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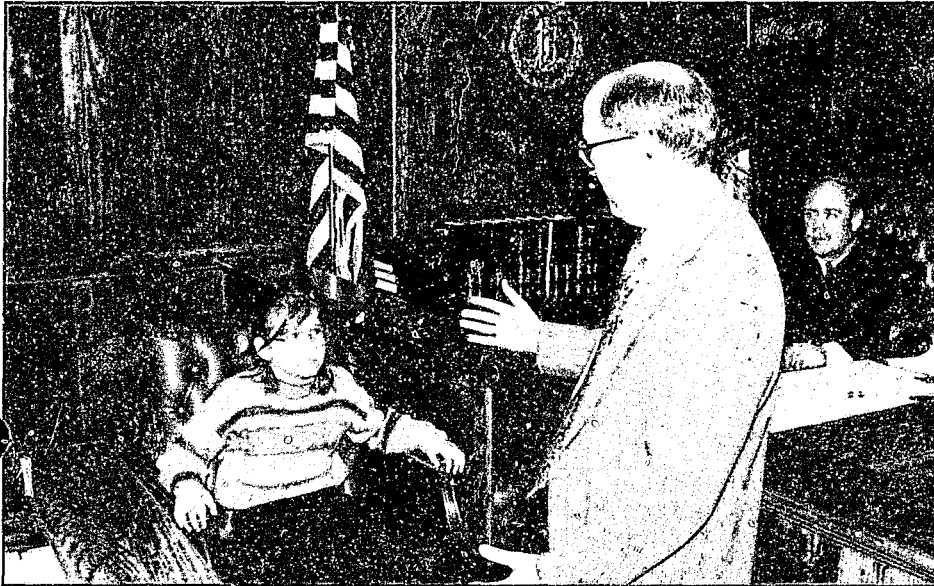
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Children as Witnesses

addressed. Finally, the article will describe conditions that affect a child's ability to accurately relate events.



Kelly Michaels is convicted of child molestation based on the testimony of children in a preschool where she had been a teacher. She serves five years of her sentence before she is released by an appeals court which questioned the reliability of the children's testimony.

The mother of a two and a half year old boy reports to the police that her son has been molested by Raymond Buckey, a teacher and son of the owner of the McMartin preschool. Criminal charges are brought against Raymond Buckey, Peggy McMartin, and five other teachers. The McMartin Preschool case spends three years in the courts at a cost of \$13 million to taxpayers. No one is convicted. Jury members give up as much as two years of their time, defendants spend many years in jail during the trial process, lives are damaged, and the children who claim to be victims of abuse fail to obtain the verdict they desire (Perry & Wrightsman, 1991).

Ray and Shirley Souza are under house arrest as part of a nine to thirteen year sentence for molesting their two grandchildren. They are convicted solely on the word of their four and five year old grandchildren. They deny their guilt (ABC News, 20/20, 1993).

Often, with lack of corroborating evidence, it comes down to a child's word. Professionals are divided on the issue of children's testimony, particularly about sexual abuse. Opinions range from believing children never lie to believing children's testimony is essentially untrustworthy. Stephen Ceci, Ph.D., a psychology professor at Cornell University who is actively involved in research about children as witnesses, says that evaluating child reports of abuse is a complex task (APA Monitor, 1989).

Increasingly, children are coming to court as witnesses. Questions about their credibility as witnesses are being raised. Are children competent to testify? When can one rely on the credibility of a child's testimony? How easily are children led to say what they think questioners want to hear? Are children able to understand the questions? Can language be used by defense attorneys to confuse children and lead to responses that appear, on the surface, to be inconsistent with previous statements? These and other important questions will be addressed in this article. First, the article will examine how children are viewed as witnesses by investigators, judges, and juries. Then issues of competence and credibility will be

How Children are Viewed

It will matter little as to the child's veracity if preconceived views of a child's ability to give accurate information lead to biased decision-making. Thus, beliefs and attitudes of key players in the legal process must be considered.

Perceptions of Investigators

Key players include those who are investigating a child abuse complaint. It is these people who will decide if a complaint brought by or about a child will be referred to court. These first line interviewers include child protective service (CPS) workers, the police, prosecuting attorneys, and sometimes therapists.

Each brings to the investigation a different agenda. The police attempt to gather evidence, including witness statements, in order to bring charges if warranted. CPS gathers evidence related to child safety. Therapists may be the first to hear a disclosure or may be assisting in an investigation as an expert in interviewing children.

The primary concerns of CPS are to protect children, to provide help to families and to prevent further abuse. If a protective order from the court is needed, then the information gathered by CPS must be credible to the juvenile judge. In some Virginia localities, joint CPS and law enforcement teams gather the preliminary evidence in child sexual abuse cases. (VCPN will report on Virginia's joint investigation teams in Volume 44.) Attorneys review the information to determine if evidence will be viable in court. Each, then, relies heavily on witness testimony. To reach the goals of child protection, protection of society and administration of justice, investigation must be thorough and unbiased.

There's little empirical data regarding investigators' attitudes about children's competencies and credibility as witnesses. Nancy Perry, Ph.D., associate professor of psychology at Creighton University in Nebraska and co-author of *The Child*

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Children as Witnesses

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Witness (see review, this issue) is currently analyzing transcripts of interviews by police and CPS workers. Dr. Perry explains some of the preliminary findings. "We are finding a subtle presumption on the part of investigators that abuse happened. The interviews are structured towards disclosure. At some point, one finds questions that presume abuse has happened."

"It's hard for investigators to keep a balanced view," states Perry. "One needs to enter the investigation with the options that abuse occurred, that it did not, or that something else happened. However, attitudes run the gamut. In general, prosecutors tend to believe accounts while defense attorneys are skeptical."

VCPN staff interviewed several Virginia commonwealth attorneys about their perceptions of child witnesses. All exhibited a balanced view towards children's credibility. All agreed that interviewing techniques could influence or contaminate a child's account. In general, preschool children were viewed as more susceptible than older children to influence by adults in relating an account of abuse. Michael Costanzo, an attorney in Dublin, Virginia was typical of other respondents. He explained, "It is more difficult to suggest facts to an older child. The younger children want to please adults and are easier to influence."

Therapists historically have not been expected to validate the experiences of clients, be they children or adults. Rather, therapists work with the client's perceptions and beliefs with a goal of symptom removal and improved functioning. Some sources indicate that many therapists accept and believe accounts of abuse without question (Faller, 1992; Loftus, 1992; Perry & Wrightsman, 1991; Raskin & Yuille, 1989). In contrast to these findings, all Virginia therapists interviewed showed an appreciation for the complexities and all felt that poor investigation could contaminate a child's account. Howard Swartz, child and adolescent therapist from Covington, Virginia offered a typical comment, "Investigators must be dispassionate and avoid taking sides or children will not give an accurate account."

Perceptions of Juries

There is a significant amount of literature describing the attitudes of jurors toward child witnesses. In fact, issues

confronting jurors who are considering a child's testimony are rather complex.

A critical task for jurors is to judge the accuracy and credibility of each witness. Part of how one determines accuracy of another's memory is by looking for the same cues in the report that one uses to monitor one's own memory. However, children may monitor their memories differently than adults, and, thus, emit fewer valid cues. Also, jurors may be less able to self-reference in evaluating a child's account (e.g., "Would I have remembered that?"). The result, then, is that there is no simple answer as to how child witnesses are perceived by juries (Leippe, Manion & Romanczyk, 1993).

It is important to note that much of the available research concerning jurors' perceptions is conducted using mock trials or using written scripts. Many involve children as a passive bystander observing events such as a car running a red light (Leippe, Manion & Romanczyk, 1993). One involves questioning of children by attorneys about a recent visit to the doctor's office where they received an injection by a nurse. Readers should appreciate the inherent limitations in applying knowledge gained through research about jurors' perceptions to actual child abuse cases.

In considering the issues, one must look to several factors. One relates to jurors' beliefs about child witnesses. In general, studies that have sampled parents, lawyers, psychologists and college students have found that these groups believe that children under 10 have poorer recall and that children under 10 are more susceptible to suggestion than older children and adults. Younger witnesses are rated as less credible even when they supply exactly the same data as adults (Leippe, Marion & Romanczyk, 1993). In general, women perceive children's credibility more positively than men (Bottoms, 1993).

There are factors related to the child's presentation of the information that appear to influence credibility. Goodman, Golding and Haith (1984) suggest that if jurors perceive a child as trustworthy, consistent, confident, certain of the events and objective, they are more likely to be favorably impressed. There is no factual information that suggests children are perceived as less favorable than adults on trustworthiness, objectivity and certainty. "But, inconsistency alone may be enough to undermine a child's believability, especially since jurors are often instructed against heeding inconsistent statements" (p. 144). Powerful styles and self-confidence also appear to have an impact on jurors. Since children may be seen as powerless or unsure, particularly when being questioned under the stress of a courtroom setting, children may lose credibility.

Goodman, Bottoms, Herscovisi and Shaver (1989) report other interesting

findings extrapolated from research conducted about jurors' perceptions of children's credibility. There are cases where young children are more readily believed than older children or adults. This is particularly true if the testimony is presented in the child's own words. For example, in an experiment in which jurors read a transcript of a sexual assault case, the six year old child's lack of cognitive ability seems to have enhanced credibility "...subject-jurors seemed to believe the children lacked the ability to invent a sexual assault" (p.19).

Thus, given several factors, jurors may either disbelieve credible children or fail to be critical. In general, however, the bulk of the evidence suggests that even highly accurate and credible children receive lower believability ratings than adults.

Competence

It is important to address the issue of competence. Is a child capable of providing competent testimony? That is, can a child qualify to be a witness in court? The answer to that question appears to be "yes."

Until recently, the legal system deemed all children incompetent and unfit to provide testimony in court. American competency law has its roots in English common law tradition. "The traditional common law practice has been that children below a certain age, usually ten years, are presumed incompetent to stand trial. It was assumed that testimony given by young children would mislead the jury" (Haugaard, 1988, p. 103). However, this rule was suspended in the 1600's "in a series of strange events that culminated in the Salem Witch Trials of 1692" (Perry and Wrightsman, 1991, p. 38). During those trials over 100 individuals in the Salem, Massachusetts area were accused of witchcraft, with most of the accusers being children. Twenty cases came to trial. Four girls gave the testimony that led to the conviction and execution of 19 "witches". Children provided "evidence" that they were physically afflicted by the defendant's alleged practices. "At trial, for example, they went into apoplectic fits and vomited bent nails and pins that were alleged to have been placed in them by witchcraft" (Perry & Wrightsman, 1991, p. 39). Later, the children recanted, asking forgiveness from the surviving families. One poignant recantation comes from Ann Putnam, one of the most notorious of the child-accusers, who suggested she was an instrument of Satan and had, through evil delusions, been responsible for the death of innocent women.

The Salem Witch Trials led to a return to viewing children as incompetent to testify. In 1895, the U.S. Supreme Court ruled under *Wheeler v United States* that children are considered incompetent to testify in most cases, although incompe-

tence could be challenged by a party wishing to call a child as a witness.

In the ensuing years, four criteria were established by courts to determine a child's competency to testify. These were:

- 1) Ability to be truthful: A child must understand the differences between truth, falsehood and fantasy and must appreciate the obligation to speak the truth.
- 2) Mental capacity: The child must have been able, at the time of the events, to accurately perceive them.
- 3) Memory: The child must have sufficient memory to retain an independent recollection of the events.
- 4) Communication: The child must be able to translate the memory into words and be able to answer simple questions about the occurrence (Haugaard, 1988; Whitcomb, 1992b).

Since 1975, with the enactment of the Federal Rules of Evidence and the subsequent adoption of the Uniform Rules of Evidence in many states, there has been a trend away from competency criteria and from the common law rule establishing a presumption of competence only for children over age 14 (Whitcomb, 1992a). The Federal and Uniform Rules allow children to testify and permit the court to determine the weight and credibility given to the testimony.

Under federal law (Victims of Child Abuse Act, 1990), children are presumed to be competent witnesses. State competency standards may be found in state laws, court rules of evidence, or codified rules of evidence (Whitcomb, 1993). All 50 states now have a presumption of competence for all victims of sexual offenses (personal communication, Nancy Perry, September, 1994). For children who are victims or witnesses of other crimes, states fall into one of three groupings: a) states presuming incapacity below a specified age (usually 10, 12, or 14); b) states requiring an understanding of the testimonial oath; c) states following the Federal Rules of Evidence No. 601 which state that everyone is considered to be competent except as otherwise provided in the rules (Perry and Wrightsman, 1991). Adults, however, are always considered competent unless proven to be otherwise.

Regardless of a state's written provisions for children's competency as witnesses, it is common practice for trial courts to require young children to demonstrate their competency as witnesses before allowing them to testify (Whitcomb, 1992). Virginia's attorneys reported that a child's age is a factor that courts consider in evaluating competency. "The legal standard is whether or not a child can understand the oath, that is 'Can the child comprehend the difference between the truth and a lie?'" explains John Bell, assistant commonwealth attorney from Front Royal, Virginia.

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Haugaard (1988) suggests that it may be useful to subject children to a more extensive screening process before testifying. An independent examiner could be appointed by the court to assess the child's knowledge of honesty and to determine the child's memory capacity. The results would be given to the trial judge who would then rule on competency. "There may be several advantages to more extensive screening. One is that the judge may be able to make a more informed decision about the child's competency. Another is that useful information may be supplied to the jury. During the trial, the examiner could be called to testify about the assessment procedure, about the competency of a particular child as a witness, and about relevant psychological research indicating the cognitive abilities of children in general. This might increase the value of the child's testimony" (p. 105).

Generally, judges determine competency of all witnesses including children. However, it is the jurors who determine credibility.

Credibility

Are children credible witnesses? Several factors can affect the answer: developmental issues related to a child's ability to remember, the effect of trauma upon memory, motivational issues (such as fear of reporting or deliberate lying), suggestibility and stress factors associated with the forensic process.

Developmental aspects

The ability to relate facts about an event depends on several biological factors. These include the physical development of the brain, perception, attention and cognition. These are functions that develop over time, and therefore will affect information that is coded and maintained in the memory.

The developing brain. At birth, a brain already has all of its neurons. However, the brain is merely 25% of its adult weight. Growth occurs over the next few years with the formation of synaptic connections and glial cells, those cells that nourish neurons and are responsible for the development of myelin. Myelin surrounds some neurons in order to protect them and to reduce the random spread of impulses from one neuron to another.

While a majority of myelination is completed by the time the child is two years old, some myelin continues to develop until adolescence.

As neurons become myelinated, they pass impulses more rapidly and efficiently. Initially, it is the primary areas of the brain which are responsible for more primitive behaviors such as motor coordination and vision. The cortical association areas, which are responsible for integrating and interpreting the stimuli, lag behind in the early stages of development. Thus, communication between the various parts of the brain is limited. Increased functioning occurs as myelination increases.

One of the last structures to myelinate is the corpus callosum, the band of fibers which connects the two hemispheres of the brain. It allows transfer of information from one hemisphere to another. This is particularly important in the ability to understand, interpret and, therefore, relate an event. Both sides of the brain work in concert to translate and transmit information. To be an effective witness, an individual should be able to a) perceive the event accurately (primarily a right-hemisphere function); and, b) convey information about the perception (primarily a left-hemisphere function). "Communication between the hemispheres of the brain, therefore, is helpful (though not essential) to giving effective testimony" (Perry and Wrightsman, 1991, p.60). Myelination of the corpus callosum is not complete until age 10. However, communication between hemispheres has improved to a significant degree by the time a child is 5 years old.

Perception. Children, like adults, are bombarded by stimuli. The most basic perceptual processes — those involving the five senses — function at an adult level even during infancy. The aspects of perception which change with age are the following:

- 1) As children mature, their perceptions become more selective and more purposeful;
- 2) Children become more skillful at discerning the critical information from stimuli;
- 3) Perception becomes more sensitive as children learn to detect increasingly subtle aspects of stimuli;
- 4) Children become increasingly more aware of the meaning of their perceptions;
- 5) Children become more proficient at generalizing perceived meanings from one situation to another.

While it is true that perceptual competence matures, it is relatively safe to say that young children are able to perceive events accurately if they pay attention. "This is particularly true with relatively straightforward, factual occurrences. Because it is about such occurrences that

children are normally asked to testify, most youngsters as young as age four (and in some instances as young as age two or three) possess the perceptual skills needed to give accurate testimony" (Perry and Wrightsman, 1991, p.65).

Ordering and interpreting perceptions, however, is another matter. Most young children will have difficulty conceptualizing complex events, identifying relationships, recognizing feelings and attributing intentions. Therefore, distortions will occur. This is true to a degree for adults. However, distortions are particularly common for children between three and six.

Attention. In order to perceive events, a person must pay attention to them. As children mature, their attention skills become more effective and systematic and they attend to information for longer time periods.

A significant shift in the way children deploy their attending skills occurs between ages five and seven. Attention becomes self-controlled, systematic and intentional. It broadens and children pay attention to increasing amounts of information. They develop a greater ability to focus attention, calling upon selective attention skills. As they mature, children also begin to call upon a variety of cognitive strategies to help them attend selectively. Children's interests, their expectations about the world, and their strategies for acquiring information all influence the ability to scan patterns, an important aspect of attention.

As they mature, children attend to information more selectively and efficiently. However, even children ages three and four have the capacity to attend effectively to the events around them, particularly if these events are relatively straightforward and involve familiar people in familiar settings.

Attention plays an important role in a child's ability to provide details about a crime. Parker et al. (1986) found that elementary age children were able to provide both central and peripheral details of a crime. This would suggest, then, that their ability to attend to information was sufficiently developed to gather some relevant details. However, younger children recall fewer details than older children, perhaps reflecting immature attention processes.

Cognition. A major task for children is understanding the world in which they live. What a child understands about the world indicates the child's level of cognitive — or thinking — development. Cognition depends on the level of language development, and the fund of knowledge and experience a child possesses. Children sometimes appear rational and logical and sometimes do not. It is suggested that this may be due to young children's lack of self-awareness regarding their thought processes. Therefore, children are often unaware of the bound-

aries between what they know and what they do not know.

Garbarino and Stott (1989) report a study conducted by Markman (1979) which illustrates this point. The researchers gave six, seven, and eight-year-old children verbal instructions for a game and a magic trick and the children were asked to let the experimenter know if the instructions were unclear or if they needed more information. The instructions were missing vital information and hence were incomprehensible; however, only the older children indicated the need for more information. The younger children did not seem to realize the instructions were inadequate until they actually tried to carry out the tasks.

This lack of awareness about their thinking processes has many implications. Garbarino and Stott (1989) suggest one: young children may not always be aware of the line between fact and fantasy or between the rational and irrational. They may draw on fantasy, then, to fill in gaps in their knowledge. They may provide answers, explanations and causal judgements for anything or everything they are asked. Thus, pressure to recall may lead to fabrication.

In their review of the literature, Garbarino and Stott (1989) summarize that the young child can reason logically and rationally the closer the subject matter is to his or her own interests and everyday experiences with family, friends and familiar caretakers. "Young children's thinking is likely to seem much less logical and they are likely to resort to illogical or (magical) thinking when they do not know much about what they are

being asked about, when material is highly complex or abstract and when it is far removed from familiar experiences and events" (p. 62).

As children mature, they become increasingly aware of what they know and what they do not know. In addition, they develop strategies that increase their ability to reason and problem solve. These factors may enhance children's ability to understand the difference between fact and fantasy, and to distinguish truth from lying. The older the child is, the better able he or she is to consider a range of alternative explanations and possibilities. By adolescence, a child is thinking much like an adult.

This information suggests, then, that for the youngest of children there is a need for careful evaluation of testimonial competence. However, Perry and Wrightsman (1991) suggest that even with young children there is less concern in cases involving children who have extended contact with the assailant, who experienced an event repeatedly, or who give vivid descriptions of events that remain unwavering over time.

Memory. Memory entails the acquisition, storage and retrieval of information. Memory, according to the information processing model, consists of three parts:

- a) sensory registers, which record information for a brief 3 to 5 second period;
- b) short-term store, a temporary working memory that allows us to remember active, conscious material; and
- c) long-term store, where information is held permanently (Perry and Wrightsman, 1991).

For the average person, memory improves as the individual acquires increasing knowledge and conceptual abilities.

Acquisition depends on the child's ability to perceive and attend to information. As already stated, this can be accomplished by infants. However, the difficulty comes when events are complex. Young children cannot order or interpret perceptions, which can impact on the acquisition stage of memory.

Storage of information appears to be a relatively stable process. Once a piece of information is stored successfully in long-term memory, a preschooler will probably remember as well as an adult. Once stored, the information is there for retrieval and use.

It appears, then, that problems in memory are present primarily during the acquisition and retrieval stages. First, it is difficult for young children to encode information so that it can move into long-term memory for storage. Second, it is often difficult to retrieve information into working memory so that it can be used. The problems appear to stem from the fact that, in children, most of the space in working memory is full of rules for

encoding and retrieving as the child is learning to master the process. With practice the instructions become more automatic. The child can then store more data and interpret events in a logical fashion (Perry and Wrightsman, 1991). Thus knowledge of one's own memory (metamemory) and strategies for remembering (mnemonic strategies) affect recall.

Young children rarely use mnemonic strategies. "Thus, young children are less able than older children to direct their memories for the purposes of either storage or retrieval and they are less able to monitor the accuracy of their memories. ... Although young children may sometimes use strategies spontaneously, children do not use strategies consistently and reliably until the age of eleven or twelve" (Garbarino and Stott, 1989, p.51). However, even children of three or four demonstrate some metamemory (Searleman & Hermann, 1994).

Children bring information into working memory in three ways: recognition, recall, or reconstruction.

Recognition

The simplest form of memory, recognition, merely requires that an individual perceive an object or person as something that was perceived previously (basically a "matching" process). Both adults and children find recognition easier than recall (Cole and Loftus, 1987). While recognition ability is similar for children and adults, children's recall is typically much inferior (Searleman & Hermann, 1994).

Recall

Free, or spontaneous, recall is the most complex form of memory. It requires that previously observed events be retrieved from storage with few or no prompts. This form of memory appears to be strongly age-related. It develops gradually. Children often find it difficult to describe events using free recall (Whitcomb, 1992).

According to Fivush (1993), however, even quite young children can recall accurate details over extended periods of time if they have personally experienced the events. Information given by preschool children in free recall is generally accurate. Although each account is accurate, preschool children tend to recall different information each time they are interviewed about an event. Thus, preschool children can be "inconsistent" (though accurate) in their recall.

Part of the reason for the "inconsistency" may be that preschoolers often rely upon external cues to guide recall. Thus, specific questions or cues may be needed to elicit details of the memory. The problem for interviewers is that specific questions or unrelated cues have the possibility of misleading the young child (Yuille et al., 1993) even though studies have

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A GLOSSARY

Competent — Legally qualified or fit.

Valid — Produces the desired result; legally sound and effective.

Reliable — Will give the same results time after time; dependable.

Credible — Capable of being believed.

Cognition — The process by which knowledge is acquired.

Perceive — To become aware of directly through any of the senses.

Perception — The process involved in perceiving.

Attention — Observant consideration; concentration of mental powers upon an object.

Recognition — The awareness that something perceived has been perceived before.

Recall — To retrieve information with few prompts.

Reconstruction — To recreate by systematically arranging ideas or facts already remembered.



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shown that cues generally enhance accuracy (Pipe, Gee & Wilson, 1993). In real-life situations, the interviewer does not know which cues are relevant to the child's experience. Using cues repeatedly may decrease accuracy, while simply having cues in view can promote detail and accuracy (Pipe, Gee & Wilson, 1993).

Perry and Wrightsman (1991) report a study conducted by Marin et al., 1979 using subjects from age five to young adulthood. Subjects viewed a presentation which was unexpectedly interrupted by a confederate who complained angrily about the use of the room. Subjects were then asked to use recall memory to relate what they could remember about the incident. A number of younger subjects volunteered no information. On average, kindergartners and first-graders recalled about one item per subject, third and fourth graders about three, seventh and eighth graders about six, and college students between seven and eight. "It is important to note, however, that although the youngest (kindergarten-first grade) were able to recall less, what they did say tended to be correct (only 3 percent error). In contrast, the other age groups had error rates of 12, 8, and 10 percent respectively" (p.112).

Very young children sometimes spontaneously engage in free recall. For instance, Garbarino and Stott (1989) reported on a study conducted by Nelson and Ross (1980) which found that children between the ages of 21 and 27 months demonstrated free recall for people, objects and events. Their memories were cued either by location of where an event had occurred or seeing an object or person associated with the remembered event. Nancy W. Brockman, M.S.W., a therapist at Central Virginia Community Services, was among the many clinicians who noted the importance of memory triggers. "An account can be triggered by physical objects, sensory input, or other reminders of the abuse," noted Brockman.

Young children, however, have significant difficulty using internal, or imagined, cues. In her review of the literature, Perry (1992) reports that "generally speaking, neither preschoolers nor six year olds use internal cues to conduct systematic searches of memory. By contrast, some nine-year-olds use internal cues" (p.13).

Although preschool children do not spontaneously employ retrieval strate-

gies, they can benefit from such strategies if they are supplied. In the next issue (Volume 44) VCPN will discuss the success of the cognitive interview which uses cognitive retrieval strategies.

As children mature they begin to draw inferences and are better at "reading between the lines" or interpreting events. Perry and Wrightsman (1991) report a study (Kail & Hagen, 1977) in which six and seven year old children were able to recall events much like an adult would, except there were gaps in their stories. "While most of the important features were recalled, the incidental factors may be forgotten and not reported. As with adults, children also tend to recall the meaning of the sentences they have heard, but not their exact phrasing. Also they sometimes 'recall' information that is not a part of the story, but that is consistent in meaning with what they were told—a phenomenon referred to by developmental psychologists as 'elaborated recall'" (p. 113).

Saywitz (1989) conducted a study in which third, sixth and ninth graders listened to an audio tape of a story about a character who commits a theft. After the presentation of the story, the children received three written tasks: a) a free-recall task; b) a recognition test, and c) six direct questions about a specific character. Five days later, the free-recall and recognition tasks were re-administered. Subjects were then asked to describe the character in as much detail as possible. Eight and nine year olds (third grade) did not exhibit a greater proportion of distorted to accurate recall than their older counterparts. However, they did add significantly more extraneous material. These embellishments ranged from repetitions and exaggerations to blatantly false contradictions.

Elaborated recall can be a problem when a child is testifying in court. In fact, this is a problem for adults as well. People sometimes "remember" details that did not occur. Such errors should not invalidate the complaint, however. The allegations may be true, even if the child is embellishing.

One cannot leave the topic of children's use of recall without mentioning a study conducted by Saywitz, Goodman, Nicholas and Moan (1991). It addressed five- and seven-year-old children's memories of a doctor's visit, with events having some resemblance to limited but important aspects of sexual abuse experiences. All child subjects were female and received a routine medical exam by a female physician. Half of the examinations included routine genital examinations for rashes, infections and tears, while half did not. One week later, with parental consent, children's memories were solicited using free recall, anatomically detailed doll demonstrations, and direct and misleading questions. All children received the same interview which was videotaped.

There were some interesting results. The first major finding was that during the free recall and demonstration, an age-related advantage was found for children only in the non-genital touch condition. Seven-year-olds who had the genital exam responded similarly to the five-year-olds. In fact, five-year-olds more readily revealed genital touch experiences than seven-year-olds. Memory failure in older children was unlikely, as they were able to answer direct questions when asked.

What accounts for this finding? The researchers proposed two possible explanations. First, older children may have intentionally edited their experiences. Because they possess a better understanding of social convention related to nudity and genital touch, they may have simply been too embarrassed to share the information with unfamiliar adults. Or, a second possibility may be that children in the genital examination condition had an emotional block which rendered the information inaccessible. Anxiety may have interfered directly with access to stored information.

The second major finding was that, for both age groups, the majority of vaginal and anal touch went unreported in free recall but was disclosed when children were asked doll-aided direct questions. The researchers suggest this may be because the interviewer was giving implicit permission to talk about a topic children had been taught not to discuss with strangers.

The third major finding was the level of false reporting of genital and anal touch in the non-genital group. It was nonexistent in free recall and in demonstration with anatomically detailed dolls, and was rare in direct questioning. "Our results suggest that although there is a risk of increased error with doll aided direct questions, there is an even greater risk that not asking about genital and anal touch leaves the majority of such touch unreported" (p.690).

Perry and Wrightsman (1991) draw the following conclusion about recall and children: "It would be erroneous to assume that younger children necessarily have poorer recall than older children or adults. In some cases children can provide more accurate information. The important point is that because of their limited use of memory strategies, children often know more than they can freely recall" (p.114).

Reconstruction

Perry (1992) reports that reconstruction is a specialized form of recognition memory. It involves reinstating the context of the original event, for example by creating a sharply focused mental image.

Several researchers have studied an

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interview process, context reinstatement, which capitalizes on reconstructive memory. "With context reinstatement, a previously experienced scene is mentally repeated. For example, the interviewer may ask the person to think of the surroundings, the smells and sounds, the temperature, the location of the furniture, or anything about the event that elicits memories. Recent evidence suggests that context reinstatement leads to recall of more details than standard interviews ... Even very young children perform impressively with the help of context reinstatement" (Perry, 1992, p. 2).

Another technique to assist with reconstruction memory uses a sketch of the floor plan of the site of an event along with dolls representing the people involved. The child provides spontaneous actions and descriptions as the story unfolds (Perry and Wrightsman, 1991).

Another frequently used technique to assist reconstruction memory related to sexual abuse is the anatomically correct doll. These dolls are used by therapists and investigators who are attempting to ascertain events that are associated with a complaint of molestation. The dolls provide cues that allow the child to explain sexual actions by demonstration. Research about anatomical dolls will be discussed in the next issue of VCPN, Volume 44.

Conditions that Affect a Child's Ability to Relate Events

There are several factors that may affect a child's ability to remember and/or relate events accurately. Factors which can influence accounts include trauma, coercion to keep secrets, coaching or lying, suggestibility, methods by which children are interviewed or questioned and the forensic process itself.

Trauma. Psychic trauma can be defined as something that "occurs when an individual is exposed to an overwhelming event resulting in helplessness in the face of intolerable danger, anxiety, and instinctual arousal" (Pynoos and Eth, 1984, p. 38). According to research, traumatic events, such as exposure to vio-

lence, kidnapping, natural disaster, or sexual abuse, may have effects on a person's ability to remember.

Terr (1988) studied 20 children, all of whom experienced a known trauma at some point between ages six months to four years old. She found that children who experienced trauma between 28 and 36 months old were quite capable of accurately telling their story, i.e., displayed accurate verbal memory of the events, when asked to recall the events approximately four and one half years later.

Stress related to trauma can, however, interfere with accurate memory of details of the trauma events. For example, Pynoos and Nader (1989) examined 133 school aged children's memory of a sniper attack at their elementary school. They asked each child to freely recall the events. The researchers then engaged in assisted recall (a reconstruction technique), having each child review the events as if in slow motion, draw the event, dramatize the event, and perform an actual walk through of the sequence of events at the school setting. Affective prompts, such as "What did you feel then?" or "What was the worst moment?" were used. As noted earlier, such techniques enhance recall of details.

This study yielded some interesting results. A major finding concerned the effect of proximity to the violence. The most threatened group tended to either not mention their own injury, increase their distance from deceased children, not mention moments of direct danger, or place themselves in a safe location. Those who were least threatened, on the other hand, tended to place themselves closer to the danger than they actually were or imagine the sniper moving closer to them than he actually did. The children, then, altered their representations of the incident. Another interesting finding was that in free recall, the children reported intended or planned actions as if they had carried them out. These plans included actions for their safety or the safety of others.

In general, if stress from an event is more intense, there is higher anxiety. Moderate anxiety can enhance performance and memory but high anxiety generally hinders cognitive functioning and interferes with memory. For example, attention may focus on a few details such as the weapon used and interfere with attention to the larger picture.

It is important to note, however, that repeated abuse, and in particular sexual abuse, may not be traumatic in the usual sense of the word. In cases where sexual activity has been introduced gradually and/or in a non-threatening manner, the child may not have been frightened or have experienced the type of intense anxiety inherent in a sniper attack. More research is needed in order to understand the effects of repeated sexual abuse on

memory and specifically to learn what abuse factors impair memory and what factors make little difference in the child's ability to remember.

Inducements to Keep Secrets. Inducements to keep secrets is a situational factor that can impact on a child's account. Particularly in child sexual abuse, a child may be motivated to keep secrets. "Incentives for keeping secrets might include (a) physical threats to the child or to loved ones; (b) telling the child that the perpetrator will get into trouble if the child discloses the secret (which may lead to disruption of the family unit, the child's main source of support), (c) promises of tangible rewards if the child keeps quiet, and d) telling the child that the child will get into trouble" (Wrightsmen and Perry, 1991, p.120). It appears that under circumstances of inducement, errors are likely to be errors of omission. In other words, the children tend to omit important information rather than giving false accounts of the event.

Lying/Coaching. It is possible that some children are not telling the truth. The reasons for the fabrication are not always clear. In reviewing a CPS sample in North Carolina, Everson and Boat (1989) estimated a rate of 4.7 to 7.6 of the sexual abuse reports were due to a child's fabricating the accusation for some personal gain such as attention, wanting to move from a troubled household, or revenge. This rate is similar to the 5.2 percent rate of false reports found by the authors in an earlier sample (1986). A review of five other studies (Faller, 1988; Goodwin, 1979; Horowitz, 1984; Jones & McGraw, 1987; Peters, 1976) by the American Prosecutor Research Institute (1989) found false allegation rates to range from 3 to 8 percent. Most false allegations were made by adults rather than by the child.

Children generally lie in order to cover up for misdeeds (Bussey, Lee & Grimbeek, 1994). If a child felt he or she might be in trouble because of sexual abuse, lying might be employed as a strategy to avoid disclosure, and thus avoid trouble.

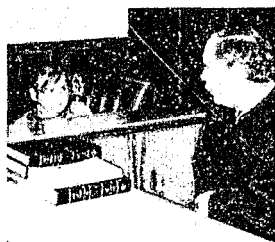
Another reason a child may lie is because of a wish to comply with the demands of a significant person. This may occur in divorce cases where the parent with whom the child is significantly aligned is facing a custody battle by the other parent. Another situation may be when a parent's psychopathology involves insistence that a child was sexually abused (Terr, 1988).

A child may also lie because of his or her own background or psychopathology. In a presentation to the Seventh National Conference on Child Abuse and Neglect (1985), Jones and McGraw reported that many of the false allegations of

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sexual abuse made in Denver in 1983 were made by female teenagers suffering from Post Traumatic Stress Disorder due to prior sexual victimization when they were young children (reported in Garbarino & Stott, 1989).

Few studies have addressed coaching the child to lie about allegations. Tate and Warren-Leubecker (1989) addressed the possibility of coaching children to make false statements in an analogue study (reported in Bussey, Lee & Grimbeek, 1994). Children were coached in detail to trick another adult about whether or not they had played with a toy. Only about half complied and by the end of the interview only 3 of the 20 children still maintained the lie.

Despite lack of evidence, many people believe that it is easy to coach young children to lie. Most of the lawyers and therapists interviewed by VCPN staff felt that young children were susceptible to coaching. However, false recantations appear to be a greater problem than false allegations.

Suggestion. Rather than actively eliciting the cooperation of a child in a scheme to lie, it may be that a parent or significant person causes a young child to believe that abuse has occurred by unrelenting questioning or by telling the child repeatedly that abuse has happened.

The findings of Saywitz et al. (1991) were discussed earlier. This study found that false reporting of genital and anal touch was rare even with direct questioning. Not all data on children's reports of medical procedures are consistent with this conclusion. In contrast to Saywitz et al. (1991), Ornstein and his colleagues (1992) and Oates and Shrimpton (1991) (both reported in Ceci and Brunk, 1993) found that preschool children were more responsive than older children to suggestion about previously experienced events that involved body touching. Younger children provided a substantial number of false reports in response to suggestive questions. For example, 3-year-olds were more prone than 6-year-olds to make false claims in response to suggestive questions such as "Did the nurse lick your knee?"

In a study by Ceci, Leichtman and Brunk (in press, reported in Ceci and Brunk, 1993) children were questioned in either a neutral or a misleading manner regarding a visit to their pediatrician. Of children receiving misleading information, 67 percent offered false reports as

opposed to 27 percent of control children. Those most likely to offer false information were children who experienced repeated suggestions over multiple interviews and those with a longer time delay between the events and the questioning. It is important to note, however, that there were individual variations. Some children were resistant to suggestion regardless of condition.

Thus, recent studies about the reliability of children's reports are contradictory. One can locate studies claiming that young children are as immune to suggestion as older children (Marin, Holmes, Guth and Kovac, 1979; Saywitz et al., 1991) and studies claiming that younger children are more suggestible (Ceci, Ross and Toglia, 1987; Cohen and Harnick, 1980; King and Yuille, 1987). Ceci and Brunk (1993), after reviewing the suggestibility literature, found 18 studies that compared preschool children to older individuals. Of these, 15 of the 18 found greater suggestibility in preschool children. Young children's errors can relate both to central and peripheral events.

Loftus and Davis (1984) conclude that no single factor can explain the discrepant findings. In reviewing several studies, they suggest that age alone is the wrong focus. Instead, age is likely to interact with several factors. Probably, if an event is understandable and interesting to both children and adults, and if both have strong memories of the event, age differences in suggestibility will not be found. However, if a child's memory is not encoded well or if a time delay weakens a child's memory, then age differences may emerge.

What factors can interact with age to influence a person's response to suggestion? There are several.

First, strong suggestions may increase the chances of an inaccurate response. For instance, Goodman and Helgeson (1985) hypothesize that a suggestion like "Did Uncle Henry touch your penis?" may be less likely to lead to an inaccurate

response than a stronger assertion such as "I'll bet Uncle Henry touched your penis, isn't that right?" or "Let's pretend Uncle Henry touched your penis. How would he have done it?"

A second factor relates to the strength of a memory. While they may not agree on the reasons, experts do agree that memory is not stable. The brain does not record a complete picture of past experience (Perry and Wrightsman, 1991). Memory can be weakened by the passage of time, level of interest and understanding of events, and the imposition of misleading information. However, recent research suggests that strong memories are resistant to change, even for children, and memory strength can be enhanced by the personal significance of an event to the child.

Centrality of information to the event is another factor related to suggestibility. Both children and adults are vulnerable to suggestion about peripheral information. Children, however, are as resistant to suggestion as adults when asked about central details, such as action events (Goodman and Hagelson, 1985).

Another factor relates to the status of the questioner. Children are more likely to be suggestible if the questioner represents high status and power (Ceci and Brunk, 1993). Parents, therapists, and legal officials all fall in this category. Children may be more likely to comply with suggestions of this group than with neutral interviewers.

It is important to note that adults and children alike can make errors if given misinformation embedded in questions. For example, Searleman & Herrmann (1994) cite a study by Loftus et al. (1978). Subjects who saw a Datsun stop at a *stop sign*, then turn were asked if another car passed the Datsun when it stopped at the *yield sign*. A second group was given correct information in the question (asked if another car passed the Datsun at the stop sign). A third group was given no information about the sign in the question. Seventy-five percent of the group given correct information identified the proper picture with a stop sign in it while 59 percent of the group given no information identified the correct picture and only 41 percent of the group given incorrect information were accurate in picture identification. Thus, some subjects given incorrect information incorporated this misinformation. In a similar experiment, Ceci, Toglia & Ross (1987) demonstrated that younger children were more vulnerable than older children to biased interviewing.

Thus, children may be influenced by leading questions if they are pressured to supply more details, if questioned under intimidating circumstances or if instilled with a negative stereotype about a person then questioned with misleading suggestions over many weeks. Therefore, suggestibility is not a stable factor, but rather a

Memory in Young Children

- Recall less information than older children
- Free recall is generally accurate
- May recall different aspects at different interviews
- Dependent upon cues or adult questions to prompt recall
- More sensitive to suggestion or leading questions
- Trouble sequencing events

function of the child, the environment and significant individuals in the environment (Batterman-Faunce & Goodman, 1993).

Several techniques can reduce the possibility of contaminating a child's account. Non-leading questions, avoiding repeating questions, avoiding "yes/no" questions and lack of confirmatory bias will enhance the likelihood of an uncontaminated account. These techniques will be discussed further in the next issue of *VCPN*.

Warning subjects that misinformation is possible or that questions might be tricky may also reduce suggestibility. Misinformation that is blatant and encountered early after the event is easier to reject. Also, if a person first makes a detailed statement about what is witnessed then later misinformation is easier to reject (Loftus, 1977, cited in Searleman and Hermann, 1994).

Interview Questions. Generally speaking, children are not sophisticated verbal



Gina Richardson, Ph.D.

communicators. Language develops slowly, yet dramatically, during the first five to seven years. Many fine points of language continue to develop at least through adolescence.

The development of language has three dominant characteristics. First, it is social. It develops through communication between a child and his or her caretakers. Caretakers are in the best position to understand what a child is trying to say. Of course, errors in understanding can occur between a child and adult, whether familiar or a stranger.

Second, children and adults view language differently. Children's use of language is tied to actions and is embedded in ongoing events and relationships with those that children know well. It is not until six or seven years of age that a child can be objective about the use of language and give reports that are not dependent on the support of others.

Third, there is a discrepancy between what a child understands and what a child can say. Children can understand more than they can produce (Garbarino and Stott, 1989).

Interviewers, then, need to know children's strengths and weaknesses as communicators and make every effort to communicate in a manner that proves effective for gathering accurate information from a child. In a recent Virginia training sponsored by the Children's Justice Act Program, Gina Richardson, Ph.D., an expert in the field of linguistics raised some important issues related to effective interviewing or questioning of children.

These included: 1) Understanding what terms a child uses for body parts, sexuality and bodily functions. Most children refer to body parts individually and will have specific terms for each (such as "butt" and "pee-pee"). Children may not understand collective terms such as "private parts". If an interviewer asks a child "Did he touch your private parts?", the reply may be "no" whereas if asked "Where did he touch you?" the answer might be "On my pee-pee." Questions need to be asked which use the child's terms. 2) Avoiding synonyms. The interviewer should not assume synonyms can be used interchangeably. For instance "preschool" may be familiar while "daycare" is totally unfamiliar. An interviewer must listen to a child and retain the child's vocabulary at all times. 3) Meanings for words may be different for adults than children. For instance, "babysitting me" may mean something different to a child than "watching me." 4) The word "story" is ambiguous to a child and should not be used unless modified ("true story" as opposed to "made up story"). In fact, *The Random House Dictionary of the English Language: Second Edition Unabridged* gives ten definitions for "story," only two of which state that a story must be true. 5) When asked about their understanding of truth versus lying, children should be asked about lies first. "Lies" are easier to explain and provide a context for explaining "truth." 6) Prepositions are difficult words for children to learn. Their use is not always logical (for example, "on a train" versus "in a car") and many prepositions have several meanings. An interviewer needs to monitor a child's use of prepositions to see if it is adult-like. If not, switch to more explicit words ("inside" rather than "in") or ask a child to demonstrate. 7) Children learn to use pronouns early. However, names need to be used often enough so that the child knows to whom the pronoun refers. Children as old as nine may have difficulty tracking the meaning of a pronoun across several sentences unless the name of the person to whom it refers is repeated once in each sentence.

In addition to vocabulary issues, Richardson points out that there are language issues in sentence structure that are also important to interviewing young children. Questions may be too complicated for children to comprehend. Since the complexity of a sentence can be determined by the number of verbs it has, interviewers should aim for a limit of two verbs per sentence. However, the number of words in a sentence has little to do with how complex the sentence is. If a sentence is made shorter simply by leaving words out, the sentence may actually be more complex because the child is required to fill the words back in again.

Events in the sentence should be mentioned in the correct chronological order,

since children use a first-things-mentioned-first processing strategy. Interviewers should help children focus on the issue at hand by specifying and maintaining each topic. Tell the child what needs to be talked about (for example, "Tell me how you play the tickle game at Sam's house" or "Let's talk about the tickle game"). Interviewers should refrain from asking about peripheral information while the child is telling about the game. If the child thinks the interviewer has switched from the tickle game to another topic (such as 'other kids at Sam's house'), the child will assume that the necessary information about the tickle game was given, that the answers were wrong, or that the interviewer is no longer interested in the game.

Compound sentences with embedded clauses or other language complexities may be beyond the comprehension of children under eight. Interestingly, overloaded utterances are endemic to the investigative and judicial process. Saywitz & Snyder (1993) cite a question asked to a 4 year-old, "On the evening of January third, you did, didn't you, visit your grandmother's sister's house and didn't you see the defendant leave the house at 7:30 after which you stayed the night?" (p. 117).

Young children tend to not ask for clarification nor do they announce or, possibly, even recognize when adult questions are defective (Perry, et al., in press). Frequently children are questioned about time, distance or weight, all of which are learned gradually over the course of elementary school years and are not fully mastered until preadolescence. Children may be asked the number of times an event occurred and not be able to respond correctly or at all because they may not understand number concepts or be able to count items within the context of time. They may be asked questions about appearance and not have fully developed understanding of how to estimate height, weight or age.

Children may be asked questions that require abstract thinking, an ability that develops in pre-adolescence. A preschool child may be asked to take or understand another person's point of view, a skill that is not accomplished until about age seven. Children may contradict themselves in attempts to explain questions they do not understand. For example, a child may be unable to respond adequately to questions about the perpetrator's motivation. Children may make certain assumptions, such as that the adults already know the answer to the questions they are asking the children. In such cases, a child may answer randomly, using guesses or may become frustrated and refuse to answer the questions (Saywitz, Nathanson and Snyder, 1993).

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The Forensic Context: Factors Associated with Testimony. Communicative competence in the courtroom is a function of the child's understanding of investigative and judicial processes. Saywitz, Nathanson, and Snyder (1993) report a 1989 study by Saywitz which found developmental patterns. Younger children in the four- to seven-year-old range did not know the judge is in charge of the courtroom and assumed the unfamiliar faces of the jury were friends of the defendant, rather than impartial decision makers. They thought witnesses would be believed (as do 8- to 10-year-olds) and were taken by surprise by the defense attorney's disbelieving tone. Eight- to 11-year-olds begin to understand the preliminary hearing process, with a judge listening to the information and making a decision about evidence. They are aware of the court as a fact finding process, but may view the jury as the same as any other spectators, with the judge making all the decisions. By 12 to 14 years of age, children have a fairly clear understanding of the judicial process and the roles of those involved. They also understand that the process does not always uncover the truth and that decisions can be made from erroneous information. However, like younger children and, in fact, many adults, they are confused about the relationship

between the judge and the jury.

"The degree to which children misunderstand the forensic process may influence their verbal and nonverbal responses to questions in ways that are not yet understood completely" (Saywitz, et. al, 1993, p.70).

Saywitz, Nathanson and Snyder (1993) studied the effects of testifying in court on 8- to 10-year-old children. They found that children perceive certain characteristics of the courtroom as stressful, and their free recall testimony, therefore, was less complete than age-mates in the control group who gave descriptions of the same events in school. The authors suggest that the environment in which questioning occurs can affect a child's statements about an event. "These data suggest that more complete and detailed reports can be expected in the statements gathered from interviews held in familiar, private and informal settings than from testimony offered in the courtroom" (p.621).

The legal system requires that children perform despite emotional factors. Children must be able to overcome fear of public speaking and scrutiny, fear of losing control, embarrassment and fear of rejection by friends or family. Children worry about being "yelled at", being disbelieved, and facing the accused (Saywitz and Snyder (1993).

Other aspects of the legal process are stressful. Problems include the court's tendency to delay hearings and trials through generous grants of continuances. Such delays can result in the erosion of children's memories. In addition, delays may have an impact on a child's ability to develop healthy functioning.

Other stressful factors include repeated interviews during investigation and trial process, testifying at more than one proceeding, lengthy and harsh cross examination, the defendant's presence in court which can be intimidating, and lack of family support (Whitcomb, 1992c).

Summary

The credibility of the child as a witness is a complex issue. Understanding the child's developmental processes and how they relate to memory and communication is essential to a fair and thorough investigation.

The next issue of VCPN will examine specific ways that key players in the system can help. Volume 44 will highlight police/social work investigation teams, investigation methods that help obtain accurate data, court room modifications being used in Virginia and Virginia's training programs for professionals.

References Available On Request

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