that what he or she reports has in fact occurred. If only the child’s report is altered by suggestion, and not the child’s memory, then the child’s testimony is susceptible to the usual procedure for assessing truth: The jury observes the witness’s demeanor while he or she answers questions on direct- and cross-examination.

Ceci and Bruck (1993) have elsewhere made several points that highlight the potential significance of the defendant’s opportunity to challenge the child’s story through cross-examination. First, they acknowledged that “acquiescence to a leading question provided at the time of testing does not in itself imply that the misinformation contained in the leading question has been incorporated into memory” (Ceci & Bruck, 1993, p. 428). Therefore, taint hearings are not justified by high rates of false assenting alone; it is necessary to demonstrate that children actually believe what they endorse. Certainly, if a child’s acquiescence is simply attributable to fear of the questioner, a good cross-examiner can evoke similar fear and compliance.

Second, the authors acknowledged that researchers currently disagree over whether suggestibility effects lead to erasure of the child’s original memory for the to-be-remembered event, or whether the original memory remains intact (Ceci & Bruck, 1993, p. 432). Acknowledgment of this debate is nowhere to be found in the brief, which instead relies on anecdotal support for the proposition that children sometimes form illusory beliefs that are firmly held (Bruck & Ceci, 1993/1995, pp. 301–303). Although I find the anecdotes quite compelling, the frequency with which suggested events are believed has yet to be estimated, and the certainty with which

the events are believed is unknown. If the child is susceptible to doubts, a good cross-examiner can make such doubts apparent to the jury.

Third, when researchers "gently challenge" children's false reports, such reports tend to be cut in half (Leichtman & Ceci, 1995). If a single "you didn't really see him do this, did you?" is effective, one wonders what a slightly more persistent defense attorney might be able to accomplish. There is no rule against leading questions in cross-examination; indeed, good lawyers ask nothing but leading questions when confronting the opponent's witness. Moreover, as Ceci and Bruck (1993) acknowledged, "threats and bribes are not unique to prosecution interviews; similar examples can be found in defense interviews" (p. 423).

In sum, Bruck and Ceci (1993/1995) have written a persuasive brief that compellingly argues that young children are extremely suggestible. Unfortunately, the brief owes much of its persuasive appeal to its omission of any reference to an alternate perspective regarding how young children should be questioned about abuse. By dismissing the difficulty with which sexually abused children discuss their abuse, the brief minimizes the risk of false denial. By focusing on the facts of a case in which interviewers pursued allegations at all costs, by whatever means, the brief presents a distorted picture of the methods advocated by interviewers when questioning young children. My hope is that the effect of the brief (and the research it describes) will be to move child sexual abuse zealots toward the middle, but my fear is that it will only further polarize the debate.

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Received December 31, 1994

Revision received March 14, 1995

Accepted March 14, 1995 ■