1. The law and psychology of the child witness. (Review of the book *Child witnesses: Fragile voices in the American legal system,* by L. S. McGough.)

Thomas D. Lyon, *University of Southern California*
as implied by the pragmatic cognitive-miser framework, voters rely on candidate information to the degree that it strikes an optimal balance between effort and anticipated accuracy. By combining attribute evaluation scores with response latency, Stroh tests the contribution of candidate information per unit of cognitive effort. His results show that integrity and leadership considerations exert an influence over candidate evaluation that exceeds what would be expected on the basis of effort minimization alone. The implication is that reliance on these attributes is driven by their perceived utility in the prediction of the future performance of political candidates. Some of the assumptions underlying the methodology would benefit from further validation, although the chapter serves to illustrate the potential of the approach.

The last two chapters by Boynton and by Feldman are based on the same premise: Survey responses are often so erratic that serious doubts are raised about whether they reflect ready-made opinions that are stored in memory. Both chapters start by reviewing the litany of survey results (e.g., question wording effects, order effects, response instability) that have given nightmares to researchers who rely on the methodology. The shiftiness of survey responses cannot easily be attributed to the lack of true attitudes among a subset of respondents, susceptibility to response effects having been shown to be uncorrelated with the strength of an attitude. Instead, both chapters make the claim that answers to attitudinal questions are often (if not always) developed on the spot. Boynton presents a computational model of a survey respondent that derives attribute evaluation scores with response latency. His results show that integ.

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duced and enacted in nearly every state" (p. 15). As examples, McGough notes that many states have relaxed the requirements for qualifying children to testify, adopted special hearsay exceptions for children's complaints of abuse, and allowed for special techniques whereby testifying children need not face the accused.

McGough is not wholly unsympathetic with the reform movement, however. She agrees that competence evaluations are often overboard, that reliable out-of-court statements are sometimes overlooked, and that children are traumatized by appearing in court. Nevertheless, her own proposed reforms largely reflect her conclusion that the reliability of children's testimony deteriorates rapidly over time, and that by the time a trial begins, the statements of children under 12 are presumptively unreliable. Her solution is a radical reform: mandate pretrial videotaped interviews of child witnesses in criminal cases and strongly encourage them in civil cases (by making it extremely difficult to qualify a child witness at trial). The tape would be admissible at trial, provided it abided by strict requirements, which include a demonstration of the child's understanding of the obligation to speak truthfully, a recitation of the previous discussions the child has had regarding the event, and the avoidance of misleading or suggestive questions. The child would take the stand at trial, but only to vouch for the truthfulness of the tape, and cross-examination would be limited to issues other than the child's current recollection.

It seems unlikely that many states will adopt McGough's recommendations in full. As McGough recognizes, the courts are reluctant to give up on the usual means by which facts are presented to the jury: through live testimony and full cross-examination. Prosecutors will complain that a live witness is preferable to a taped statement (and McGough cites research supporting their claim). Defense attorneys will argue that unless they can cross-examine the child on his or her memory for the event, their clients' rights will be denied. McGough's message will likely influence those who share her skepticism of children's reliability and who dislike the liberalization of the rules for qualifying children and for admitting out-of-court statements. Competence requirements and rules against hearsay may be reinvigorated with an emphasis on the dangers of suggestibility.

Are such changes justified? Translating psychological research into policy recommendations is a tricky enterprise. Research is not value-free; recommendations based on such research are even less so. The most recent wave of research on child witnesses has primarily explored the conditions under which children are most suggestible and has therefore emphasized the dangers associated with coercive questioning, repeated interviewing, and preschool children. These dangers are real, but no less real are the risks that reliable child witnesses will not be believed. In crafting a legal response, one must estimate both the relative likelihood of mistaken belief and disbelief of child witnesses and consider the relative seriousness of either type of mistake.

McGough "emphasizes the fragility of children's reliability" (p. 7), and her reforms highlight the dangers of believing the unreliable child. Because children under 12 are less reliable than adults, any child under 12 is presumptively unreliable. By converting relative differences into legal presumptions, McGough makes the implicit value judgment that the least costly error is to exclude the testimony of reliable child witnesses for whom proof of reliability is lacking.

McGough's recommendations rest on the assumption that the legal system is currently ill-equipped to weed out unreliable child witnesses. Such an assumption is as inconsistent with the "centuries-old rules of evidence" as the reforms she criticizes. The judge who qualifies a child to testify does not hold that the child is reliable; he or she merely lets the jury hear the child. The child is questioned by both prosecution (or plaintiff) and defense, and other witnesses are called to either corroborate or challenge the child's story. As McGough is well aware, the typical child is lucky to emerge unscathed. The jury can and often does reject the testimony of the child. To justify keeping suggestive children off the stand altogether, one must assume that the unreliable child is impervious to the pressures of the courtroom.

McGough may be too quick to reject cross-examination as a guard against unreliable testimony. She asserts that research supports the view that cross-examination of a misled child is futile, but such research eschews vigorous cross-examination on ethical grounds. An alternative reading of the research supports the view that even gentle counter-suggestions substantially reduce children's false claims. Moreover, it is not necessary for a witness to recant in order to appear unreliable to a jury; jurors look for inconsistencies and uncertainty, which are not difficult to elicit from a young and fearful child.

McGough may be right to doubt the abilities of jurors to distinguish between the accurate and inaccurate child witnesses. Indeed, what makes reformers angry is the number of apparently truthful children who appear unreliable to the stand. But as she notes, jurors are barely better than chance at identifying adult liars, and she does not suggest that we abandon the jury system altogether. The unanswered question is whether unreliable children are more difficult to detect than are unreliable adults, and if so, whether the difference in difficulty is sufficiently large to justify a procedure whereby judges prevent juries from hearing the child.

McGough acknowledges that there are circumstances under which children may be more reliable than adults. She summarizes research that children are less adept than adults at lying convincingly. Given her fears regarding the unreliable child, however, she fails to recommend that judges worry less about young children's appreciation of their duty to tell the truth. On the contrary, in the face of evidence that young children appreciate the wrongfulness of lying, McGregor simply asserts that children are no longer taught that it is wrong to lie and argues that child witnesses should be more vigorously warned about the punishment for perjury.

My own values lead me to worry more than McGregor about cases in which reliable child witnesses are not allowed to take the stand. These values are founded on the harms to children who should have been believed, harms that are difficult to quantify but are nevertheless real. Values aside, McGregor's perspective is a welcome addition to the debate over children as witnesses, and her book is admirable for its attempt to consider social science research in making legal recommendations. The book will provoke psychologists to better understand the law, and the legal profession to learn something about psychology. It is sure to improve mutual understanding, even if it fails to win consensus.