Surprising Findings in Science: What Every Defense Attorney Should Know.
DSO Worldwide Conference, Camp Pendleton, 21 September 2022

Dr. Paul Simpson, Forensic Psychologist, (520) 355-1000
doc@psy.law / www.ArizonaForensics.com

False/Unfounded Sexual Assault Allegations (page 3)

Scientific research gives a range of 40%-to-50% for false or unfounded allegations of rape. The FBI says that reasons for false allegations of rape include mental illness/depression, attention/sympathy, financial/profit, alibi, or revenge.

Alcohol and Memory (page 27)

Research on ***alcohol myopia*** finds alcohol consumption decreases perceptual and cognitive functioning, and ultimately the amount of information that individuals can process. Consequently, when a person is intoxicated, the range of information they can pay attention to is restricted, such that they are able to attend to only some of the information that could be registered by a sober person. In addition, their ability to fully analyze registered information is impaired. On a separate note, a person with a prior history of blackouts performs more poorly on memory exercises, even if they are currently only mildly intoxicated and not in black out.

Female Initiated Domestic Violence Against Men (page 41)

Popular myths about female-initiated violence is that it is "inconsequential violence", doesn't harm male victims, is only bilateral, or only in self-defense. To the contrary, "*Now we know that women assault non-violent male partners more frequently than men assault non-violent female partners*."

Countering Counterintuitive Testimony (page 53)

Counterintuitive Behavior (CIB) testimony seeks to explain complaining witness behaviors as reasonable reactions to sexual assault. These behaviors include:

1. Not fighting or resisting during the assault (*Tonic Immobility*, *Fright-Flight-Fight-Freeze*).
2. Acting "normal" the next morning; shopping, partying, going to work.
3. Not telling, delayed telling, or "piecemeal" disclosure.
4. Continued contact with the offender ("*Trauma Bonding*"; having sex, positive texting, dates after the instant event).
5. Inconsistent, changing, or incomplete memories.
6. Recantation.

But there is a tendency for CIB experts to overstate the science and make claims that cannot be backed up from research. This excess, without a humble recognition of the limits of the current science, is where problems arise.

False/Unfounded Child Abuse Allegations (page 54)

Research into the frequency of false allegations of child abuse reveals rates ranging from two-to-eight percent of referrals to child abuse clinics, six percent of emergency room referrals and substantially higher rates of 36.4% to 55.5% for allegations arising out of the context of custody disputes.

Child Sexual Abuse "Symptoms" (page 64)

There is no such thing as "symptoms" that have been scientifically validated to indicate sexual abuse has occurred. The research consistently shows that any number of reactions, including no symptoms, are shown to occur in children post-abuse. The claims of symptoms of child sexual abuse lack 'discriminate validity.'

Child Memory and Suggestibility (page 67)

Eyewitness testimony from children is highly susceptible to contamination and reconstruction error.

Pedophilia vs Hebephilia (page 90)

Pedophilia is a biologically abnormal impulse that can involve significant defect in personality and psychological health. In contrast, hebephilic actions involve "*normal*" impulse that are not successfully inhibited by the neocortex. These actions do not require defect in personality or psychological functioning. The distinction of *pedophilia* vs *hebephilia* has important implications for recovery and future risk.

Age Estimation from Photography (page 92)

Estimating age from viewing photographs is surprisingly inaccurate, with multiple studies showing that pediatricians, forensic pathologists, gynecologists, and pediatric endocrinologists have large error rates when attempting to discern adolescent females vs adult females in photographs. In addition, using the Tanner scales for estimating age of pre-pubescent girls / adolescent girls / adult women in photographs is unprofessional practice.

Child Pornography Offenders and Low Rates of Re-Offense (page 95)

A number of studies have determined that *non-contact* child pornography offenders are significantly less of a risk for future sex crimes as compared to traditional *contact* sex offenders. This includes the *US Sentencing Commission's* own findings of re-offense rates for non-contact child pornography offenders of 2.3% for future child pornography crimes and 3.6% for future contact offenses. Compare this to re-offense rates for traditional contact sex offenders, whose overall recidivism rates are 14% after 5 years, 20% after 10 years and 24% after 15 years.

Butner Study Redux (page 103)

This poorly done study is often cited by prosecution and FBI agents in promoting the belief that most child pornography offenders are actually contact offenders who have not yet been discovered. The professional community and even the New Yorker magazine (2013) have roundly debunked this faux study. Even one of the lead authors of the Butner study rejects the suggestion that the majority of CP offenders are actually contact sexual offenders, and therefore, dangerous predators.

False Confessions (page 106)

Social science literature suggests that the interrogator-suspect interaction, coupled with the suspect's psychological makeup, explains how an individual can act against his/her best interest in confessing to crimes s/he did not commit.

Hypnopompic Delusions (page 113)

Hypnogogic or hypnopompic hallucinations occur in all sensory modalities, and include out-of-body experiences, and sensing and seeing the presence of menacing intruders in one's bedroom.

Sexomnia (page 118)

Sexsomnia is a newly identified medical condition whose sufferers engage in sexual behavior during their sleep. Problematic cases are highly distressing and have forensic implications. The consensus among opinion leaders in sleep medicine is that sexsomnia may be quite common but that it often goes unreported because of shame and embarrassment.

About Dr. Paul Simpson (p. 122)

False and Unfounded Sexual Assault Allegations

There are true victims of sexual assault that demonstrate a variety of reactions. But there is a tendency for counterintuitive experts to overstate the science, ignore "*false positives*" and insinuate that counterintuitive behaviors are dispositive indicators that the complaining witness's testimony is truthful. In a sentence; Counterintuitive Behavior testimony (CIB) lacks "*discriminant validity*" – its overly "*sensitive*" at the cost of "*specificity*" (it fails to account for false reports of sexual assault). Let's try to unpack that dense sentence.

Sensitivity vs. Specificity

In medical diagnosis, test sensitivity is the ability of a test to correctly identify patients with a particular disease (true positive rate), whereas test specificity is the ability of a test to correctly identify those without the disease (true negative rate)

For instance, if a physician suspects a patient has strep throat, she might administer a "*Rapid Antigen Test*" (RAT). This test can detect strep bacteria in minutes and will correctly identify 100% of patients suffering from strep. In scientific terms, the RAT has high sensitivity to detecting strep in a patient.

However, the RAT also has a high "*false positive*" rate, meaning it will often show positive results for a person that does not have strep throat. In scientific terms, the test is overly sensitive and has a high level of "*false positives*". Another way of stating this is the RAT lacks specificity.

If the implications of a false positive are low risk, an overly sensitive test might be acceptable. For instance, treatment for strep (prescribing antibiotics) is a low-risk intervention. So, a physician might not worry about prescribing antibiotics for a person who actually does not have strep. But as the implications of a false diagnosis become more serious (i.e. diagnosing cancer or being falsely accused of a sex crime) a higher level of specificity is required.

From a scientific standpoint, CIB symptoms can be overly "*sensitive*" and lack "*specificity*".

Diagnostic sensitivity: "*Can this symptom rule in a reaction to a true sexual assault?*"

Diagnostic specificity: "*Can this symptom rule out a false claim of sexual assault?*"

Rate of Unproven and False Reports

Research on CIB typically involves anecdotal surveys about reactions to self-reported sexual victimization in the past. And herein lies one of the fundamental flaws in CIB research - there is no accounting for subjects who are mistaken or lying about sexual assault. So, in *Daubert* or in the trial phase, consider working to establish research's findings for what percent of sexual assault claims are proven, unproven or false.

We begin with a basic question: "*What percent of sexual assault claims have been found to be unproven or false?*" Unproven is different than false. You'll need to decide which of these concepts you want to include in your cross.

A) "*What percent of sexual assault claims have been found to be unproven?*"

This is intuitively the best way to ask the question. Law enforcement investigates a suspected crime and gives their findings to prosecutors, who then determine whether to move forward with charges. The American legal system doesn't seek to prove the negative – i.e. a jury does not determine "*a defendant is innocent of the crime in question*." Our legal system affirms the positive – the accused did or did not commit the crime and is innocent until proven otherwise.

What percent of sexual assault claims are ultimately unproven? Since 2003 the Department of Defense has produced an "*Annual Report on Sexual Assault in the Military*". In 2018; 482 completed cases of sexual assault were preferred for action. Of this number, **42% of the charges**

were proven and **58% remained unproven** in a court of law (acquitted, preemptive discharge, or charges dismissed).

An important distinction made in the 2018 report is that the 42% conviction rate was for penetration, sexual contact or *lesser* charges. Drilling down into the details; of trials in 2018 involving charges of penetration or sexual contact that resulted in conviction;

a) 55% were convicted of penetration or sexual contact; and
b) 45% were convicted of lesser charges.

Adding in this additional data, an interesting picture emerges. In 2018, 482 complaints of sexual assault were thoroughly investigated and resolved. Of those cases, 111 (23%) concluded with a trial conviction of penetration or sexual contact. Alternately just over three-quarters (77%) of preferred sexual assault claims were ultimately determined to be unproven ["*Other Offense*": (19%), "*Acquitted*" or "*Dismissed*": (39%)]. Bear in mind this statistic considers preemptive discharge leaves the charge unproven [RILO / DILO: (19%)]. See Appendix C for a description of this data.

B) "*What percent of sexual assault claims have been found to be false?*"
It is difficult to estimate the proportion of true-to-unfounded-to-false accusations, due in part to inconsistent definitions of what constitutes an unfounded or false accusation (Saunders, 2012). But research has discovered mistaken or false reports occur on a regular basis. Here's some of the more prominent studies.

> **Kanin (1994)** – This ground-breaking and respected research found *41% of the total disposed rape cases (n = 109) in a Midwest community were officially declared false during a 9-year period.* Interestingly, the researchers did a follow-up study at two large Midwestern universities over a three-year period (1986-1988) and found that 50% of the reported forcible rapes were determined to be false accusations (32 of the total 64).
>
> **Peter Neufeld and Barry C. Scheck** - Co-founders of the *Innocence Project* note:
>
> - *"Every year since 1989, in about 25 percent of the sexual assault cases referred to the FBI where results could be obtained, the primary suspect has been excluded by forensic DNA testing. Specifically, FBI officials report that out of roughly 10,000 sexual assault cases since 1989, about 2,000 tests have been inconclusive, about 2,000 tests have excluded the primary suspect, and about 6,000 have "matched" or included the primary suspect."*
> - The authors continue, *"these percentages have remained constant for 7 years, and the National Institute of Justice's informal survey of private laboratories reveals a strikingly similar 26 percent exclusion rate."* If the foregoing results can be extrapolated, then the rate of false reports is roughly between 20 percent (if DNA excludes an accused) to 40 percent (if inconclusive DNA is added).
> - But that percentage is likely much higher because the presence of the accused's DNA fails to rule out consensual sexual activity. For instance, someone who has been in alcohol blackout might sincerely be mistaken that they were sexually assaulted.
>
> **Rumney (2006)** conducted a review of 20 studies of false reporting in the US, New Zealand and the UK. The studies' findings of false rape allegations ranged from 1.5% to 90%. He draws two conclusions from his review of the literature. First, the police continue to misapply the "no-crime" or "unfounded" criteria. Rumney's second conclusion is that it is impossible to *"discern with any degree of certainty the actual rate of false allegations"* because many of the studies of false allegations have adopted unreliable or untested research methodologies.
>
> **Ferguson (2016)** did a meta-analysis of seven studies and found that false reporting was a minimum of 5%, but the total false reporting rate would be greater if both confirmed false reports and equivocal cases were included.

Bottom Line:

- How have the studies the expert is citing accounted for the demonstrated high rate of unproven or false sexual assault reports?
- How has the expert accounted for an unproven / false sexual assault report that might exist in this trial?

When crossing the CIB expert, consider asking *"What is the percentage of unfounded and false sexual assault claims?"*

- *"You are aware that the 2018 Annual Report on Sexual Assault in the Military reported that 58% of sexual assault claims were unproven, correct?*"
- *"Further, the 2018 Annual Report found just over three-quarters (77%) of preferred sexual assault claims were ultimately unproven."*
- According to FBI DNA statistics, the *false* reporting rate for sexual assault claims is at least 20-40%.
- The highly regarded Kanin study showed false claims of sexual assault range from 41%-50%.
- *"How have you accounted for that high rate of unproven or false sexual assault allegations when forming your opinion that . . . [e.g., that sexual assault victims will 'often times' engage in subsequent consensual sexual activity with their alleged assailant]?"*

Consider making the 2018 "*Annual Report on Sexual Assault in the Military*" (and/or the FBI DNA study, and/or the Kanin study) a defense exhibit that you can use during your cross of the expert. Defense cannot simply pre-admit articles or studies during cross-examination. However, under the *Learned Treatise Exception*, a defense counsel can make the expert aware of the articles and then ask them to read the portions out loud. They can also have those same portions on a slideshow and show them to the members and ask the expert to read them out loud. The members cannot take these to the deliberation room.

Prior to trial you can get these online or email me and I'll send you these reports/studies. Also, be sure to read Rumney's article "*Purported False Allegations of Rape, Child Abuse and Non-Sexual Violence: Nature, Characteristics and Implications*" in the Journal of Criminal Law (2017). Here's the abstract for the article. If you can't find it online, email me and I'll send you a copy.

> **Purported False Allegations of Rape, Child Abuse and Non-Sexual Violence: Nature, Characteristics and Implications**
> Philip Rumney, Kieran F McCartan
> The Journal of Criminal Law, First Published December 19, 2017
> **Abstract**
>
> The subject of false rape allegations is a subject shrouded in anxiety, confusion and misunderstanding. Despite a growing body of quality research there continue to be significant gaps in our knowledge about the topic, including the phenomenon of false allegations beyond rape and other sexual offences. The purpose of this article is to seek to deepen our understanding by examining a unique dataset comprising 701 cases involving individuals who purport to have been the subject of false accusations of rape, child sexual abuse, child abuse/neglect and other forms of wrongdoing. This article aims to provide an insight into the nature and characteristics of these allegations and explore the implications of the data for several research and policy questions. It will also critically examine some of the current literature and scholarly claims in this area, particularly around the commonality of false allegations and critique claims that discussion of this topic is dangerous and best avoided. Finally, the article sets out a future research agenda in which the complex issues raised by false allegations can be carefully considered, and the scale, impact and pathways to accusation can be better understood.

Prevalence of False Rape Allegations

DiCanio (1993)
States that while researchers and prosecutors do not agree on the exact percentage of false allegations, they generally agree on a range of 2% to 10%.

Kanin (1994)
"False Rape Allegations" by Eugene J. Kanin Ph.D.

Eugene J. Kanin of Purdue University investigated the incidences of false rape allegations made to the police in one small urban community in the Midwest United States (population 70,000) between 1978 and 1987. He states that unlike in many larger jurisdictions, this police department had the resources to "*seriously record and pursue to closure all rape complaints, regardless of their merits.*" He further states in each investigation "*the complainant must admit that no rape had occurred. She is the sole agent who can say that the rape charge is false.*"

Kanin's findings - "*Regarding this study, **41% (n = 45) of the total disposed rape cases (n = 109) were officially declared false** during this 9-year period, that is, **by the complainant's admission that no rape had occurred and the charge, therefore, was false***." The researchers verified, whenever possible, for all of the complainants who recanted their allegations, that their new account of the events matched the accused's version of events.

After reviewing the police files, Kanin categorized the false accusations into three broad motivations: **alibis, revenge, and attention-seeking**. These motivations were assigned prevalence of roughly 50%, 30%, and 20% respectively. This categorization was supported by the details of complainant recantations and other documentation of their cases.

In their conclusion, Kanin and colleagues caution:

> *Most problematic is the question of the generalizability of these findings from a single police agency handling a relatively small number of cases. Certainly, our intent is not to suggest that the 41% incidence found here be extrapolated to other populations, particularly in light of our ignorance regarding the structural variables that might be influencing such behavior and which could be responsible for wide variations among cities. But a far greater obstacle to obtaining "true" incidence figures, especially for larger cities, would be the extraordinary variations in police agency policies (see Comment, 1968; Newsweek, 1983; Pepinsky and Jesilow, 1984); variations so diverse, in fact, that some police agencies cannot find a single rape complaint with merit, while others cannot find a single rape complaint without merit. Similarly, some police agencies report all of their unfounded rape cases to be due to false allegation, while other agencies report none of their unfounded declarations to be based on false allegation (Kanin, 1985). . . **On the other hand, a degree of confidence exists that the findings reported here are not exaggerations produced by some sort of atypical population, that is, nothing peculiar exists about this city's population composition to suggest that an unusual incidence or patterning of false rape allegations would occur.** This city is not a resort/reveling area or a center attracting a transient population of any kind, attributes that have been associated with false rape reporting (Wilson, 1978). **The major culprit in this city may well be a police agency that seriously records and pursues to closure all rape complaints, regardless of their merits. We may well be faced with the fact that the most efficient police departments report the higher incidence of false rape allegations. In view of these factors, perhaps the most prudent summary statement that is appropriate from these data is that false rape accusations are not uncommon.** Since this effort is the first at a systematic, long-term, on-site investigation of false rape allegations from a single city, future studies in other cities, with comparable policies, must assess the representativeness of these findings.* (p. 86)

Interestingly, the researchers did a follow-up study with similar results. They investigated the combined police records of two large Midwestern universities over a three-year period (1986-1988) and found that **50% of the reported forcible rapes were determined to be false accusations** (32 out of 64 total). No polygraphs were utilized, the investigations were the sole responsibility of a

ranking female officer, and a rape charge was only counted as false under complainant recantation. In this sample, the motivations mentioned above were roughly evenly split between alibi and revenge, with only one case characterized as attention-seeking.

Lundregan (1996)

Convicted by juries, exonerated by science: Case studies in the use of DNA evidence to establish innocence after trial. Connors E, Lundregan T, Miller N, McEwen T. June 1996. **U.S. Department of Justice and National Institute of Justice.**

According to a 1996 Department of Justice report, "**in about 25% of the sexual assault cases referred to the FBI, ... the primary suspect has been excluded by forensic DNA testing. It should be noted that rape involves a forcible and non-consensual act, and a DNA match alone does not prove that rape occurred. So the 25% figure substantially underestimates the true extent of false allegations**.

The research conducted a study of documented 28 cases which, "with the exception of one young man of limited mental capacity who pleaded guilty," consist of individuals who were convicted by juries and, then, later exonerated by DNA tests. At the time of release, they had each served an average of 7 years in prison.

From the Report's Introduction:
The principal purpose of the study, initiated in June 1995, was to identify and review cases in which convicted persons were released from prison as a result of post-trial DNA testing of evidence. As of early 1996, researchers had found 28 such cases: DNA test results obtained subsequent to trial proved that, on the basis of DNA evidence, the convicted persons could not have committed the crimes for which they were incarcerated.

(p.12) *All 28 cases involved some form of sexual assault…All alleged assailants were male. All victims were female: most were adults, others teenagers or children. All but one case involved jury trial.*

(p.15) *The 28 cases shared several common themes in the evidence presented during and after trial.* ***Eyewitness identification****. All cases, except for homicide, involved victim identification both prior to and at trial. Many cases also had additional eye witness identification, either placing the defendant with the victim or near the crime scene…* ***many defendants presented an alibi defense, frequently corroborated by family or friends… the alibis apparently were not of sufficient weight to the juries to counter the strength of the eyewitness testimony****…A majority of the cases involved non-DNA-tested forensic evidence that was introduced at trial.*

The article included quotes from Peter Neufeld and Barry C. Scheck, prominent criminal attorneys and co-founders of the Innocence Project that seeks to release those falsely imprisoned. They stated,

> *"Every year since 1989, in* ***about 25 percent of the sexual assault cases referred to the FBI where results could be obtained, the primary suspect has been excluded by forensic DNA testing.*** *Specifically, FBI officials report that out of roughly 10,000 sexual assault cases since 1989, about 2,000 tests have been inconclusive, about 2,000 tests have excluded the primary suspect, and about 6,000 have "matched" or included the primary suspect."*

The authors continued, "**these percentages have remained constant for 7 years, and the National Institute of Justice's informal survey of private laboratories reveals a strikingly similar 26 percent exclusion rate**." **If the foregoing results can be extrapolated, then the rate of false reports is roughly between 20 (if DNA excludes an accused) to 40 percent (if inconclusive DNA is added).** The relatively low estimate of 25 to 26 percent is probably accurate, especially since it is supported by other sources.

FBI statistics (1995-1997)

In the United States, the FBI *Uniform Crime Report* in 1996 and the United States Department of Justice in 1997 reported that 8% of the rape accusations had been thoroughly investigated and determined to be false, a rate higher than that for any other indexed crime.

- 1995 - *The "unfounded" rate, or percentage of complaints determined through investigation to be false, is higher for forcible rape than for any other Index crime. In 1995****, 8 percent of forcible rape complaints were "unfounded,****" while the average for all Index crimes was 2 percent.*

- 1996 - *The "unfounded" rate, or percentage of complaints determined through investigation to be false, is higher for forcible rape than for any other Index crime.* ***Eight percent of forcible rape complaints in 1996 were "unfounded****," while the average for all Index crimes was 2 percent.*
- 1997 - *A higher percentage of complaints of forcible rape are determined "unfounded," or found by investigation to be false, than for any other Index crime. While the average of "unfounded" rates for all Crime Index offenses was 2 percent in 1997,* ***8 percent of forcible rape complaints were "unfounded" for the same timeframe****.*

a. Federal Bureau of Investigation (FBI). (2007). Methodology. *Uniform Crime Report: Crime in the United States*, 2006. Washington, D.C.: U.S. Department of Justice, Federal Bureau of Investigation. Retrieved from http://www.fbi.gov/ucr/cius2006/methodology.html
b. Federal Bureau of Investigation (FBI). (2008a). Crime Clock, 2007. *Uniform Crime Report: Crime in the United States*, 2007. Washington, D.C.: U.S. Department of Justice, Federal Bureau of Investigation. Retrieved from http://www.fbi.gov/ucr/cius2007/ about/crime_clock.html
c. Federal Bureau of Investigation (FBI). (2008b). Estimated number of arrests, U.S., 2007. (Table 29). Uniform Crime Report: Crime in the United States, 2007. Washington, D.C.: U.S. Department of Justice, Federal Bureau of Investigation. Retrieved from http://www.fbi. gov/ucr/cius2007/data/table_29.html
d. Federal Bureau of Investigation (FBI). (2008c). Offense analysis, U.S., 2003-2007. (Table 7). *Uniform Crime Report: Crime in the United States*, 2007. Washington, D.C.: U.S. Department of Justice, Federal Bureau of Investigation. Retrieved from http://www.fbi. gov/ucr/cius2007/data/table_07.html
e. Federal Bureau of Investigation (FBI). (2008d). Percent of crimes cleared by arrest or exceptional means, 2007. (Clearance Figure). *Uniform Crime Report: Crime in the United States*, 2007. Washington, D.C.: U.S. Department of Justice, Federal Bureau of Investigation. Retrieved from http://www.fbi.gov/ucr/cius2007/offense/ clearances/index.html#figure

Greenfield (1997)

L.A. Greenfield, Sex Offenses and Offenders: An Analysis of Data on Rape and Sexual Assault (US Department of Justice 1997), p. 7.

> In the United States, law enforcement agencies make a distinction between rape reports that are 'founded' and 'unfounded'. The Federal Bureau of Investigation's Uniform Crime Reports has stated that '*unfounding'* refers to the '*percentage of complaints determined through investigation to be false*'. The US Department of Justice, Bureau of Justice Statistics report from 1997 on sex offences and offenders has published data from more than 16,000 local, county and state law enforcement agencies. The Bureau found that '[l]*aw enforcement agencies indicated that about 8% of forcible rapes reported to them were determined to be unfounded and were excluded from the count of crimes'*. **The FBI Uniform Crime Reports have shown an unfounding rate between 1966 and 1994 of 8%–20% for rape** and between 2%–4% in other 'index crimes' such as murder or robbery.

Bavarian Police Study of False Rape Allegations (2000)

Elsner, Erich, and Wiebke, Steffen. (Munchen, 2005). Studie "Vergewaltigung und sexuelle Nötigung in Bayern" (Study: Rape and sexual assault in Bavaria). Bayerisches Landeskriminalamt. 1. Auflage. ISBN 3-924400-16-4.

> 1894 complaints of rape and sexual assault were filed to police in the state of Bavaria in 2000. The **consensus estimate of all responsible officials was that over 50% of accusations were false**. Even when accusations were very dubious, police still filed rape/sexual assault proceedings with prosecutors. Interestingly, of all the cases that were eventually dropped by the prosecution for lack of evidence, 64% of these cases had originally been considered to be false accusations by the police official in charge of the initial complaint.
>
> **Only in 7.4% of the false complaints (1 in 13, N= 140) did prosecution propose legal action against the accuser for false accusations**, when there was clear proof or confession. The results of this meticulous 320-page research about rape and sexual assault in Bavaria replicate a less rigorous study in Schleswig Holstein state in 1994/1995, where **7.6% of complaints led to filing of false police report**s. Dr. Simpson has accessed the original Bavarian study (Elsner), and viewed partial summaries of the report in English. These include:
>
> Motivations for 140 false allegations included (pp. 187-212):

- Conflicts/problems in family or partnerships – 20.7% (N=29)
- Hiding sexual relationships - 12.9% (N=18)
- Puberty crises cover / first sexual experiences - 10.7% (N=15)
- Attracting compassion and attention - 11.4% (N=16)
- Justification for misconduct - 10.0% (N=10)
- Shame/embarrassment - 3.6% (N=5)
- Fear of pregnancy - 1.4% (N=2)
- Counter-suing/Revenge - 7 5.0% (N=7)
- Cerebral Organically Disturbance /Alcoholism/Drug Dependency/Psych Disease - 22.1% (N=31)
- Motive not discernible - 2.1% (N=3)

The study differentiated four types of traumatic stress situations (p. 217). It turned out that among the false accusers; only 20% suffered none, 43% one, and 35% two to four of the following stress situations:

1. Family trouble, like violence, sexual abuse, neglect, foster homes, alcoholics in the family, change in important family relationships, or a dysfunctional family
2. Psychological problems: psychiatric treatment, drug abuse, alcohol dependency
3. Other problems like being runaways, making suicide attempts, or being prostitutes
4. More than one police registration for past crimes

Jordan (2004)

J. Jordan, ‘‘Beyond Belief? Police, Rape and Women’s Credibility’’ (2004) 4 Criminal Justice. 29.

An analysis of the New Zealand police, this research examines how police officers determined a complaint to be false. Jordan examined 164 reports of rape and sexual assault, which included analysis of police files which allowed her to examine the basis upon which officers recorded reports of rape. 98 Jordan found that **38% of cases were deemed by police to be ‘possibly true’ or ‘possibly false’, 33% were deemed as false and 8% were cases where the complainant said the allegation was false.** Only 21% of cases, based on the file analysis, were viewed as genuine. **Thus 41% of cases were deemed false and a further 33% could not be positively categorized as either true or false**. In her analysis of the reasons for why so many cases were deemed false, Jordan found a number of factors were prominent. Delays in reporting were linked to ‘credibility concerns’, with **‘86% of complainants who had delayed reporting being viewed suspiciously’**.

Other characteristics which were found in cases that were deemed false, included situations where the complainant was **‘intellectually impaired’ or ‘psychologically disturbed’, where there was concealment of information or lying, previous sexual victimization, intoxication, complaint withdrawal or where officers perceived the complainant as ‘sluttish’ or ‘promiscuous’**. Like earlier studies that have analyzed police recording practice, Jordan concludes: While false complaints do occur, approximately three-quarters of the incidents concluded by the police to be false appeared to have been judged to some extent at least on the basis of stereotypes regarding the complainant’s behavior, attitude, demeanor or possible motive. Suspicious file comments were made by the detectives regarding a woman who laughed while being interviewed, others who were seen as ‘attention seeking,’ and some who were said to be ‘crying rape’ for revenge or guilt motives.

Jan Jordan acknowledged the limitations of her study, which was based on case file analysis. In discussing police skepticism of rape complainants, she stated: ‘It is virtually impossible to tell from the file evidence available whether or not such skepticism is well founded in reality or simply emanates from a police occupational trait of general suspiciousness’.”

British Home Office study (2005)

A 2005 study, "*A gap or a chasm? Attrition in reported rape cases*" was a large study commissioned by the British Home Office on UK rape crime, from the initial reporting of a rape through to legal prosecutions. The study was based on 2,643 sexual assault cases (Kelly, Lovett, and Regan, 2005). Of these, police departments **classified 8% as false reports**.

Rumney (2006)

Rumney, P. (2006) False allegations of rape. The Cambridge Law Journal, 65 (1). 125 -158. ISSN 1469-2139

Philip N.S. Rumney conducted a review of studies of false reporting in the US, New Zealand and the UK. The studies' findings of false rape allegations ranged from 1.5% to 90%. Rumney draws two conclusions from his review of literature. First, the police continue to misapply the "no-crime" or "unfounded" criteria. Rumney's second conclusion is that it is impossible to "discern with any degree of certainty the actual rate of false allegations" because many of the studies of false allegations have adopted unreliable or untested research methodologies.

A selection of findings on the prevalence of false rape allegations. Data from Rumney (2006).

Study	Number	False reporting rate (%)
Philadelphia police study (1968)	74 out of 370	20%
New York Rape Squad (1974)	n/a	2%
Hursch and Selkin (1974)	10 out of 545	2%
Clark and Lewis (1977)	12 out of 116	10.3%
Geis (1978)	n/a	3–31% (estimates given by police surgeons)
McCahill *et al.* (1979)	218 out of 1,198	18.2%
Maclean (1979)	16 out of 34	47%
Stewart (1981)	16 out of 18	90%
Chambers and Millar (1983)	44 out of 196	22.4%
Smith (1989)	17 out of 447	3.8%
Theilade and Thomsen (1986)	1 out of 56 4 out of 39	1.5% (minimum) 10% (maximum)
Grace *et al.* (1992)	80 out of 335	24%
Kanin (1994)	45 out of 109	41%
Gregory and Lees (1996)	49 out of 109	45%
Harris and Grace (1999)	53 out of 483 123 out of 483	10.9% ("false/malicious" claims) 25% (recorded by police as "no-crime")
U.S. Department of Justice (1997)	n/a	8%
HMCPSI/HMIC (2002)	164 out of 1,379	11.8%
Lea *et al.* (2003)	42 out of 379	11%
Jordan (2004)	68 out of 164 62 out of 164	41% ("false" claims) 38% (viewed by police as "possibly true/possibly false")
Kelly *et al.* (2005)	67 out of 2,643	3% ("possible" & "probable" false allegations) 22% (recorded by police as "no-crime")

Police in Victoria, Australia (2006)

A study of 850 rape accusations made to police in Victoria Australia between 2000 and 2003 found that 2.1% were ultimately classified by police as false, with the complainants then charged or threatened with charges for filing a false police report.

Lisak (2010)

David Lisak's study, published in 2010 in *Violence Against Women*, classified as false 8 out of the 136 (5.9%) reported rapes at an American university over a ten-year period Applying IACP guidelines, a case was classified as a false report if there was evidence that a thorough investigation was pursued and that the investigation had yielded evidence that the reported sexual assault had in fact not occurred. A thorough investigation would involve, potentially, multiple interviews of the alleged perpetrator, the victim, and other witnesses, and where applicable, the collection of other forensic evidence (e.g., medical records, security camera records). That conclusion would have been based not on a single interview, or on intuitions about the credibility of the victim, but on a "preponderance" of evidence gathered over the course of a thorough investigation.

Crown Prosecution Service report (2011–2012)

A report by the Crown Prosecution Service (CPS) examined rape allegations in England and Wales over a 17-month period between January 2011 and May 2012. It showed that in 35 cases authorities prosecuted a person for making a false allegation, while they brought 5,651 prosecutions for rape.

The qualification of prosecution in determining a "false allegation" would have kept the true incidence of false accusations artificially low because many such cases are never prosecuted.

False Allegations of Adult Crimes (2012)
James McNamera and Jennifer Lawrence, FBI Law Enforcement Bulletin, Sept. 2012.

Offender Motivations
Perpetrators of false allegation crimes have various underlying motivations that fall into one or more categories. Investigators may encounter cases involving more than one motivation.[2]

- Mental illness/depression
- Attention/sympathy
- Financial/profit
- Alibi
- Revenge

A significant life problem (e.g., marital, financial, employment) that the offender does not have the skills to resolve drives the motivation. Many perpetrators have multiple life difficulties. Rather than seeking appropriate assistance from family members, coworkers, clergy members, or mental health professionals, offenders develop a self-victimization plan. These individuals may realize temporary relief from their life problems due to immediate attention and support from family, neighbors, and coworkers. And, more often than not, false allegation offenders do not consider the serious, long-term law enforcement investigation or significant media coverage that reveals the truth. In the long run, offenders are worse off than before the false allegation crime report and even may face prosecution.

Typically, female offenders want to gain attention and sympathy and will falsely allege offenses, such as interpersonal violence (e.g., sexual assault), more likely to achieve that result. While the desire for attention and sympathy also can motivate males, they tend to opt for nonsexual offenses, such as physical assault or attempted murder. Offenders who falsely allege more impersonal crimes, like theft or vandalism, more likely will have financial or profit motives. And, in cases where the perpetrator has no motive or incentive, mental health issues may prove significant.

Possible Clues
Several indicators can help investigators identify a false allegation case. While none of these signs by themselves indicate a false allegation case, investigators should strongly consider a two-prong investigation with the corroboration of two or more. The offender may:

- continue to make inconsistent statements conflicting prior claims by the individual or information provided by witnesses;
- offer descriptions or circumstances of the reported offense that do not seem plausible or realistic;
- show deception on a polygraph or refuse to take one;
- have a history of mental and emotional problems or false allegations;
- make the allegation after a similar crime received publicity (suggesting modeling or a copycat motive in which the similarity to the publicized crime offers credibility); or
- provide an allegation that lacks substantiating forensic, physical, or medical evidence and does not agree with laboratory findings.

For the FBI Bulletin (above) McNamera draws from his earlier published research.

Characteristics of false allegation adult crimes.
McNamara, James J., McDonald, Sean.
J Forensic Sci, May 2012, Vol. 57, No. 3
Abstract:

The purpose of this study was to identify common factors in false allegation adult crimes, by examining the dynamics involved in 30 confirmed false allegation cases. The authors conducted a comprehensive review of these adjudicated cases and then completed a collection instrument to

capture offender demographics, offense characteristics, and motive. **The results indicated that most false allegation crimes were committed by women (73.3%) and Caucasians (93.3%). Data indicated that more interpersonally violent allegations were primarily motivated by attention/sympathy needs (50.0%), whereas more impersonal offenses involved other motivations such as providing an alibi (16.7%) or profit (13.3%).** Offenders tended to be younger, high school graduates with no higher education (43.3%). A total of 23.3% of offenders had a prior criminal history. Male offenders appeared as likely as women to be motivated by attention/sympathy; however, men tended to select more violent, nonsexual offenses (e.g., attempted murder) than women.

Data Gleaned from the Department of Defense 2018 Annual Report on Sexual Assault in the Military

Case Dispositions Completed in 2018[a]

Case depositions completed 2018	**482**
Proceeded to trial	**307 (64%)**
Discharge or Resignation in lieu of trial	**90 (19%)**
Charges dismissed	**85 (18%)**

Proceeded to Trial for 2018

Proceeded to trial	**307**
Convicted of any charge	**203 (66%)**
Acquitted of all charges	**104 (34%)**

Proven vs. Unproven for all Case Dispositions for 2018

Case dispositions completed this year	**482**
Proven (convicted of any charge)	**203 (42%)**
Unproven (acquitted, discharged, or dismissed)	**279 (58%)**

Total Proven Guilty for All Unrestricted Reports for 2018

Completed unrestricted reports this year	**4002**
Proven guilty for all unrestricted this year	**203 (.05%)**

a. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2018**: Appendix B: Statistical Data on Sexual Assault. **Page 14 and 24.**

Court-Martial Charges Preferred for Sexual Assault Charge
668 Case Dispositions – FY18

Penetrating Offense Charged – 437 Case Dispositions (65%)

113 cases not completed in F18 (26%)^
324 cases completed in FY18 (74%)^
63 Dismissed Cases (19%)*
209 Proceeded to Trial (65%)*
123 cases convicted of some charge (59%)
71 convictions for a penetrating offense (58%)
12 convictions for sexual contact offenses (10%)
40 convictions for other offense (33%)
86 cases were acquitted (41%)
52 RILO/DILO (16%)*

*As a percentage of Cases Completed
^As a percentage of Case Dispositions

Sexual Contact Offenses Charged - 205 Case Dispositions (31%)

49 cases not completed in F18 (24%)^
156 cases completed in FY18 (76%)^
22 Dismissed Cases (14%)*
97 Proceeded to Trial (62%)*
79 cases convicted of some charge (81%)
28 convictions for sexual contact offenses (35%)
51 convictions for other offense (65%)
18 cases were acquitted (19%)
37 RILO/DILO (24%)*

*As a percentage of Cases Completed
^As a percentage of Case Dispositions

Convictions for Penetration and Sexual Contact combined total 202.

123 cases convicted for penetrating offense
79 cases convicted for sexual contact
71 convictions for a penetrating offense (35%)#
40 convictions for sexual contact offenses (20%)#
91 convictions for other offense (45%)#

#As a percentage of Convictions for Penetration and Sexual Contact

Bottom Line:

In trials involving charges of penetration or sexual contact (202 completed trials) in FY18 that resulted in conviction:

111 were convicted of penetration or sexual contact (55%)
91 were convicted of lesser charge (45%)

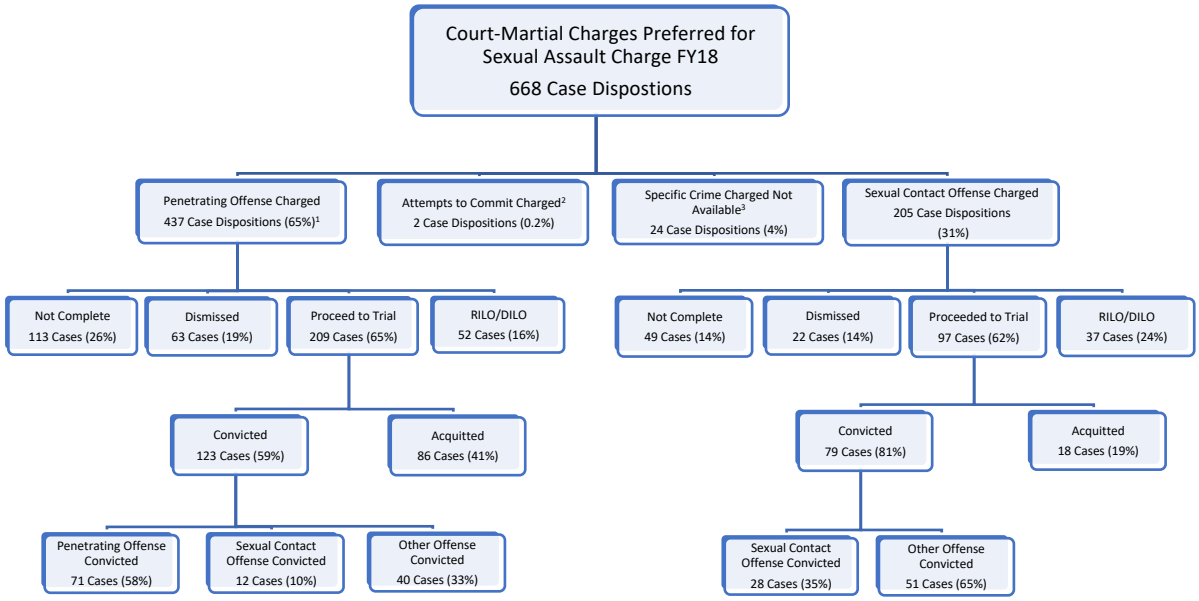


Figure 13. Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred by Crime Charged, FY18

Notes:

1. Percentages for some categories do not sum to 100 percent due to rounding. Punishments do not sum to 100 percent because subjects can receive multiple punishments.
2. One allegation for an attempt to commit a sexual assault was charged, proceeded to trial, and convicted at court-martial. The other allegation for an attempt to commit a sexual assault resulted in a resignation/discharge in lieu of court-martial.
3. In FY18, 24 cases were preferred for court-martial, but the crime charged data was incomplete. These cases are pending and will be reported out next FY.

Table 4. Case Dispositions Reported in FY18 (p.18)

Case Disposition Category	Count of Case Dispositions	Share of Case Dispositions
Sexual Assault Investigation That Can Be Considered for Possible Action by DoD Commanders	2,854	N/A
Evidence Supported Command Action	1,845	65%
Sexual Assault Offense Action	1,211	66%
Court-Martial Charge Preferred (Initiated)	668	55%
Nonjudicial Punishment (Article 15, UCMJ)	267	22%
Administrative Discharge	118	10%
Other Adverse Administrative Action	158	13%
Non-Sexual Assault Offense Action	634	34%
Court-Martial Charge Preferred (Initiated)	72	11%
Nonjudicial Punishment (Article 15, UCMJ)	339	53%
Administrative Discharge	96	15%
Other Adverse Administrative Action	127	20%
Unfounded by Command/Legal Review	74	3%
Commander Action Precluded	935	33%
Victim Died	0	0%
Victim Declined to Participate in the Military Justice Action	173	19%
Insufficient Evidence to Prosecute	735	79%
Statute of Limitations Expired	27	3%

Note: Victims who were assaulted by multiple subjects are counted only once to correspond with the subject who received the most serious disposition.

Evidence Supported Command Action (p.21)
In 1,845 cases, commanders had sufficient evidence and the legal authority to support some form of disciplinary action for an alleged sexual assault offense or other misconduct (Figure 9, Point S). When a subject in an investigation receives more than one disposition, DoD reports only the most serious disciplinary action. The possible actions, listed in descending order of severity, are court-martial charges preferred, nonjudicial punishment, administrative discharge, and other adverse administrative action.

The following outlines the command actions taken in the 1,211 cases for which it was determined a sexual assault offense warranted discipline:

- 55 percent (N=668) of cases were associated with court-martial charges preferred (initiated).
- 22 percent (N=267) of cases entered proceedings for nonjudicial punishment under Article 15 of the UCMJ.
- 23 percent (N=276) of cases received an administrative discharge or other adverse administrative action.

In 634 cases, evidence supported command action for other misconduct discovered during the sexual assault investigation (e.g., making a false official statement, adultery, underage drinking, or other crimes under the UCMJ), but not a sexual assault charge. Command actions for these cases follow below:

- 11 percent (N=72) of cases were associated with court-martial charges preferred.
- 53 percent (N=339) of cases entered proceedings for nonjudicial punishment.
- 35 percent (N=223) of cases received an administrative discharge or other adverse administrative action. (Percentages do not sum to 100% due to rounding).

Military Justice (p.21)
The information in this section describes the process that follows a military subject's commander having sufficient evidence to take disciplinary action (Figure 11). Each action taken is based on the evidence identified during a thorough investigation. In addition, since June 2012, initial

disposition decisions for the most serious sexual assault crimes have been withheld to the O-6 level (Colonel or Navy Captain), who is also at least a Special Court-Martial Convening Authority (SPCMA). This allows more senior officers to review and decide which initial action should be taken in these cases.

Court-Martial for a Sexual Assault Offense (p.22-23)
As noted previously, 668 cases involved court-martial charges preferred. Figure 12 illustrates what happened to these cases after their commanders preferred court-martial charges. Of the 668 cases with a preferral of court-martial charges for at least one sexual assault charge in FY18, the Military Services completed 482 court-martial outcomes by the end of the FY.

Of the 307 cases that proceeded to trial, 203 (66 percent) resulted in a conviction of at least one charge at court-martial. That conviction could have been for a sexual assault offense or for any other misconduct charged. Most convicted Service members received at least four kinds of punishment: confinement, reduction in rank, fines or forfeitures, and a discharge (enlisted) or dismissal (officers) from service. In FY18, 108 subjects of a sexual assault offense were required to register as a sex offender by law. According to the UCMJ, Service members convicted of a sexual assault who do not receive a punitive discharge at court-martial must receive an administrative discharge. In FY18, the Military Services processed 28 convicted subjects that did not receive a punitive discharge or dismissal for administrative separation from Military Service.

Court-martial charges in 85 cases were dismissed; however, commanders used evidence gathered during the sexual assault investigations to impose nonjudicial punishment for other misconduct in 12 of the 85 cases. The punishment may have been for any kind of misconduct for which there was evidence. Five subjects who received nonjudicial punishment for other misconduct after court-martial charges were subsequently discharged from military service.

DoD approved 89 cases for a resignation or discharge in lieu of court-martial (RILO/DILO) and 1 case was approved for cadet/midshipman disenrollment in lieu of court-martial. In FY18, all DILO cases involving enlisted members received a separation Under Other Than Honorable Conditions (UOTHC), the most serious administrative characterization of discharge possible. The UOTHC discharge characterization is recorded on a Service member's DD Form 214, Record of Military Service, and significantly limits separation and post-service benefits from DoD and the Department of Veterans Affairs.

DoD grants requests for RILO/DILO in certain circumstances, occurring only after court-martial charges are preferred against the accused. For such an action to occur, the accused must initiate the process. Requests for a RILO/DILO must include:

- A statement of understanding of both the offense(s) charged and the consequences of administrative separation;
- An acknowledgement that any separation could possibly have a negative characterization;
- An acknowledgement that the accused is guilty of an offense for which a punitive discharge is authorized or a summary of the evidence supporting the guilt of the accused.

These statements are not admissible in court-martial should the request ultimately be disapproved. DILOs involving enlisted personnel are usually approved at the SPCMA level. The Secretary of the Military Department approves RILOs. Figure 12 (on page 24 of Appendix B of Statistics printout) presents the case outcomes for which court-martial charges were preferred and Figure 13 (on page 25 of Appendix B of Statistics printout) shows the outcomes by the type of crime charged (i.e., penetrating versus sexual contact crimes).

Nonjudicial Punishment (p.26)
Commanders administer nonjudicial punishments in accordance with Article 15 of the UCMJ, which empowers commanding officers to impose penalties on Service members when there is sufficient evidence of what the law considers to be a relatively minor offense under the UCMJ. Nonjudicial punishment allows commanders to address some types of sexual assault and other misconduct by Service members that may not warrant prosecution in a military or civilian court. Some of the corrective actions within a commander's purview to administer include demotions, forfeitures, and restrictions on liberty. Nonjudicial punishments may support a rationale for administratively discharging military subjects with a less than honorable discharge. The Service member may demand trial by court-martial instead of accepting nonjudicial punishment by the commander, unless the subject is attached to or embarked on a vessel.

Of the 1,211 cases dispositions that were associated with disciplinary actions on a sexual assault offense, 267 cases were addressed with nonjudicial punishment. Figure 14 displays the outcomes of nonjudicial punishment actions taken against subjects on a sexual assault charge in FY18. In FY18, 86 percent of the 207 cases with completed nonjudicial punishment proceedings were associated with guilty verdicts under the authority of Article 15 in the UCMJ. Nearly all the administered nonjudicial punishments were for sexual contact offenses. Most cases with a nonjudicial punishment received the following punishments: a forfeiture of pay, reduction in rank, and/or extra duty. Available Military Service data indicated that for 74 cases the nonjudicial punishment served as grounds for a subsequent administrative discharge.

Characterizations of the 74 discharges are outlined below.

Honorable	5 Cases
General	33 Cases
Under Other Than Honorable Conditions	24 Cases
Uncharacterized	12 Cases
Total:	**74 Cases**

Administrative Discharges and Adverse Administrative Actions (p.27**)**
A legal review of evidence sometimes indicates that the court-martial process or nonjudicial punishments are not appropriate means to address allegations of misconduct against the accused. However, commanders have other means at their disposal to hold alleged offenders appropriately accountable. Commanders may use an administrative discharge to address an individual's misconduct, lack of discipline, or poor suitability for continued military service. There are three characterizations of administrative discharges: Honorable, General, and UOTHC. General and UOTHC discharges may limit those discharged from receiving full entitlements and benefits from both DoD and the Department of Veterans Affairs. In FY18, 118 cases in sexual assault investigations were associated with an administrative discharge.

Characterizations of the discharges are outlined below.

Honorable	0 Cases
General	36 Cases
UOTHC	48 Cases
Uncharacterized	24 Cases
Pending	10 Cases
Total:	**118 Cases**

In FY18, commanders took adverse administrative actions in 158 cases that were investigated for a sexual assault offense. Commanders typically use adverse administrative actions when available

evidence does not support a more severe disciplinary action. Adverse administrative actions can have a serious impact on a Service member's military career, have no equivalent form of punishment in the civilian sector, and may consist of Letters of Reprimand, Letters of Admonishment, Letters of Counseling, or discharge. These actions may also include, but are not limited to: denial of re-enlistment, cancellation of a promotion, and cancellation of new or special duty orders.

Probable Cause Only for a Non-Sexual Assault Offense (p.28)
Sometimes the sexual assault investigations conducted by MCIOs do not find sufficient evidence to support disciplinary action against the subject on a sexual assault charge but do uncover other forms of chargeable misconduct. In FY18, commanders took action in 634 cases that MCIOs originally investigated for sexual assault allegations, but for which evidence only supported action on non-sexual assault misconduct, such as making a false official statement, adultery, assault, or other crimes (Figure 15).

Figure 12. Case Dispositions with Sexual Assault Charges Preferred FY18 (p.24)

Case Disposition Category	Case Dispositions	Share of Case Dispositions
Court-Martial: Sexual Assault Charges Preferred in FY18	668	
Case Dispositions Not Completed in FY18 (to be reported in the future)	186	
Case Dispositions Completed in FY18	482	
Proceeded to Trial (at least one sexual assault offense charged)	307	64%
Convicted of Any Charge at Trial	203	66%
Confinement	157	77%
Reductions in Rank	152	75%
Fines / Forfeitures	111	55%
Punitive Discharge / Dismissal	137*	67%
Restriction	17	8%
Hard Labor without Confinement	8	4%
Reprimand	22	11%
Acquitted of All Charges	104	34%
Discharge or Resignation Granted in Lieu of Court-Martial	90	19%
Officer Resignations	5	
Cadet Disenrollment	1	
Enlisted Discharges (Under Other than Honorable Conditions)	84	
Court Charges Dismissed	85	18%
Nonjudicial Punishment Initiated, but Dismissed Based on Evidence Discovered During Sexual Assault Investigation	1	
Nonjudicial Punishment Imposed Based on Evidence Discovered During Sexual Assault Investigation	12	
Correctional Custody	0	0%
Reductions in Rank	9	75%
Forfeitures	9	75%
Restriction	5	42%
Discharge Subsequent to Nonjudicial Punishment	5	42%
Extra Duty	3	25%
Admonition / Reprimand	4	33%

Note: Victims who were assaulted by multiple subjects are counted only once to correspond with the subject who received the most serious disposition.

*Note: DoD requires convicted subjects that were not adjudged a punitive discharge or dismissal to be processed for separation. Service reports indicate that 28 convicted Subjects were processed for administrative discharge subsequent to court-martial conviction in FY18.

Data Gleaned from SAPR Annual Reports 2012-2018

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Case depositions completed this year	460	707	735	813	619	663	**482**	4,479
Proceeded to trial	302 (66%)	484 (68%)	496 (67%)	543 (67%)	389 (63%)	406 (61%)	**307 (64%)**	2,927 (65%)
Discharge or Resignation in lieu of trial	70 (15%)	90 (13%)	90 (12%)	159 (22%)	133 (22%)	152 (23%)	**90 (19%)**	784 (17%)
Charges dismissed	88 (19%)	133 (19%)	149 (28%)	111 (14%)	97 (16%)	105 (16%)	**85 (18%)**	768 (17%)

Proceeded to Trial for that Year

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Proceeded to trial	302	484	496	543	389	406	**307**	2,927
Convicted of any charge	238 (79%)	370 (76%)	359 (72%)	413 (76%)	261 (67%)	284 (70%)	**203 (66%)**	2,128 (72%)
Acquitted of all charges	64 (21%)	114 (23%)	137 (28%)	130 (24%)	128 (33%)	122 (30%)	**104 (34%)**	799 (27%)

Proven vs. Unproven for all Case Dispositions for that Year

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Case depositions completed this year	460	707	735	813	619	663	**482**	4,479
Proven (convicted of any charge)	238 (52%)	370 (52%)	359 (49%)	413 (51%)	261 (42%)	284 (43%)	**203 (42%)[h]**	2,128 (47%)
Unproven (acquitted, discharged, or dismissed)	222 (48%)	337 (48%)	376 (51%)	400 (49%)	358 (58%)	379 (57%)	**279 (58%)**	2,351 (53%)

Total Proven Guilty for All Unrestricted Reports for that Year

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Completed unrestricted reports this year	1,714	3,234	3,520	3,386	3,677	4,779	**4002**	24,312
Proven guilty for all unrestricted this year	238 (14%)	370 (11%)	359 (10%)	413 (12%)	261 (.07%)	284 (.06%)	**203 (.05%)**	2,128 (.09)

a. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2012**: Volume 1. **Page 79.**
b. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2013**. Provisional Statistical Data on Sexual Assault. **Page 77 and 83.**
c. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2014**. Provisional Statistical Data on Sexual Assault. **Page 8 and 23.**
d. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2015**. **Page 8 and 24.**
e. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2016**: Appendix B: Statistical Data on Sexual Assault. **Page 15 and 24.**
f. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2017**: Appendix B: Statistical Data on Sexual Assault. **Page 14 and 25.**
g. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2018**: Appendix B: Statistical Data on Sexual Assault. **Page 14 and 24.**
h. This is a calculation of 203 / 482 as compared to the studies 203 / 307

Motivations for Intentional False Reporting

Research shows that intentional false accusations can reflect a variety of motives.

- Kanin's (1994) highly respected study categorized false accusations into three motivations:
  - Alibis (50%)
  - Revenge (30%)
  - Attention-seeking (20%).

- The *Bavarian Police Study of False Rape Allegations* (2000) identified motivations related to:
  - Conflicts/problems in family or partnerships (20.7%)
  - Hiding sexual relationships (12.9%)
  - Puberty crisis cover / first sexual experience (10.7%)
  - Attracting compassion and attention (11.4%)
  - Justification for misconduct (10%)
  - Shame / embarrassment (3.6%)
  - Fear of pregnancy (1.4%)
  - Countersuing / revenge (7.5%)
  - Cerebral organic disturbance / alcoholism / drug dependency / psych disease (22.1%)
  - Motive not discernible (2.1%)

- The *FBI Law Enforcement Bulletin* (2012) identifies motivations that include:
  - Mental illness / depression
  - Attention / Sympathy
  - Financial / profit
  - Alibi
  - Revenge

- Zutter did a recent review on this issue (*Motives for filing a false allegation of rape*, 2018). Motivations included:
  - Material gain
  - Alibi
  - Revenge
  - Sympathy
  - Attention
  - Disturbed mental state
  - Relabeling
  - Regret
  - 20% of complainants didn't know why they filed false allegations.

Research Abstracts on False / Unfounded Sexual Assault Claims

Detecting the true nature of allegations of rape.
De Zutter, André. Horselenberg, Robert., Koppen, Peter J.
Journal of Police and Criminal Psychology, Jun 23, 2016.
Abstract:

A study was conducted to test whether it is possible to build a model to distinguish true and false allegations of rape based on the theory of fabricated rape. The theory is based on the principle that a false complainant of rape has not been raped and has to fabricate a story while the story of a true victim is based on recollections of the event. Consequently, false complainants will behave as liars do, construct their story based on their own sexual experiences and on mental representations, beliefs of how such a crime would happen (De Zutter et al. in Eur J Psychol Appl Leg Context. doi: 10.1016/j.ejpal.2016.02.002 , 2016). To test the theory and to build a model to discriminate between true and false allegations of rape, a police sample of true and false allegations was studied. A total of 129, 72 true and 57 false, allegations of rape fulfilled the stringent criteria of the current study, among others on ground truth. Fifty-four allegations of rape, 27 true and 27 false, were used to build a prediction model based on the theory of bounded rationality by Gigerenzer (2002). The remaining 75 cases, 45 true and 30 false, were blindly categorised as either true or false based on the model. The model was able to predict the true nature of the majority of allegations with an accuracy rate of 91 %. Thus, it seems possible to discriminate to a considerable extend between true and false allegations of rape

Encyclopedia of Violence: frequent, commonplace, unexpected.
DiCanio, Margaret. May, 2004.
Book:

Arranged in an A to Z format and cross-referenced, Encyclopedia of Violence by Margaret DiCanio, Ph.D. provides an overview. Entries include: violence management systems; health; law enforcement; judicial; and corrections. Strengths and flaws are revealed, particularly in juvenile and assembly-line justice. Explored are such seemingly unrelated types of crime as organized and corporate crime, both hidden from public view. Murder in various guises is described. While mass murders and serial murders by individuals capture public attention, more common are murders resulting from domestic abuse, barroom brawls, and petty squabbles. Classroom violence is covered, as is campus violence. Violence is expensive, economically, socially, and psychologically. Unlike many other nations, United States keeps relatively accurate crime statistics. Violence is not just a criminal justice problem; it is the world's major global public health problem, draining financial and human resources. Appendixes trace the roots of America's drug traffic, and provide resources.

Pathways to false allegations of sexual assault.
Engle, Jessica., O'Donohue, William.
Journal of Forensic Psychology Practice, Vol 12(2), Mar, 2012. pp. 97-123.
Abstract:

Not all **allegations** of **sexual assault** are true. Unfortunately, there has been little work on understanding the prevalence of **false allegations** or **pathways** to these. This paper proposes 11 **pathways** to **false allegations** of **sexual assault**: (a) lying, (b) implied consent, (c) **false** memories, (d) intoxication, (e) antisocial personality disorder, (f) borderline personality disorder, (g) histrionic personality disorder, (h) delirium, (i) psychotic disorders, (j) dissociation, and (k) intellectual disability. These **pathways** originate in the psychological diatheses of the individual. Further research is needed into the frequency of these **pathways**, ways to accurately detect these, and whether other **pathways** exist.

False rape allegations: An assault on justice.
Gross, Bruce. The Forensic Examiner, Vol 18(1), Spr 2009. pp. 66-70.
Abstract:

A certain percentage of rape complaints are classified as 'unfounded' by the police and excluded from the FBI's statistics. For example, in 1995, 8% of all forcible rape cases were closed as unfounded, as were 15% in 1996. According to the FBI, a report should only be considered

unfounded when investigation revealed that the elements of the crime were not met or the report was 'false'. The term 'unfounded' is not a homogeneous classification and, to date, there is not a formalized, accepted definition of 'false rape allegations.' The designation of false allegation might best be used exclusively for those cases in which it is determined that the accuser intentionally fabricated the allegation of rape. That is, the accuser claims an incident of forced sexual contact took place when no such incident occurred, or the contact that did occur was consensual. In addition, this would include cases in which a rape was committed, but the victim knowingly identified the wrong person as the perpetrator.

Differentiating genuine and false rape allegations: A model to aid rape investigations.
Hunt, Laura. Serious Crime Analysis Section, National Policing Improvement Agency, England
Bull, Ray. Psychiatry, Psychology and Law, Vol 19(5), Nov, 2012. pp. 682-691.
Abstract:

The aim of this study was to compare the victimology, offence demographics and offence behaviours of genuine and false allegations of rape in order to develop a model that could be used to aid in differentiating between genuine and false rape allegations. Eighty false allegations of rape were compared with 160 genuine allegations of rape, obtained from the Serious Crime Analysis Section (SCAS). Data were taken directly from complainant statements and 62 variables were dichotomously coded. Chi-square, odds ratios and Mann-Whitney U tests were initially completed and then the more significant variables were entered into a backwards stepwise logistic regression. The resultant logistic regression model classified 91.7% of the sample correctly. The model was validated using an additional 12 cases, with an 83% success rate. This study found that a number of factors successfully discriminated between genuine and false rape allegations. It thus offers a tool that might aid police investigations, crime analysts and behavioural investigative advisors in the veracity assessment of rape allegations.

Beyond belief? Police, rape and women's credibility.
Jordan, Jan. Criminal Justice: International Journal of Policy and Practice, Vol 4(1), Feb, 2004. pp. 29-59.
Abstract:

This article reviews issues concerning perceptions of women's credibility in the context of police responses to sexual assault complainants. It is based on both quantitative and qualitative data drawn from detailed analysis of police rape and sexual assault files. Particular attention is paid to identification of the principal factors affecting police perceptions of rape complainants, addressing such issues as demeanour, intoxication and concealment. Problems arising from the misinterpretation of significant 'cues' are identified, and consideration given to possible ways in which miscommunication between rape complainants and police officers occurs. The article argues that many rape complainants must still battle to gain credibility in the eyes of some police investigative officers, and that stereotypically based judgements continue to impact negatively on police perceptions and decision making. The overall aim of the article is to prompt critical, constructive evaluation of police culture and practice in order to enhance the quality of police responses to victims of sexual violence and abuse.

False Rape Allegations.
Kanin, Eugene.
Archives of Sexual Behavior, Feb. 1994, v23, n1, p81(12)
Abstract

With the cooperation of the police agency of a small metropolitan community, 45 consecutive, disposed, false rape allegations covering a 9-year period were studied. These false rape allegations constitute 41% the total forcible rape cases (n = 109) reported during this period. These false allegations appear to serve three major functions for the complainants: providing an alibi, seeking revenge, and obtaining sympathy and attention. False rape allegations are not the consequence of a gender-linked aberration, as frequently claimed, but reflect impulsive and desperate efforts to cope with personal and social stress situations.

False allegations of rape revisited: a replication of the kanin study.
Kennedy, Daniel..

Journal of Security Administration; June 2000; 23, 1; pg. 41

Abstract

Behavioral scientists interested in the "dark figure" of unreported crime can claim with empirical support that only 30% of rapes are made known to the police (Rand, 1998). There is far less agreement on the extent to which certain rapes may be "overreported." Do false allegations of rape occur with sufficient frequency to constitute an appreciable threat to the administration of justice? If so, are there any patterns which may be identified and motivations which may be uncovered?

False allegations of wrongdoing can have severe consequences for the American justice system. Several studies have documented the extent to which suspects have been wrongfully convicted for crimes they did not commit (Huff, Rattner, & Sagarin, 1996). Allegations of child molestation are often leveled between waning spouses in an attempt to win custody of their children (Robin,1992). Finally, to the extent that investigative authorities understand the nature of false reports of victimization, true victims of rape will not be confused with dissemblers and denied appropriate system support (McDowell & Hibler,1993).

False allegations of sexual assault: An analysis of ten years of reported cases.

Lisak, David.,Gardinier, Lori., Nicksa, Sarah C., and Cote, Ashley M.

Violence Against Women, Vol 16(12), Dec, 2010. pp. 1318-1334.

Abstract:

One of the most controversial disputes affecting the discourse related to violence against women is the dispute about the frequency of false allegations of sexual assault. In an effort to add clarity to the discourse, published research on false allegations is critiqued, and the results of a new study described. All cases (*N*=136) of sexual assault reported to a major Northeastern university over a 10-year period are analyzed to determine the percentage of false allegations. Of the 136 cases of sexual assault reported over the 10-year period, 8 (5.9%) are coded as false allegations. These results, taken in the context of an examination of previous research, indicate that the prevalence of false allegations is between 2% and 10%.

Characteristics of false allegation adult crimes.

McNamara, James **J**., **McDonald**, Sean.

Abstract:

The purpose of this study was to identify common factors in false allegation adult crimes, by examining the dynamics involved in 30 confirmed false allegation cases. The authors conducted a comprehensive review of these adjudicated cases and then completed a collection instrument to capture offender demographics, offense characteristics, and motive. The results indicated that most false allegation crimes were committed by women (73.3%) and Caucasians (93.3%). Data indicated that more interpersonally violent allegations were primarily motivated by attention/sympathy needs (50.0%), whereas more impersonal offenses involved other motivations such as providing an alibi (16.7%) or profit (13.3%). Offenders tended to be younger, high school graduates with no higher education (43.3%). A total of 23.3% of offenders had a prior criminal history. Male offenders appeared as likely as women to be motivated by attention/sympathy; however, men tended to select more violent, nonsexual offenses (e.g., attempted murder) than women.

The truth, the half-truth, and nothing like the truth: Reconceptualizing false allegations of rape.

Saunders, Candida L.. British Journal of Criminology, Vol 52(6), Nov 2012. pp. 1152-1171.

Abstract:

There is a longstanding dispute between criminal justice professionals on the one hand and researchers and commentators on the other regarding the prevalence of false allegations of rape. Prevalence, however, is contingent upon definition. If the various protagonists' definitions of a 'false allegation' do not coincide, it is virtually inevitable that their estimates will diverge. Drawing on original empirical data from in-depth research interviews conducted with police and Crown Prosecutors, this article explores the following important but much-neglected question: When criminal justice professionals tell us that false allegations of rape are common, what precisely are they talking about? What 'counts' as a false allegation?

Unfounding sexual assault: Examining the decision to unfound and identifying false reports.
Spohn, Cassia., White, Clair, Tellis, Katharine. Law & Society Review, Vol 48(1), Mar 2014. pp. 161-192.

Abstract:

One of the most controversial—and least understood—issues in the area of sexual violence is the prevalence of false reports of rape. Estimates of the rate of false reports vary widely, which reflects differences in way false reports are defined and in the methods that researchers use to identify them. We address this issue using a mixed methods approach that incorporates quantitative and qualitative data on sexual assault cases that were reported to the Los Angeles Police Department (LAPD) in 2008 and qualitative data from interviews with LAPD detectives assigned to investigate reports of sexual assault. We found that the LAPD was clearing cases as unfounded appropriately most, but not all, of the time and we estimated that the rate of false reports among cases reported to the LAPD was 4.5 percent.We also found that although complainant recantation was the strongest predictor of the unfounding decision, other factors indicative of the seriousness of the incident and the credibility of the victim also played a role. We interpret these findings using an integrated theoretical perspective that incorporates both Black's sociological theory of law and Steffensmeier, Ulmer, and Kramer's focal concerns perspective.

Motives for filing a false allegation of rape.
Zutter, André W. E. A., et al.
Archives of Sexual Behavior, Vol 47(2), Feb, 2018. pp. 457-464.

Abstract:

The list of motives by Kanin (1994) is the most cited list of motives to file a false allegation of rape. Kanin posited that complainants file a false allegation out of revenge, to produce an alibi or to get sympathy. A new list of motives is proposed in which gain is the predominant factor. In the proposed list, complainants file a false allegation out of material gain, emotional gain, or a disturbed mental state. The list can be subdivided into eight different categories: material gain, alibi, revenge, sympathy, attention, a disturbed mental state, relabeling, or regret. To test the validity of the list, a sample of 57 proven false allegations were studied at and provided by the National Unit of the Dutch National Police (NU). The complete files were studied to ensure correct classification by the NU and to identify the motives of the complainants. The results support the overall validity of the list. Complainants were primarily motivated by emotional gain. Most false allegations were used to cover up other behavior such as adultery or skipping school. Some complainants, however, reported more than one motive. A large proportion, 20% of complainants, said that they did not know why they filed a false allegation. The results confirm the complexity of motivations for filing false allegations and the difficulties associated with archival studies. In conclusion, the list of Kanin is, based on the current results, valid but insufficient to explain all the different motives of complainants to file a false allegation.

Alcohol and Memory

For the past four years I have been an instructor for the Advanced Sexual Assault Litigation Course (ASALC) at Maxwell. One of the topics I teach is *Alcohol Blackouts and Sexual Assault*. For an in-depth primer on this topic, please go to my website – http://www.drpaulsimpson.com/seminars. Here's some of what is discussed in the handout:

Alcohol combined with claims of sexual assault are a frequently occurring phenomenon.

- Approximately half of sexual assault claims are associated with alcohol use by the accused, victim, or both. (Abbey, et al., 2001)
- Up to 75% of acquaintance rape claims involve alcohol. (Crowell & Burgess, 1996)

If your case involves alcohol consumption on the part of the complaining witness, consider the following.

Alcohol is a central nervous system depressant

- Confusion
- Memory loss
- Impaired judgement
- Behavioral changes
- Cognitive impairment
- Reduced inhibitions

Alcohol's Impact on Memory of Criminal Events (non-blackout)

- Alcohol affects women's reports more than men's, which may be because alcohol affects attention and memory consolidation more clearly at a lower dose for women than for men. (Karlén, 2015)
- Moderately and highly intoxicated individuals are less complete when recollecting crime details. (van Oorsouw, 2012)
- One study suggests that a second interview 24-hours after intoxication can produce additional details of a crime. (La Rooy, 2013)
- Severely intoxicated participants display a greater tendency to go along with suggestive cues compared with sober participants. Researchers found intoxication impaired memory and increased suggestibility during an immediate interview, and both effects persisted when sober again. (Van Oorsouw, 2015). <u>But</u>, see Gawrylowicz, 2017.

Underestimation of Alcohol Consumption

- People underestimate their own consumption by increasing amounts when engaging in heavy drinking. (Northcote, 2011)
- Young people and women are more likely to underestimate how much they drank. (Martin, 2016)
- Female students who reported typically drinking larger amounts of alcohol in party settings were more likely to make errors when estimating their intoxication for moderately high numbers of drinks. (Mallett, 2009)
- Accurate estimation of peer's drinking decreased significantly with increasing personal consumption. (Stock, 2014)

Alcohol Blackouts

- Episodes of amnesia during which a person can actively participate in events. (Goodwin 1995)
- Does not erase memories that were formed before (retrograde) (White 2003 p. 1)
- Inhibits memory of events after the level of intoxication reaches critical mass (anterograde) (Westrick 1988; Mintzer and Griffiths 2002; White 2003, p. 1 & 4;)
- *Blacking out* is different than *passing out*.

Blackout vs. Passed Out

- Blackout is…
    - Things a person does while drunk
    - They are <u>CONSCIOUS</u>!

    - The person is capable of carrying out complex and goal-directed behaviors (including sexual behaviors)
- Passed out is...
    - A person falling asleep or becoming unconscious.
    - They are NOT CONSCIOUS!
- You can have a blackout and then pass out.
    - "Blackout" tends to occur during *ascending* BAC. (Goodwin 1970; White 2003, p.6)
    - "Pass out" tends to occur during *descending* BAC.
- People can't tell the individual is in a blackout state. They just see the behaviors the person is doing.
- They can't see the person's hippocampus.

General Points regarding Alcohol Consumption and/or Alcohol Blackout

1. While in an alcohol-induced blackout, a person maintains the ability to engage in a wide array of complex and goal-directed activities, such as carrying on a conversation, driving, or having sexual intercourse. They maintain the functional capacity to engage in these activities but simply not encoding those memories; thus, memory for parts or the totality of an event is jeopardized (including consenting to sexual activity. Individuals in the midst of an alcohol-induced blackout remain conscious (as opposed to being passed out and unconscious) while maintaining the functional and behavioral capacity to engage in a wide array of complex, goal-directed behaviors. Thus, their actions are engaged in while in a conscious state. Given that there is no way of knowing that an individual is in the midst of a blackout, their behaviors and actions appear fully volitional and intentional to an observer (and still can be 100% volitional and intentional).

2. The recollection of events (i.e., memory recall) is a reconstructive process. In other words, when an individual is asked to recall an event, it is not as if they go into their brain and pull an exact, carbon copy recording of what occurred. Rather, memories are recalled as a result of a reconstructive process. It is also well-established in the psychological literature that when individuals are asked to describe or explain events or actions they may not readily recall, they may be prone and vulnerable to filling in the blanks when constructing their memories. This has been repeatedly demonstrated in experimental, empirically-validated studies.

3. Alcohol can cause a person to perceive information inaccurately. It can also cause what is referred to as "alcohol myopia," which refers to the phenomena where a person will narrowly focus only on salient immediate stimuli at the expense of other contextual information. Thus, when this occurs, much of the contextual information is never encoded and subsequently will not be remembered.

4. Source misattribution is a psychological concept in which a person does not accurately link the original source of a memory to what is later recalled and retold to others. There are many potential causes of source misattribution. A basic example would be an eyewitness hearing from the police that a suspect was carrying a gun and later coming to believe that the suspect was carrying a gun without actually having seen a gun. The use of alcohol increases the risk and vulnerability of a source misattribution error. This becomes even more pronounced when a person is in a fragmentary blackout state.

5. The concept of transience of memory is that memory generally deteriorates and gets worse over time. Research has shown that a significant percentage of people experience major errors in their memory over the course of time, even for events that could be considered memorable or important. The memory issues associated with alcohol use can increase the potential for memories to be altered when recalled.

6. Suggestion and suggestibility refer to the psychological concept that memories can be affected and distorted by suggestion that is external to the individual. A well-intentioned non-witness can suggest or insist that something occurred in a particular way or that an event should be conceptualized in a certain way. This "suggestion" can potentially lead a witness to recall their memories in a new light and cause distortion in their memory to conform with the suggestion. When external suggestion is applied to a situation that occurred when an individual was under the influence of alcohol or in a blackout state, the individual may be even more prone to suggestion because research has shown that individuals who are less certain of events are more prone to suggestion regarding those events.

7. Hindsight bias is the concept that a person will restructure their beliefs or understandings about an event in order to conform with information later obtained. There is significant research on the subject of hindsight bias that shows that a memory can be reconstructed to fit that person's current beliefs or knowledge. The context provided by the new information can restructure that person's understanding and beliefs about what they remember occurring.

8. Motivated memory refers to several different concepts in which a person may consciously or unconsciously have a motivation to distort a memory. Embarrassment, shame, or self-justification are factors that can motivate a person to reconceptualize past events or create inaccurate memories in order to prevent negative feelings and conform with other beliefs that individuals may have about themselves. The memory issues associated with alcohol can make this more likely to occur since an individual's memory of an event may be incomplete and/or distorted.

9. Imagination inflation is a concept in which a person thought about or imagined something occurring which did not actually occur, however, the individual later remembers that thing having occurred. A basic example of this would be someone intending to say something during a conversation but forgetting to say it. Later, falsely believe they actually said that thing during the conversation. The use of alcohol or being in an alcohol-induced blackout state have the potential to increase the risk of this occurring due to other memory issues being experienced by someone in those states.

10. It is important to note that none of these aforementioned psychological concepts operate in a vacuum. Multiple concepts can interact to distort an individual's memory. For example, suggestion, hindsight bias, and motivated memory can all be applicable to a situation and lead a person to have a false and/or inaccurate memory about an event that occurred. Furthermore, alcohol—and the resulting memory issues that accompany its use—exacerbates the likelihood and vulnerability of memory distortions in these situations.

If the complaining witness in your case was consuming alcohol; how has the counterintuitive behavior (CIB) expert accounted for these effects? Be sure to go to the author's website – www.ArizonaForensics.com - for a seminar handout on *Alcohol Blackouts and Sexual Assault Claims* (under the picture of me in the desert holding a mandolin, click on >*CLE Seminar*s< and the handout is the first in the list).

Alcohol Myopia: Degrading Encoding and Retrieval of Memory

Alcohol, and the effects of alcohol on memory and general cognitive functioning, has been the subject of much research over the years.

Alcohol acts as a general central nervous system depressant, but it affects some areas of the brain more than others. Specifically, it leads to distraction and inattention and significantly inhibits neuronal activity in the hippocampus, which impairs memory encoding since the hippocampus plays an important role in the formation of new declarative memories. Because procedural memory functions more or less automatically, retrieval of procedural memory ("remembering how") is not as severely impaired by alcohol as retrieval of declarative memory ("remembering what").

Alcohol particularly impairs the encoding of episodic memory (that part of declarative memory that relates to our personal experiences and specific events in time), especially for certain types of recall, such as cued recall, the recognition of completed word fragments and free recall. A "blackout" is an example of a difficulty in the encoding of episodic memories due to high doses of alcohol. It is caused by a rapid increase in blood alcohol concentration, which in turn distorts the activity of neurons in the hippocampus, thus impairing person's ability to form new episodic memories. Alcohol also severely disrupt the encoding and storage process of new semantic memories (our memory of of facts, meanings and acquired knowledge about the external world), although apparently not that of previously learned information.

Alcohol also impairs short-term (working) memory, although mainly by affecting certain mnemonic strategies and executive processes rather than by shrinking the basic holding capacity of working memory or by physically altering the structure of the those parts of the brain which are critical for working memory function. Although light to moderate drinking does not appear to impair long-term cognitive functioning significantly (and according to some studies, may actually decrease the risk of cognitive decline), heavy drinking and chronic alcoholism is associated with long-term impairment in sustained attention and working memory function, especially visual working memory.

Serious over-consumption of alcohol, especially in comparison with the intake of other foods, can cause a thiamine deficiency, leading to a much more serious form of amnesia known as Korsakoff's syndrome.

The Human Memory website: http://www.human-memory.net/disorders_alcohol.html

Research Abstracts

Alcohol myopia: Its prized and dangerous effects.

Steele, Claude M., Josephs, Robert A.

American Psychologist, (1990). 45(8), 921–933.

Abstract

This article explains how alcohol makes social responses more extreme, enhances important self-evaluations, and relieves anxiety and depression, effects that underlie both the social destructiveness of alcohol and the reinforcing effects that make it an addictive substance. The theories are based on alcohol's impairment of perception and thought—the myopia it causes—rather than on the ability of alcohol's pharmacology to directly cause specific reactions or on expectations associated with alcohol's use. Three conclusions are offered: (a) Alcohol makes social behaviors more extreme by blocking a form of response conflict. (b) The same process can inflate self-evaluations. (c) Alcohol myopia, in combination with distracting activity, can reliably reduce anxiety and depression in all drinkers by making it difficult to allocate attention to the thoughts that provoke these states.

These theories are discussed in terms of their significance for the prevention and treatment of alcohol abuse.

Alcohol use in male spouse abusers and their female partners
Ola W. Barnett and Ronald W. Fagan
Journal of Family Violence. (March 1993). Volume 8, Issue 1, pp 1–25
Abstract

Patterns of alcohol use of 181 maritally violent and maritally nonviolent men and their female partners differed on subscales of the Quantity-Frequency Index. Two abuser groups (43 uncounseled and 46 counseled) drank significantly greater amounts and for different psychological reasons than two nonabuser groups (50 satisfactorily married and 42 discordant). However, group frequency rates did not vary. The abuser groups had experienced and observed significantly more violence during childhood than the nonabuser groups; further, they reported significantly more current life stress. The female partners of the abusers did not differ in global alcohol use; however, they drank substantially more than their counterparts. They were especially prone to drink in response to battering. About one fourth of the abusers and one fifth of their wives drank frequently during abusive episodes. Stressors and depressors most likely precipitated both drinking and battering, with strain, hostility, and alcohol myopia (altered perception) serving as intervening variables. Results clarify contradictory reports concerning the role of alcohol in family violence.

Alcohol-related sexual assault: a common problem among college students.
Antonia Abbey
Journal of Studies on Alcohol, Supplement, (2002). (s14), 118–128.
Abstract

Objective: This article summarizes research on the role of alcohol in college students' sexual assault experiences. Sexual assault is extremely common among college students. At least half of these sexual assaults involve alcohol consumption by the perpetrator, the victim or both. Methods: Two research literatures were reviewed: the sexual assault literature and the literature that examines alcohol's effects on aggressive and sexual behavior. Results: Research suggests that alcohol consumption by the perpetrator and/or the victim increases the likelihood of acquaintance sexual assault occurring through multiple pathways. Alcohol's psychological, cognitive and motor effects contribute to sexual assault. Conclusions: Although existing research addresses some important questions, there are many gaps. Methodological limitations of past research are noted, and suggestions are made for future research. In addition, recommendations are made for college prevention programs and policy initiatives.

The intoxicated witness: Effects of alcohol on identification accuracy from showups.
Dysart, J. E., Lindsay, R. C. L., MacDonald, T. K., & Wicke, C.
Journal of Applied Psychology, (2002). 87(1), 170–175.
Abstract

The effect of alcohol on identification accuracy is potentially an important topic. This study examined the effects of alcohol consumption on identification accuracy from showups, the identification procedure most likely to be used by police with intoxicated witnesses. The blood alcohol level of people exposed to a target was measured. In the target-present showup condition, blood alcohol level was not significantly related to correct identification rate. In the target-absent showup condition, the higher the blood alcohol level, the more people were likely to make a false identification. Implications for law enforcement and future research directions are discussed.

Collegiate alcohol use and high-risk sexual behavior: A literature review.
Kaly, Perry W. Heesacker, Martin Frost, Hanna M.

Collegiate alcohol use and high-risk sexual behavior: A literature review. (2002). Journal of College Student Development, 43(6), 838–850.

Abstract

Studies concerning collegians' alcohol use and high-risk sexual behavior are summarized. Two theories of alcohol use and risky behavior are discussed: disinhibition theory and alcohol myopia theory. Suggestions for future research and implications for student personnel professionals are also provided.

Blind drunk: the effects of alcohol on inattentional blindness

Seema L. Clifasefi Melanie K. T. Takarangi Jonah S. Bergman

Applied Cognitive Psychology (July 2006). Vol. 20, Issue 5, pp. 697-704.

Abstract

Alcohol consumption is a major contributor to road accidents. While it is likely that perceptual processing deficits contribute to poorer driving performance among intoxicated individuals, we know little about alcohol's role in particular perceptual processes. For instance, we know that even sober individuals can fail to detect unexpected salient objects that appear in their visual fields, a phenomenon known as inattentional blindness (IB; Mack & Rock, 1998). We were interested in whether these visual errors become more or less likely when subjects are under the influence of alcohol or just think that they are drunk. We told half our subjects that they had received alcohol, and half that they had received a placebo. This information was either true or false. Intoxicated subjects (regardless of what they were told) were more likely to show 'blindness' to an unexpected object in their visual field. This finding has practical implications for human performance issues such as driving and eyewitness memory, and theoretical implications for visual cognition.

Alcohol's Effects on Sexual Decision Making: An Integration of Alcohol Myopia and Individual Differences

Kelly Cue Davis Christian S. Hendershot William H. George Jeanette Norris Julia R. Heiman

Journal of Studies on Alcohol and Drugs, 68(6), 843–851 (2007).

Abstract

Objective: We conducted an experiment to test the applicability of integrating individual perceptions of unprotected sex consequences with alcohol's myopic effects as an explanatory framework for risky sexual decision making in young heterosexual men and women. Method: Male and female participants (N = 61) rated their perceptions of unprotected sex consequences, received alcoholic (target breath alcohol concentration = .10%) or nonalcoholic drinks, and completed a risky sexual decision-making task that included a quantitative measure of sexual decision-making cue attention. Results: Intoxicated participants were more attentive to impelling cues and reported greater sexual risk intentions than sober participants. Mediational analyses indicated that attention to cues fully mediated the alcohol-sexual risk intention relationship. Moderational analyses revealed that alcohol's focusing effect acts in conjunction with pre-existing individual perceptions to influence cue salience directly and sexual risk intentions indirectly. Conclusions: Findings demonstrate the importance of examining predispositional tendencies when investigating alcohol myopia as a mediating mechanism underlying the alcohol-risky sex relationship.

Alcohol Myopia Revisited: Clarifying Aggression and Other Acts of Disinhibition Through a Distorted Lens

Peter R. Giancola, Robert A. Josephs, Dominic J. Parrott.

Perspectives on Psychological Science. (May 18, 2010) Vol 5, issue 3, pp. 265-278.

Abstract

The alcohol myopia model (AMM; Steele & Josephs, 1990) is reviewed in light of its unique ability to account for a variety of alcohol and nonalcohol-related disinhibited behaviors, particularly aggression. The AMM posits that alcohol has a narrowing, or a "myopic," effect on one's ability to attend to competing instigatory and inhibitory cues. Disinhibited behavior is presumed to occur when attention is directed toward salient provocative or instigatory cues rather than inhibitory cues. AMM research is reviewed with regard to stress and anxiety, risky sexual behavior, drinking and driving, suicide, disinhibited eating, smoking, and alcohol-related aggression. The AMM is also expanded by proposing five key mechanisms (i.e., negative affect, angry affect, hostile cognitive rumination, self-awareness, and empathy) that are likely to explain how the model is specifically

involved in the alcohol-aggression relation. Finally, a number of public health interventions, extrapolated from the AMM, are proposed to stimulate future research directed at reducing the prevalence of alcohol-related violence.

Alcohol Use and High-Risk Sexual Behavior Among Collegiate Women: A Review of Research on Alcohol Myopia Theory

Jessica A. Griffin MA , M. Renée Umstattd PhD & Stuart L. Usdan PhD

Journal of American College Health. (Oct 2010). Vol 58, Issue 6, pp. 523-532

Abstract

A review of current English literature in the areas of high-risk alcohol use and sexual behavior was conducted from September 2007 to December 2008. Objective: The purpose was to specifically review studies that used alcohol myopia theory (AMT) as the theoretical perspective from which they were evaluated and analyzed. Participants: Collegiate women were the population of interest in the review. Methods: Literature was acquired through searches within the Academic Search Premier and PubMed databases using the keywords “college,” “women,” “risk,” “alcohol,” “sex,” and “alcohol myopia.” Results: Results articulate the high prevalence of negative sexual consequences related to alcohol use among college-aged women and the utility of AMT. Conclusions: Future interventions aimed at decreasing high-risk alcohol and sexual behaviors among college women should incorporate AMT. Continued theory-based research examining the relationship between alcohol use and sexual behavior is needed to inform future interventions and better understand why college women continue to consume high levels of alcohol and engage in risky sexual behaviors despite the threat of negative consequences.

Public house patrons' engagement in hypothetical sexual assault: a test of Alcohol Myopia Theory in a field setting

Heather D. Flowe Jade Stewart Emma R. Sleath Francesca T. Palmer

Aggressive Behavior. (2011). Vol. 37, Issue 6, pp. 547-558.

Abstract

Previous research has found that drinking establishments are often antecedent to sexual aggression outcomes. In this study, male participants were randomly selected from public houses (i.e., “pubs”) and asked to imagine themselves in a hypothetical intimate encounter in which the female in the scenario stops consenting to sexual contact. Participants were given the option to continue making sexual advances up to and including sexual intercourse against the woman's will. It was hypothesized based on Alcohol Myopia Theory that participant blood alcohol concentration (BAC) levels would be associated with hypothetical sexual aggression when stereotypical cues of a woman's sexual availability (revealing clothing and alcohol use) were present in the scenario. Men's engagement in hypothetical sexual aggression was associated with BAC levels, but only when the woman was wearing revealing clothing. The sobriety of the female actor was not associated with sexual aggression. Results indicate that Alcohol Myopia Theory generalizes to a field setting.

Alcohol intoxication and memory for events: A snapshot of alcohol myopia in a real-world drinking scenario

Nadja Schreiber Compo, et. al.

Memory. (2011). Vol. 19, issue 2, pp. 202-210

Abstract

Alcohol typically has a detrimental impact on memory across a variety of encoding and retrieval conditions (e.g., Mintzer, 2007; Ray & Bates, 2006). No research has addressed alcohol's effect on memory for lengthy and interactive events and little has tested alcohol's effect on free recall. In this study 94 participants were randomly assigned to alcohol, placebo, or control groups and consumed drinks in a bar-lab setting while interacting with a “bartender”. Immediately afterwards all participants freely recalled the bar interaction. Consistent with alcohol myopia theory, intoxicated participants only differed from placebo and control groups when recalling peripheral information. Expanding on the original hypervigilance hypothesis, placebo participants showed more conservative reporting behaviour than the alcohol or control groups by providing more uncertain and “don't know” responses. Thus, alcohol intoxication had confined effects on memory for events, supporting and extending current theories.

Understanding Acute Alcohol Effects on Sexual Behavior

William H. George & Susan A. Stoner

Journal Annual Review of Sex Research (Nov. 2012). Volume 11, 2000 - Issue 1

Abstract

Alcohol has been implicated as having a causal role in a variety of sexual processes and outcomes. We review nonexperimental research illustrating the nature of alcohol's association with sexuality. Methodological considerations limiting causal assertions permissible with nonexperimental data are discussed. We also review findings from experiments, mostly analogue paradigms, examining the effects of alcohol on genital arousal, sexual risk taking, and sexual assault. In each case, it is observed that alcohol can exert a causal effect on one or more of the constituent responses undergirding these phenomena. We conclude that alcohol does appear to have a causal impact on many sexuality indices studied in laboratory conditions. Both alcohol expectancy and alcohol myopia models have been applied to explain these causal linkages. Expectancy models seem to account well for postdrinking sexual reactions and perceptions. Overall, myopia analyses seem to offer the most persuasive explanations of postdrinking expressions of sexual risk taking and sexual assault.

The Effects of Alcohol on Crime-related Memories: A Field Study

van Oorsouw, Kim, Harald Merckelbach

Applied Cognitive Psychology, Vol 26(1), Jan-Feb, 2012 pp. 82-90. Publisher: John Wiley & Sons

Summary

This field study investigated to what extent memory of criminally relevant details is affected at (close to) zero ($M_{BAC} = 0.00\%$), moderate ($M_{BAC} = 0.06\%$), and high ($M_{BAC} = 0.16\%$) levels of alcohol intoxication. Participants ($N = 76$) were approached in bars and were invited to watch a mock crime from a perpetrator perspective. We also measured their blood alcohol concentration levels. After 3–5 days, when participants were sober, they underwent a free and cued recall task about the mock crime. **Compared with sober controls, both moderately and highly intoxicated individuals were less complete when recollecting crime details, recalling up to 33% fewer correct details. Overall, intoxicated participants were less accurate during the cued recall task (i.e. they produced more errors) relative to sober participants.** These accuracy effects were dose-dependent for cued recall of salient features. Implications for police interrogations of defendants are discussed.

Effects of alcohol on sequential information processing: Evidence for temporal myopia.

Fleming, Kimberly A. Bartholow, Bruce D. Sable, Jeffrey Pearson, Melanie Fabiani, Monica Gratton, Gabriele

Psychology of Addictive Behaviors, (2013). 27(1), 184–190.

Abstract

Alcohol Myopia Theory (AMT) posits that alcohol restricts the focus of attention, such that behaviors are determined only by highly salient environmental cues. While AMT is most commonly understood in terms of spatial attention, the present study tested the effects of alcohol in the temporal domain of attention. Seventy-one participants consumed either a placebo beverage or one of two doses of alcohol (0.40g/kg or 0.80g/kg ETOH) before performing an auditory discrimination task while event-related potentials (ERPs) were recorded. Consistent with typical sequential effects, placebo participants showed increased P300 amplitude and slowed behavioral responses when the current target differed from the two-back tone. In contrast, alcohol caused increased P300 and response slowing when the target tone differed from the one-back tone. These findings suggest that alcohol increases the salience of more recently encountered information, consistent with the general tenets of AMT.

Bottled memories: On how alcohol affects eyewitness recall.

Hagsand, Angelica, et al.

Scandinavian Journal of Psychology, Vol 54(3), June, 2013. pp. 188-195.

Abstract:

This study investigated how different doses of alcohol affected eyewitness recall. Participants ($N = 126$) were randomly assigned to three groups with different blood alcohol concentration (BAC), either a control group (mean BAC 0.00%, $N = 42$), a lower alcohol dose group (mean BAC 0.04%, $N = 40$), or a higher alcohol dose group (mean BAC 0.06%, $N = 44$). After consumption,

participants witnessed a movie of a mock crime and were interviewed one week later. The main results showed that witnesses with the higher intoxication level recalled fewer details compared to witnesses with the lower intoxication level. The amount of alcohol consumed did not have an impact on the accuracy rate. No sex differences were found. The results are discussed in the light of past research. We conclude that more studies are needed before recommendations can be made to an applied setting.

Intoxicated Eyewitnesses: The Effects of Alcohol on Eyewitness Recall across Repeated Interviews
La Rooy, D., Nicol, A., and Terry, P.
Open Journal of Medical Psychology, 02, 03, (107), (2013).
Abstract

The study evaluated the usefulness of repeat-interviewing of witnesses to crimes who were intoxicated by alcohol at the time of the incident and their first interview, and then re-interviewed when not intoxicated the following day. Sixty young, social drinkers were divided into three groups. One group was given a "placebo" (alcohol-like) beverage, a second was given a "low dose" of alcohol (0.2 g/kg men; 0.17 g/kg women), and a third was given a "high dose" of alcohol (0.6 g/kg men; 0.52 g/kg women) over a 15 minute period. Twenty minutes later they viewed a 4-minute video of a crime, and afterwards they were given two opportunities to recall everything that they could remember from the incident; the first opportunity was immediately after the event, and the second was 24 hours later. Analyses of the quantity and accuracy of the details recalled revealed no overall increase in the total amount of information recalled between the first and second recall opportunities. However, on average, 18% of the details recalled by participants in the second test were new and accurate. The incidence of contradictions between the first and second recall opportunities was less than 1%. Surprisingly, none of the effects were influenced by alcohol, even at the highest dose. The results imply that 1) memory for at least some incidents observed under the influence of alcohol is resilient even up to relatively high blood-alcohol levels; and 2) the repeated interviewing of witnesses who were intoxicated at the time of the crime can reveal additional, reliable information that is not present at the initial interview, just as is the case for non-intoxicated witnesses.

Alcohol intoxicated eyewitnesses' memory of intimate partner violence.
Karlén, Malin Hildebrand, et al.
Psychology, Crime & Law, Vol 21(2), Feb, 2015. pp. 156-171.
Abstract:

Alcohol affects memory in many, and mostly negative, ways. This is a problem in legal contexts as many witnesses are alcohol intoxicated when taking part of the critical event. However, research is sparse regarding how, and under what circumstances, the reports of alcohol intoxicated witnesses differ from those of sober witnesses. This study investigated whether alcohol intoxicated and sober eyewitnesses differ regarding completeness, accuracy, and type of information reported, as well as whether gender influenced these variables. Eighty-seven healthy men ($n = 44$) and women ($n = 43$) received either an alcoholic beverage (0.7 g/kg) or a control (juice) in a laboratory setting before viewing a film picturing intimate partner violence. Ten minutes after viewing the film, they were interviewed. Reports by alcohol intoxicated women were less complete, but as accurate, as sober women's. In contrast, intoxicated and sober men did not differ regarding completeness or accuracy. Furthermore, compared with sober women, intoxicated women reported fewer actions but no difference was found between the groups regarding reported objects. At this moderate dose, alcohol affected women's reports more than men's, which may be because alcohol affects attention and memory consolidation more clearly at a lower dose for women than for men.

Alcohol intoxication impairs memory and increases suggestibility for a mock crime: A field study.
van Oorsouw, K., et al.
Applied Cognitive Psychology, Vol 29(4), Jul-Aug, 2015. pp. 493-501.
Abstract:

Defendants and witnesses are often intoxicated by alcohol. We investigated whether memory and resistance to suggestive cues are undermined at blood alcohol concentrations (BACs) that were (close to) zero ($M_{BAC} = 0.01\%$), moderate ($M_{BAC} = 0.06\%$), or high ($M_{BAC} = 0.16\%$). Participants

(N = 67) were approached in bars and instructed to commit a mock crime. Immediately after this, their memory and susceptibility to suggestive questions were tested, and these were re-tested during a sober follow-up 3–5 days later. Compared with sober participants, moderate and severe intoxication was associated with lower levels of correctly recalled crime details during both test sessions (i.e. intoxicated and sober). Also, during both sessions, severely intoxicated participants displayed a greater tendency to go along with suggestive cues compared with sober participants. Thus, intoxication impaired memory and increased suggestibility during an immediate interview, and both effects persisted when sober again.

Intoxicated witnesses: Testing the validity of the Alcohol Myopia Theory.
Authors:
Crossland, Deborah, et al.
Applied Cognitive Psychology, Vol 30(2), Mar-Apr, 2016. pp. 270-281.
Abstract:

In an assessment of the Alcohol Myopia Theory (AMT), the effects of alcohol on an eyewitness's recall of high-salience and low-salience details were investigated. In a laboratory, Study 1 participants watched a staged videoed theft whilst either sober (control or placebo), above (M_{BAC} = 0.09%) or below (M_{BAC} = 0.06%) the UK drink-drive limit. A week later, a free recall and recognition tests were completed. Intoxication was not found to reduce recall accuracy using either recall task. In Study 2, whilst on a night out, participants watched the videoed theft with high (M_{BAC} = 0.14%) or low (M_{BAC} = 0.05%) blood alcohol concentrations (BACs). A week later, the free recall and recognition tests were attempted. High BACs were seen to impair recall when memory was assessed through free recall but not with the recognition test. Neither study found the attention narrowing predicted by AMT using either recall technique, although poor recall for low-salience details in all groups may have contributed to this result.

Booze cues and attentional narrowing: Neural correlates of virtual alcohol myopia.
By Gable, Philip A.,Mechin, Nicole C.,Neal, Lauren B.
Psychology of Addictive Behaviors, Vol 30(3), May 2016, 377-382
Abstract

Exposure to alcohol cues reduces the breadth of attentional scope, called “virtual myopia.” Past researchers have suggested approach motivation as a possible mechanism that underlies this myopia in response to alcohol cues. We expanded on these findings in the current study by identifying the neural underpinnings of the relationship between attentional narrowing, approach motivation, and exposure to alcohol cues. Participants completed 64 trials that consisted of neutral or alcohol-related stimuli followed by a measure of attentional narrowing (i.e., Navons letter task). Electroencephalography (EEG) was recorded during the experiment to assess greater left frontal hemispheric asymmetry, a measure of approach motivation. Results revealed that alcohol cues led to greater “virtual myopia” as measured by narrowed attentional scope. Greater left frontal activation to alcohol cues related to greater myopia, suggesting that approach motivation is associated with virtual myopia. Left frontal activation appears to be a neural correlate of cognitive narrowing related to approach motivation.

The effects of acute alcohol intoxication on the cognitive mechanisms underlying false facial recognition.
Colloff, Melissa F. and Flowe, Heather D.
Psychopharmacology, Vol 233(11), Jun, 2016. pp. 2139-2149.
Abstract:

Rationale: False face recognition rates are sometimes higher when faces are learned while under the influence of alcohol. Alcohol myopia theory (AMT) proposes that acute alcohol intoxication during face learning causes people to attend to only the most salient features of a face, impairing the encoding of less salient facial features. Yet, there is currently no direct evidence to support this claim.

Objectives: Our objective was to test whether acute alcohol intoxication impairs face learning by causing subjects to attend to a salient (i.e., distinctive) facial feature over other facial features, as per AMT.

Methods: We employed a balanced placebo design (N = 100). Subjects in the alcohol group were dosed to achieve a blood alcohol concentration (BAC) of 0.06 %, whereas the no alcohol group consumed tonic water. Alcohol expectancy was controlled. Subjects studied faces with or without a distinctive feature (e.g., scar, piercing). An old-new recognition test followed. Some of the test faces were 'old' (i.e., previously studied), and some were 'new' (i.e., not previously studied). We varied whether the new test faces had a previously studied distinctive feature versus other familiar characteristics.
Results: Intoxicated and sober recognition accuracy was comparable, but subjects in the alcohol group made more positive identifications overall compared to the no alcohol group.
Conclusions: The results are not in keeping with AMT. Rather, a more general cognitive mechanism appears to underlie false face recognition in intoxicated subjects. Specifically, acute alcohol intoxication during face learning results in more liberal choosing, perhaps because of an increased reliance on familiarity.

Alcohol-induced retrograde facilitation renders witnesses of crime less suggestible to misinformation.
Gawrylowicz, Julie., et al.
Psychopharmacology, Vol 234(8), Apr, 2017. pp. 1267-1275.
Abstract:

Rationale: Research has shown that alcohol can have both detrimental and facilitating effects on memory: intoxication can lead to poor memory for information encoded *after* alcohol consumption (anterograde amnesia) and may improve memory for information encoded *before* consumption (retrograde facilitation). This study examined whether alcohol consumed *after*witnessing a crime can render individuals less vulnerable to misleading post-event information (misinformation). Method: Participants watched a simulated crime video. Thereafter, one third of participants expected and received alcohol (alcoholgroup), one third did not expect but received alcohol (reverse placebo), and one third did not expect nor receive alcohol(control). After alcohol consumption, participants were exposed to misinformation embedded in a written narrative about the crime. The following day, participants completed a cued-recall questionnaire about the event. Results: Control participants were more likely to report misinformation compared to the alcohol and reverse placebo group. Conclusion: The findings suggest that we may oversimplify the effect alcohol has on suggestibility and that sometimes alcohol can have beneficial effects on eyewitness memory by protecting against misleading post-event information.

Witnesses stumbling down memory lane: The effects of alcohol intoxication, retention interval, and repeated interviewing.
Hagsand, Angelica V., et al.
Memory, Vol 25(4), Apr, 2017. pp. 531-543.
Abstract:

Intoxicated eyewitnesses are often discredited by investigators and in court, but few studies have examined how alcohol affects witnesses' memory. The primary aim of the present study was to examine how intoxication (alcohol vs. control), retention interval (immediate vs. one week delay), and number of interviews (one vs. two interviews) affect witnesses' memory. The participants (*N* = 99) were randomly assigned to consume either orange juice or alcohol mixed with orange juice, and they all witnessed a filmed mock crime afterwards. The recall took place either (a) immediately and after a one week delay or (b) after a one week delay only. No main effect of alcohol was found on the quantity or quality of the witnesses' statements. Both intoxicated and sober witnesses recalled more details, and were more accurate, during immediate compared to delayed recall. For witnesses interviewed twice, an average of 30% new details were provided in the second compared to the first interview, and these were highly accurate. In sum, contrary to what one can expect, intoxicated witnesses with a low to moderate blood alcohol concentration (below 0.10%) were reliable witnesses.

Alcohol intoxicated witnesses: Perception of aggression and guilt in intimate partner violence.
Hildebrand Karlén, Malin, et al.
Journal of Interpersonal Violence, Vol 32(22), Nov, 2017. pp. 3448-3474.
Abstract:

Many witnesses to violent crimes are alcohol intoxicated, but research is lacking regarding how alcohol affects their perception of aggression and guilt. This study investigated to what extent alcohol intoxicated eyewitnesses differed from sober witnesses regarding how aggressive and guilty they perceived the involved parts in an intimate partner violence (IPV) situation. Eighty-seven healthy men (n = 44) and women (n = 43) were randomized to an alcohol group (0.7 g/kg) or a non-alcohol group. In a laboratory setting, alcoholic/non-alcoholic drinks were consumed before viewing a film depicting IPV between a man and a woman. Ten min after viewing, in an interview, the participants rated how aggressive and guilty they perceived the involved parts to be. Alcohol intoxicated participants perceived both parts' physically aggressive behavior as comparatively less severe, but their neutral behavior as more hostile. Sober witnesses perceived the man to be the most guilty part, whereas intoxicated witnesses distributed guilt more evenly. Alcohol had a strong but complex impact on the perception of aggression in IPV (i.e., heightened during the neutral interaction and lowered during physical aggression). These results may be explained by the cognitive consequences of alcohol's anxiety-dampening effects. Regarding the asymmetric difference in perceived guilt, stereotypical expectations of gender-appropriate behavior in an IPV situation may need to be considered.

Interviewing intoxicated witnesses: **Memory performance in theory and practice**.
Authors:
Hildebrand Karlén, Malin
Scandinavian Journal of Psychology, Nov 20, 2017.
Abstract:

Memory encoding and recall involving complex, effortful cognitive processes are impaired by alcohol primarily due to impairment of a select few, but crucial, cortical areas. This review shows how alcohol affects some, but not all, aspects of eyewitnesses' oral free recall performance. The principal results, so far, are that: a) free recall reports by intoxicated witnesses (at the investigated BAC-levels) may contain less, but as accurate, information as reports by sober witnesses; b) immediate reports given by intoxicated witnesses may yield more information compared to reports by sober witnesses given after a one week delay; c) an immediate interview may enhance both intoxicated and sober witnesses' ability to report information in a later interview; and d) reminiscence seems to occur over repeated interviews and the new information seems to be as accurate as the previously reported information. Based on this, recommendations are given for future research to enhance understanding of the multifaceted impact of alcohol on witnesses' oral free recall of violent crimes.

The impact of own and others' alcohol consumption on social contagion following a collaborative memory task.
Thorley, Craig, and Christiansen, Paul.
Memory, Vol 26(6), Jul, 2018. pp. 727-740.
Abstract:

When one person alters his or her recollection of an event to be consistent with another person's erroneous account of the same event, social contagion has occurred. In two studies, we examined whether alcohol consumption influences the degree to which people engage in social contagion. In Study 1, participants consumed alcohol, an alcohol placebo, or a soft drink and then completed a collaborative recall test with a confederate who consumed a soft drink. In Study 2, participants consumed a soft drink and then completed a collaborative recall test with a confederate they believed had consumed a soft drink or alcohol (but no alcohol was ever consumed). In both studies, the confederate made scripted errors during the collaborative recall test. On post-collaborative individual recall and recognition tests, participants in both studies engaged in social contagion by including the confederate's errors in their own recollection. In Study 1, the drink participants consumed had no influence on social contagion. In Study 2, participants were less likely to engage in social contagion after collaborating with a confederate who had seemingly consumed alcohol. That same confederate was viewed as less accurate, trustworthy, and credible, which likely made participants less inclined to engage in social contagion.

Do intoxicated witnesses produce poor facial composite images?

Bayless, S. J., Harvey, A. J., Kneller, W., and Frowd, C. D.
Psychopharmacology, Vol 235(10), Oct, 2018. pp. 2991-3003.

Abstract:

Rationale: The effect of alcohol intoxication on witness memory and performance has been the subject of research for some time, however, whether intoxication affects facial composite construction has not been investigated. Objectives: Intoxication was predicted to adversely affect facial composite construction. Methods: Thirty-two participants were allocated to one of four beverage conditions consisting of factorial combinations of alcohol or placebo at face encoding, and later construction. Participants viewed a video of a target person and constructed a composite of this target the following day. The resulting images were presented as a full face composite, or a part face consisting of either internal or external facial features to a second sample of participants who provided likeness ratings as a measure of facial composite quality. Results: Intoxication at face encoding had a detrimental impact on the quality of facial composites produced the following day, suggesting that alcohol impaired the encoding of the target faces. The common finding that external compared to internal features are more accurately represented was demonstrated, even following alcohol at encoding. This finding was moderated by alcohol and target face gender such that alcohol at face encoding resulted in reduced likeness of external features for male composite faces only. Conclusions: Moderate alcohol intoxication impairs the quality of facial composites, adding to existing literature demonstrating little effect of alcohol on line-up studies. The impact of intoxication on face perception mechanisms, and the apparent narrowing of processing to external face areas such as hair, is discussed in the context of alcohol myopia theory.

The devil is not only in the details: Gist and detail elaboration in intoxicated witnesses' reports of interpersonal violence.

Hildebrand Karlén, Malin, et al.
Psychology, Crime & Law, Oct 2, 2018.

Abstract:

The empirical base relating to alcohol's effects on underlying memory mechanisms among witnesses is sparse. Therefore, the effect of alcohol intoxication on memory mechanisms was investigated, as well as how degree of intoxication and interview delay affected gist and detail elaboration in these witnesses' reports. Participants (n = 136) were randomized to an alcohol group (men: 0.8 g/kg, women: 0.75 g/kg) (n = 70) or a control group (n = 66), given juice. After consumption, they witnessed an intimate partner violence-scenario, and performed tasks assessing memory mechanisms. Half of the intoxicated and sober groups were interviewed immediately. The remaining participants were interviewed one week later. Inter alia, intoxication decreased total gist recall and elaboration capacity. In general, high intoxication (BAC = 0.08–0.15) made witnesses report fewer gist categories, and also to elaborate them less, but there were differences in gist/detail elaboration between levels of intoxication due to emotional context. Less reported information among intoxicated witnesses was caused both by omitting parts of the scenario and to less detailed elaboration. Emotional context influenced reporting among intoxicated witnesses on a gist and detail level. However, intoxication had less impact on gist/detail-elaboration than did a one week delay before interview, suggesting that witnesses should be interviewed immediately, despite intoxication.

Differential effects of alcohol on associative versus item memory.

Maylor, Elizabeth A., et al.
Applied Cognitive Psychology, Oct 29, 2018.

Abstract:

Summary Alcohol has detrimental effects on a range of cognitive processes, the most prominent being episodic memory. These deficits appear functionally similar to those observed within the normal aging population. We investigated whether an associative memory deficit, as found in older adults, would also be evident in young adults moderately intoxicated by alcohol. Participants were shown unrelated word pairs and then tested on both their item recognition (old/new item?) and associative recognition (intact/recombined pair?). Half the participants were under the influence of alcohol whereas the other half were sober. Alcohol impaired memory performance but significantly more so for associative than for item memory. Moreover, within the alcohol group, the associative

memory deficit was significantly related to the amount of alcohol consumed. The findings suggest that not all aspects of episodic memory are equally impaired by alcohol, which may have practical implications for criminal investigations involving eye witnesses who have consumed alcohol.

Does alcohol loosen the tongue? Intoxicated individuals' willingness to report transgressions or criminal behavior carried out by themselves or others.
Mindthoff, Amelia, et al.
Applied Cognitive Psychology, Nov 21, 2018.
Abstract:

Summary Police commonly interview intoxicated suspects. This is concerning when suspects are innocent because intoxication often leads to a higher risk for impulsive decision making and reduces inhibition. However, the manner in which intoxication affects people's reporting of unethical or criminal actions carried out by themselves or others is unknown and was thus addressed in the current study. Participants (N = 116) were randomly assigned to one of six conditions based on a 2 (transgression: self, other) × 3 (alcohol condition: low-to-moderate intoxication, placebo, sober-control) between-participants design. After drinking their assigned beverages, participants were asked to disclose a transgression. No main effect of alcohol emerged. However, the odds that participants would report a transgression were significantly higher if they were asked to report a personal, rather than someone else's, transgression. Overall, low-to-moderate intoxication did not increase the likelihood of sensitive information disclosure in this initial study, but additional research is needed.

Blackout History Degrades Future Memory Ability

White (2003, p.8) explains:

> *"A recent study by Hartzler and Fromme (2003) suggests that people with a history of blackouts are more vulnerable to the effects of alcohol on memory than those without a history of blackouts. These authors recruited 108 college students, half of whom had experienced at least one fragmentary blackout in the previous year. While sober, members of the two groups performed comparably in memory tasks. However, when they were mildly intoxicated (0.08 percent BAC) those with a history of fragmentary blackouts performed worse than those without such a history. There are two possible interpretations for these data, both of which support the hypothesis that some people are more susceptible to blackouts than others. One plausible interpretation is that subjects in the fragmentary blackout group always have been more vulnerable to alcohol–induced memory impairments, which is why they performed poorly during testing under alcohol, and why they are members of the blackout group in the first place. A second interpretation is that subjects in the blackout group performed poorly during testing as a result of drinking enough in the past to experience alcohol–induced memory impairments. In other words, perhaps their prior exposure to alcohol damaged the brain in a way that predisposed them to experiencing future memory impairments. This latter possibility is made more likely by recent evidence that students who engage in repeated episodes of heavy, or binge, drinking are more likely than other students to exhibit memory impairments when they are intoxicated (Weissenborn and Duka 2000). Similar results have been observed in animal studies (White et al. 2000a)"*

For a more complete understanding of *Alcohol Blackout*s, see Dr. Simpson's seminar handout for his State Bar of Arizona CLE training at http://www.drpaulsimpson.com/seminars/ .

Female Initiated Intimate Partner Violence Against Men

Dutton and White (2013) have provided an important review/summation of over 200 research articles regarding domestic violence initiated by women against men. They counter popular myths that female initiated violence is "*inconsequential violence*", doesn't harm male victims, is only bilateral, or only in self-defense. To the contrary, "*Now we know that women assault non-violent male partners more frequently than men assault non-violent female partners*." (p.6).

Male Victims of Domestic Violence

Dutton, Donald G. and Katherine R. White
New Male Studies: An International Journal. VOL. 2, ISSUE 1, 2013, PP. 5-17 (2013)

Conclusion

Both male victims and male perpetrators have a more difficult experience in the aftermath of IPV (interpersonal violence). Male perpetrators receive harsher legal penalties, and are judged as more capable of inflicting injury or instilling fear in their female partner. This is true even when they have been part of a bilateral IPV pattern. Male victims also fare worse when attempting to access services, as males are more likely to be labelled the aggressor and to be treated with suspicion and injuries they have sustained are likely to be minimized. Custody assessments are misdirected, focusing on the male as the sole source of threat to children for physical abuse. A major revision of our thinking is required, one that is empirically based and can to alter an emotionally tinged stereotype.

Here are excerpts from their review:

- *Academics who would bristle at any stereotyping of women or minorities adhere to the 'gender paradigm' that all domestic violence is male perpetrated against hapless female victims, in order to preserve "patriarchy" -male dominance of women.* p.6
- *When data began to surface about female intimate partner violence (IPV) from the national survey data of professor Murray Straus (Straus, 1980), it was quickly dismissed as inconsequential violence, in Michael Johnson's term, 'common couple violence' (Johnson, 1995) that was bilateral and where the woman was acting in self-defence (Saunders, 1986; 1988; 2002). Now we know that women assault non-violent male partners more frequently than men assault non-violent female partners.* p.6
- *Graham-Kevan and Archer (2003) found that as the authors put it "...the "maleness" of intimate terrorism may well be an artifact of the sampling procedure used. Indeed, if the shelter data is omitted it shows sexual symmetry" (p. 1261). Eighty percent of the male intimate terrorists found were reported by the shelter sample, even though it constituted only 17% of the entire sample, (i.e., it was not found in other samples).* p.7
- *As far back as 1992 Murray Straus had reported (Straus, 1992b) that shelter samples had 11 times the violence perpetrated against them as did community samples of women.* p.7
- *By way of comparison with Johnson's one-sided approach, Renee McDonald and her colleagues asked about violence both toward and by women in shelters (McDonald, Jouriles, Tart, & Minze, 2009). When asked about their own use of violence 67% of these women reported using an act of severe violence themselves against their partner.* p.7
- *One reason that intimate partner violence toward men is underestimated is that men are less likely to view the IPV as a crime or to report it to police. Men have been asked in surveys if they had been assaulted and if so, had they reported it to police. In a 1985 survey, less than 1% of men who had been assaulted by their wife had called police (Stets & Straus, 1992). In that same survey men assaulted by their wife were less likely to hit back than*

were wives assaulted by their husband. Men were also far less likely to call a friend or relative for help (only 2%). p.7-8

- *The National Survey of Violence Against Women (Tjaden & Thoennes, 2000) asked a representative US sample about "crime victimization." Of course, the use of that filter suppresses reporting because it assumes respondents will define the abuse as a crime. Straus (1999) has shown that removing this filter by asking about specific behaviors used in response to conflict increases reporting rates of abuse by a factor of 16, because it asks respondents to simply endorse a specific act (in terms of whether the individual did it or had it done to them) rather than define the act depicted as abuse. However, it also produces gender rates of IPV that are identical, leading to criticism of the scale by those who wish to screen out evidence contradicting the gender paradigm (Straus, 1992a). Apart from filters, there is another serious problem, with asking one-sided questions about IPV; bilateral IPV is missed.* p.8

- *Five large scale surveys that asked about both victimization and perpetration found that the most common form of IPV was bilateral (two way IPV), matched for level of severity (see Table 1). Of the remaining unilateral cases, 70% were perpetrated by women, only 30% by men (Stets & Straus, 1989; Whitaker, Haileyesus, Swahn, & Saltzman, 2007). This finding has the following implication for one sided victimization surveys; about 75% of the women reporting victimization were also perpetrators.* p.8

- *An emergency clinic in Philadelphia found that 12.6 percent of all male patients over a thirteen-week period (N=866) were victims of domestic violence (Mechem, Shofer, Reinhard, Horing, & Datner, 1999). These patients reported having been kicked, bitten, punched, or choked by female intimate partners in 47 percent of cases, and in 37 percent of cases reported a weapon being used against them. The authors observe that the numbers would have been higher except they had to stop counting after midnight and screened out "major trauma" cases, which could have upped the proportion injured by female partners. Note that many emergency clinics ask women but not men about potential domestic violence origins for injuries. An emergency clinic study in Ohio found that 72 percent of men admitted with injuries from spousal violence had been stabbed (Vasquez & Falcone, 1997). The authors report that burns obtained in intimate violence were as frequent for male victims as for female victims.* p.9-10

- *The reanalysis of the Canadian General Social Survey data by Laroche (2005), based on a sample of 25,876, also strongly refutes the idea that males do not suffer ill effects from intimate partner violence. It is of interest that, though not all "victim" data in that survey were available for men, what was available indicated great similarity in male and female victimization. Laroche (2005) reported that 83% of men who "feared for their life" did so because they were unilaterally terrorized by their female partner compared to the 77% of women who were unilaterally terrorized. Of the terrorized men, 80% reported having their everyday activities disrupted (compared to 74% for terrorized women), 84% received medical care (the same rate as for terrorized women), and 62% sought psychological counseling (63% for women: see Table 8, p. 16). Hence, in an immense nationally representative sample, victim reactions for abused men were virtually identical to those of abused women. It was simply that earlier research was driven by a paradigm that avoided asking the right questions of men.* p.10

- *(although, on average men are less likely to sustain injury compared to women: Archer, 2000)… Men who had sustained common couple violence were more likely to meet the clinical cut-off for PTSD compared to men who had not sustained IPV (8.2%; 2.1%), but*

the group with the highest rates of PTSD were men who sustained intimate terrorism (57.9%: Hines & Douglas, 2011) p10

- *Using a sample of men contacting the New Hampshire domestic violence hotline, the only one in North American for men, Denise Hines (Hines, Brown, & Dunning, 2007) finally provided a view of male victims of IPV. Hines and Douglas (2010) reported that in this male victim sample, 20% had experienced extreme violence (e.g., choking, using a knife, burning with scalding water, targeting of their genitals) during attacks, and that 95% of the female perpetrators used controlling acts consistent with Intimate Terrorism (e.g., death threats, threats to the family pet, display of weapons, smashing things, threats of using the criminal justice system–calling the police and lodging a domestic violence complaint, using the court system to obtain sole custody, etc.). Seventy eight percent of the men were injured (Hines), 2007 sustaining on average eleven injuries. Hines and Douglas (2011) used a community sample as controls. In the community sample they found that CCV was the most common form of IPV. However, with the sample of help-seeking men, "a very different picture emerged" (p. 51). Female partners of these men used 5-6 times the frequency of physical and severe psychological aggression of the men themselves (by the men's reports) and 5-6 times the controlling behaviors.* p.10-11

- *Criminal justice practice requires a perpetrator and a victim, that's how the world is divided, so it is no surprise that bilaterally violent couples will be divided in this manner by police intervention. Deborah Capaldi and her colleagues performed the essential study on this matter (Capaldi et al., 2009). As part of the ongoing Oregon Youth Survey, Capaldi et al. assessed 150 couples in late adolescence and early adulthood. Bilaterally violent couples whose level of IPV rose during one event, called the police who then arrested the man (in 85% of cases). It should be pointed out that the man's level of aggression was higher on that incident, but the IPV pattern preceding that event had been mutual and matched for severity. Brown (2004) found that men were more likely than women to be arrested and prosecuted for IPV. For example, in cases where neither partner sustained injury, men were over 15 times more likely than females to be charged (61% vs. 3.8%). Henning and Renauer (2005) found that men were more likely to be arrest compared to women, even when other factors were controlled (e.g., prior arrests). Men also faced harsher legal ramifications post-arrest, in this sample 85% of men, but only 53.5% of women who were arrested were prosecuted (Henning & Renauer, 2005*). p.11

- *Male victimization is not viewed to be as serious as female victimization. Regardless of injuries sustained, or other negative outcomes, society views IPV perpetrated by a women towards a man as less dangerous and less potentially harmful to the victim (see, White & Dutton, 2013).* p.12

- *Of perhaps greater concern is that Follingstad et al. (2004) found that this gender bias was also true of psychologists. Two scenarios describing the context and psychologically abusive behaviors with the genders reversed were given to 449 clinicians (56% male), with a median age of 52. Psychologists rated male perpetrated behaviors as more abusive and severe than a female's use of the same actions. Contextual factors (e.g., frequency/intent/perception of recipient) did not affect this tendency. The items rated as significantly more abusive if performed by a man included "made to account for whereabouts at all times", "would not allow to look at members of same sex", "threatened to have committed to an institution" and "made derogatory comments." The significance on these items was independent of the sex of the psychologist. In both the Sorenson and Follingstad studies, identical behaviors were more likely to be judged as abusive when done by a male to a female*. p.12

- *Coontz, Lidz and Mulvey (1994) found that clinical predictions of dangerousness made in psychiatric emergency rooms consistently underestimated female dangerousness. Predictions that a male would not be violent were correct 70% of the time, but for females, they were correct only 55% of the time. Skeem and his colleagues (2005) had 147 clinicians assess 680 patients in a psychiatric emergency room for risk of future violence. Mental health professionals of both genders were "particularly limited in their ability to assess female patients' risk of future violence" (p. 173). In fact the false negative rate for female patients (i.e., the rate at which one was judged to be low risk but subsequently re-offended) was double that of male patients.* p.12

Gender as a Factor in the Response of the Law-Enforcement System to Violence Against Partners.

Brown, Grant A.

Sexuality & Culture: An Interdisciplinary Quarterly, Vol 8(3-4), Sum-Fal 2004. pp. 3-139.

Abstract:

A great deal of sociological evidence has been collected in the past three decades on the prevalence of abuse among adult heterosexual partners in domestic relationships of some degree of permanence. Partly as a result of this information, partner abuse has been identified as an important social ill that must be addressed aggressively through public-awareness campaigns, the funding of a broad range of support services, and the re-training of law-enforcement authorities--including police, prosecutors, and judges. However, in at least one important respect, these policy initiatives diverge substantially from what the sociological data, which ostensibly motivates them, would indicate: they have been, to date, overwhelmingly gender specific. That is, partner abuse is routinely portrayed and acted upon as though it were almost exclusively about men abusing and victimizing innocent women and, by extension, their children--despite the overwhelming sociological evidence that a significant amount of abuse is also suffered by male partners. Persistent anecdotal reports from victims and even some participants in the law-enforcement system suggest that this ideological emphasis on the male as perpetrator has had a deleterious effect on the impartial administration of justice, resulting in men being treated much more harshly than women who are accused of partner violence. This study attempts to determine whether the anecdotes are scientifically supportable.

Men who sustain female-to-male partner violence: Factors associated with where they seek help and how they rate those resources.

Douglas, Emily M., Hines, Denise A., and McCarthy, Sean C.

Violence and Victims, Vol 27(6), 2012. pp. 871-894.

Abstract:

Research since the 1970s has documented that men, in addition to women, sustain intimate partner violence (IPV), although much of that research has been overlooked. A growing body of research is examining the experiences of men who sustain female-to-male IPV, but there is still much to be learned. This exploratory study assesses the experiences of 302 men who have sustained IPV from their female partners and sought help from 1 of 6 resources: domestic violence agencies, hotlines, Internet, mental health professionals, medical providers, or the police. We examine what demographic characteristics and life experiences are associated with where menseek help and how they rate those experiences. We make recommendations for agencies, service providers, and first responders about how to tailor services for this specific population and their families.

Male Victims of Domestic Violence

Drijber, Babette C.

Journal of Family Violence. February 2013, Volume 28, Issue 2, pp 173–178

Abstract

Most studies regarding DV focused mainly on female victims. To gain more insight into the problems male victims encounter, this study investigated the characteristics of this group in the Netherlands. Adult male victims of DV filled out an online questionnaire regarding the characteristics of the abuse (N = 372). When men are victims of DV, they are physically as well as psychologically abused with the female (ex)-partners often being their perpetrator. The most important reason for men not to report the abuse is the belief the police would not take any action. Our findings suggest society should be aware that men are also victims of DV and feel the need to talk about it and desire support.

Male Victims of Domestic Violence

Dutton, Donald G. and Katherine R. White

New Male Studies: An International Journal. VOL. 2, ISSUE 1, 2013, PP. 5-17 (2013)

Conclusion

Both male victims and male perpetrators have a more difficult experience in the aftermath of IPV. Male perpetrators receive harsher legal penalties, and are judged as more capable of inflicting injury or instilling fear in their female partner. This is true even when they have been part of a bilateral IPV pattern. Male victims also fare worse when attempting to access services, as males are more likely to be labelled the aggressor and to be treated with suspicion and injuries they have sustained are likely to be minimized. Custody assessments are misdirected, focusing on the male as the sole source of threat to children for physical abuse. A major revision of our thinking is required, one that is empirically based and can to alter an emotionally tinged stereotype.

Psychologists' Judgments of Psychologically Aggressive Actions When Perpetrated by a Husband Versus a Wife.

Follingstad, Diane R., DeHart, Dana D., and Green, Eric P..

Violence and Victims, Vol 19(4), Aug, 2004. pp. 435-452.

Abstract:

Research literature suggests that clinical judgments of men's versus women's behavior and symptoms typically rate the men as more pathological and dangerous. To determine whether this view would extend to assessments of psychologically aggressive actions, two separate versions of a survey listing potentially psychologically abusive behaviors perpetrated by either a wife toward her husband or the identical actions perpetrated by a husband toward his wife were sent to a nationwide sampling of practicing psychologists. Results indicated that psychologists, irrespective of demographics, rated the husband's behavior as more likely to be psychologically abusive and more severe in nature than the wife's use of the same actions. Psychologists did not differentially rely on any of the three contextual factors (i.e., frequency/duration, intent of the perpetrator, and perception of the recipient) to influence their determination that a behavior was 'psychological abuse' dependent upon whether the initiator of the psychological actions was the husband or the wife. Future research could assess more directly the rationale for the psychologists' differing views of male versus female behavior. In addition, more normative information is needed to inform mental health professionals as to the prevalence and severity of psychologically aggressive actions in the general population.

Intimate Terrorism and Common Couple Violence: A Test of Johnson's Predictions in Four British Samples.

Graham-Kevan, Nicola and Archer, John.

Journal of Interpersonal Violence, Vol 18(11), Nov, 2003. pp. 1247-1270.

Abstract:

This study sought to both replicate and considerably extend the findings of Johnson (1999) that there are two distinct subgroups of physical aggression within relationships: intimate terrorism and common couple violence. The present sample consisted of women residing at Women's Aid shelters and their partners (N = 86), male and female students (N = 208), men attending male treatment programs for domestic violence and their partners (N = 8), and male prisoners and their partners (N = 192). Respondents completed measures on physical aggression, injuries sustained, escalation of physical aggression, and controlling behaviors. Cluster analysis was employed to categorize relationships as either intimate terrorism or common couple violence. Frequency analysis showed broad support for Johnson's findings.

Characteristics of callers to the domestic abuse helpline for men.

Hines, Denise A. and Brown, Jan.

Journal of Family Violence, Vol 22(2), Feb, 2007. pp. 63-72.

Abstract:

[Correction Notice: An erratum for this article was reported in Vol 22(8) of *Journal of Family Violence* (see record 2008-08038-013). In the online and print publications the Acknowledgement as well as the address listed under the last author were incorrect. The correct address is as follows: E. Dunning, Family Interventions Project, 4300 Auburn Blvd., Suite 208, Sacramento, CA 95841,

USA. And the correct Acknowledgment is as follows: In addition to thanking the members of the Family Research Laboratory for their comments on a previous draft of this article, the authors would also like to thank Mark Rosenthal for his help in preparing the data for analysis.] Intimate partner violence (IPV) by women against men has been the subject of much debate. Feminists typically argue that IPV is committed only by menagainst women. Others argue that violence is a human problem and women also commit much IPV. To resolve these debates, IPV has been classified into two categories: common couple violence captured by population-based studies, and patriarchal terrorism, captured by studies of battered women. This typology ignores male victims of extreme IPV. The current study addresses this omission by describing 190 male callers to the Domestic Abuse Helpline for Men. All callers experienced physical abuse from their female partners, and a substantial minority feared their wives' violence and were stalked. Over 90% experienced controlling behaviors, and several men reported frustrating experiences with the domestic violence system. Callers' reports indicated that their female abusers had a history of trauma, alcohol/drug problems, mental illness, and homicidal and suicidal ideations.

A closer look at men who sustain intimate terrorism by women.

Hines, Denise A. and Douglas, Emily M.

Partner Abuse, Vol 1(3), July 2010. pp. 286-313.

Abstract:

Over 30 years of research has established that both men and women are capable of sustaining intimate partner violence (IPV) by their opposite-sex partners, yet little research has examined men's experiences in such relationships. Some experts in the field have forwarded assumptions about men who sustain IPV — for example, that the abuse they experience is trivial or humorous and of no consequence and that, if their abuse was severe enough, they have the financial and psychological resources to easily leave the relationship — but these assumptions have little data to support them. The present study is an in-depth, descriptive examination of 302 men who sustained severe IPV from their women partners within the previous year and sought help. We present information on their demographics, overall mental health, and the types and frequency of various forms of physical and psychological IPV they sustained. We also provide both quantitative and qualitative information about their last physical argument and their reasons for staying in the relationship. It is concluded that, contrary to many assumptions about these men, the IPV they sustain is quite severe and both mentally and physically damaging; their most frequent response to their partner's IPV is to get away from her; and they are often blocked in their efforts to leave, sometimes physically, but more often because of strong psychological and emotional ties to their partners and especially their children. These results are discussed in terms of their implications for policy and practice.

"Gender Symmetry" in Domestic Violence: A Substantive and Methodological Research Review

Kimmel, Michael S.

Violence Against Women, Vol. 8 No. 11, November 2002 1332-1363

Abstract

Despite numerous studies that report the preponderance of domestic violence is perpetrated by men against women, other empirical studies suggest that rates of domestic violence by women and men are equivalent. This article explores these claims of gender symmetry in intimate partners' use of violence by reviewing the empirical foundations of the research and critiquing existing sources of data on domestic violence. The author suggests methods to reconcile the disparate data and encourages researchers and practitioners to acknowledge women's use of violence while understanding why it tends to be very different from violence by men toward their female partners.

Aspects of the context and consequences of domestic violence: Situational couple violence and intimate terrorism in Canada in 1999.

LaRoche, D.

Quebec City, QC: Government of Quebec. (2005). (Not available through PsycINFO)

Children's adjustment problems in families characterized by men's severe violence toward women: Does other family violence matter?

McDonald, Renee., Jouriles, Ernest N., and Tart, Candyce D.
Child Abuse & Neglect, Vol 33(2), Feb, 2009. pp. 94-101.

Abstract:

Objectives: This research examined whether additional forms of family violence (partner-child aggression, mother-child aggression, and women's intimate partner violence [IPV]) contribute to children's adjustment problems in families characterized by men's severe violence toward women.
Methods: Participants were 258 children and their mothers recruited from domestic violence shelters. Mothers and children completed measures of men's IPV, women's IPV, partner-child aggression, and mother-child aggression. Mothers provided reports of children's internalizing and externalizing behavior problems; children provided reports of their appraisals of threat in relation to interparent conflict. Results: After controlling for sociodemographics and men's IPV: (1) each of the additional forms of family violence (partner-child aggression, mother-child aggression, and women's IPV) was associated with children's externalizing problems; (2) partner-child aggression was associated with internalizing problems; and (3) partner-child aggression was associated with children's threat appraisals. The relation of mother-child aggression to externalizing problems was stronger for boys than for girls; gender differences were not observed for internalizing problems or threat appraisals.
Conclusions: Men's severe IPV seldom occurs in the absence of other forms of family violence, and these other forms appear to contribute to children's adjustment problems. Parent-child aggression, and partner-child aggression in particular, are especially important. Systematic efforts to identify shelter children who are victims of parental violence seem warranted. Practice implications: Men's severe IPV seldom occurs in the absence of other forms of family violence (partner-child aggression, mother-child aggression, and women's IPV), and these different forms of family violence all contribute to children's adjustment problems. Treatment programs for children who come to domestic violence shelters should address these different forms of family violence, especially parent-child aggression.

History of Domestic Violence among Male Patients Presenting to an Urban Emergency Department

Mechem, Crawford, Frances Shofer, Sharon S. Reinhard, Sarah Hornig, Elizabeth Datner
Acad Emerg Med. 1999 Aug;6(8):786-91.

Abstract.

Objective: To establish the prevalence of domestic violence committed by women against male patients presenting to an urban ED for any reason.
Methods: This was a prospective survey in which male patients of legal age presenting to the ED over a 13-week period were interviewed. Patients answered a series of six questions adapted from the George Washington University Universal Violence Prevention Screening Protocol. Patients who could not speak English, those refusing to participate, those unable to give informed consent, and those meeting regional criteria for major trauma were excluded.
Results: Of 866 male patients interviewed, 109 (12.6%) had been the victims of domestic violence committed by a female intimate partner within the preceding year. Victims were more likely to be younger, single, African American, and uninsured. The most common forms of assault were slapping, grabbing, and shoving (60.6% of victims). These were followed by choking, kicking, biting, and punching (48.6%), or throwing an object at the victim (46.8%). Thirty-seven percent of cases involved a weapon. Seven percent of victims de- scribed being forced to have sex. Nineteen percent of victims contacted the police; 14% required medical attention; 11% pressed charges or sought a restraining order; and 6% pursued follow-up counseling.
Conclusions: Almost 13% of men in this sample population had been victims of domestic violence committed by a female intimate partner within the previous year. Further attention to the recognition and management of domestic violence committed by women against men may be warranted.

Men who seek protection orders against female intimate partners.

Mele, Marie, Roberts, James C., and Wolfer, Loreen.
Partner Abuse, Vol 2(1), Jan, 2011. pp. 61-75.

Abstract:

Whereas intimate partner violence (IPV) perpetrated by men against women has been studied at length, relatively little attention has been given to violence perpetrated by women against their male intimate partners. This study represents one of relatively few attempts to better understand the experiences of male IPV victims. Specifically, this study explored the characteristics of men who obtain and withdraw a protection order against a female intimate partner, in comparison to those men who obtain and do not withdraw the order. We also looked at the reasons men cite for obtaining and withdrawing a protection order and the types of relief granted by the court. Findings from this study revealed that men who requested protection from abuse (PFA) against female intimate partnersexperienced a pattern of victimization prior to their requests for protection, including physical, psychological, or emotional abuse. Although, each of these men sought and was granted a 'no abuse, stalk, or threaten' order, few of them were able to obtain temporary custody of children they had in common with the defendant, nor were they successful in getting defendants evicted from the home or getting the court to order defendants to relinquish their firearms. A comparison of men who withdrew their PFAs to those who did not withdraw them suggested that men who did not withdraw their PFAs perceived their abusive situations as being more serious. Implications for future research are discussed.

Male Victims of Domestic Violence and Their History of Perpetrating Violence

Muelleman, Robert L. and Patricia Burgess
Acad Emerg Med. 1998 Sep;5(9):866-70

Abstract.

Objective: To determine whether male victims of domestic violence have similar rates of violence perpetration compared with men evaluated in the ED with other causes of injury.

Methods: Case-control retrospective ED record review with linkage to police department records. Cases were identified by ICD code N-code 995.81 (adult maltreatment syndrome) over a 4-year period (January 1, 1991, to December 31, 1994) at one urban trauma center. Medical records were reviewed to confirm that the assailant was an intimate female partner. Controls were identified by E-codes 880–888 (unintentional falls) and matched by age, race, and date of visit. All names were linked to police department record information regarding arrests for domestic violence perpetration, nonaggravated assaults, aggravated assaults, firearms violations, and driving under the influence of alcohol (DUI). This information was reported without patient identifiers. Comparisons between cases and controls were made with x2 analysis.

Results: Forty-five cases and 45 controls were identified. The cases were injured by unarmed fights, E960 (31%); cuttings, E966 (33%); blunt objects, E968.2 (31%); and bites, E968.8 (5%). Median age (interquartile range) for cases was 32 (25.75, 38.25) years and for controls was 31 (25, 36.5) years. Median follow-up (interquartile range) of police records after ED visit was 45 (37, 50) months for cases and 45 (36.75, 51) months for controls. Fifty-one percent of the cases had arrests for domestic violence perpetration vs 22.2% of the controls ($p = 0.009$). Forty-four percent of the cases had been arrested for nonaggravated assaults vs 20.0% of the controls ($p = 0.024$). There was no statistical difference between the cases and controls in arrests for aggravated assaults (13.3% vs 4.4%), firearm violations (22.2% vs 17.8%), or DUIs (35.6% vs 20%).

Conclusion: Men who present to the ED with injuries inflicted by their female partners have a high rate of domestic violence perpetration. This information calls into question whether many male “victims” of domestic violence are injured in self-defense by the female “victim.” Also, injury by a female partner may be a useful indicator to identify batterers, so they can be referred by appropriate resources.

Women and men's use of coercive control in intimate partner violence.

Robertson, Kirsten and Murachver, Tamar.
Violence and Victims, Vol 26(2), 2011. pp. 208-217.

Abstract:

This study examined the relationship between coercive control and intimate partner violence (IPV) for men and women and for targets and perpetrators. One hundred and seventy-two participants (85 men, 87 women) recruited from three samples reported on their own and their partner's behavior. IPV was measured using the Revised Conflict Tactics Scale (CTS2). Coercive control was measured using modified items from the Psychological Maltreatment of Women Inventory (PMWI). Coercive control was associated with IPV, and this relationship was similar for men and women across the three samples. In fact, coercive control was predominantly reciprocal in nature, with women and men reporting both receiving and perpetrating controlling behaviors. Overall, coercive controlling behaviors were characteristic of individuals within violent relationships, regardless of their physical abuse status. The experience of violence, rather than gender, was the best predictor of coercive control.

When battered women use violence: Husband-abuse or self-defense?

Saunders, Daniel G.

Violence and Victims, Vol 1(1), Spr 1986. pp. 47-60.

Abstract:

Reviews what is known about the relative victimization of spouses, clarifies some concepts regarding self-defense, and presents data on the motives for using violence of 52 battered women who sought help. Data show that the most frequent reason for violence reported by Ss was self-defense. Eight percent of Ss reported that nonsevere violence was used to initiate an attack more than half of the time. The concepts of self-defense and fighting back were significantly and positively correlated. It is recommended that care be used in stating assumptions about motives for violent behavior and in assigning labels to rates of marital violence. (Article available for pay)

A typology of men who batter: Three types derived from cluster analysis.

Saunders, Daniel G.

American Journal of Orthopsychiatry, Vol 62(2), Apr, 1992. pp. 264-275.

Abstract:

Replicated and extended the findings of previous studies (e.g., P. L. Caesar, 1986) by evaluating 165 men undergoing assessment for admission to a treatment program for men who batter. Three types of batterers were identified: family only aggressors (FOAs), generalized aggressors (GAs), and emotionally volatile aggressors (EVAs). FOAs reported the most satisfaction in the relationship, the least marital conflict, the least infliction of psychological abuse, and low levels of anger, depression, and jealousy. GAs were most likely to be violent out of the home and most likely to use severe violence. Their violence was likely to be associated with alcohol use. They reported low or moderate levels of anger and depression. EVAs reported the highest levels of anger, depression, and jealousy and reported being the most psychologically abusive and least satisfied in their relationships.

Are physical assaults by wives and girlfriends a major social problem? A review of the literature.

Saunders, Daniel G.

Violence Against Women, Vol 8(12), Dec, 2002. Special Issue: Women's use of violence in intimate relationships, part 2. pp. 1424-1448.

Abstract:

Notes that research that shows approximately equal rates of dating and domestic violence by men and women has been used to challenge the priority given to services for abused women. This article reviews the scientific evidence for gender equality in rates of lethal and nonlethal intimate partner violence. Among the problems noted in studies showing gender equality are the ways in which questions about violence are framed, exclusion of items about sexual abuse and stalking, and exclusion of separated couples. Studies without

these problems show much higher rates of violence by men. Furthermore, the physical and psychological consequences of victimization are consistently more severe for women.

The marriage license as a hitting license: A comparison of assaults in dating, cohabiting, and married couples.

Stets, Jan E. and Straus, Murray A.

Journal of Family Violence, Vol 4(2), Jun, 1989. pp. 161-180.

Abstract:

Used the Conflict Tactics Scale to examine violence by both men and women in 526 dating, 237 cohabiting, and 5,005 marital relationships. Findings indicate that (1) the highest rate of assault was among the cohabiting couples; (2) violence was most severe in cohabiting couples; and (3) for all 3 marital status groups, the most frequent pattern was for both partners to be violent, with the least frequent pattern being male-only violence. Age, education, and occupation did not explain differences in assault rate by marital status. The higher prevalence of violence among cohabiting couples may be a result of family isolation or arguments stemming from issues of autonomy and control. (Article is not available through PsycINFO)

Gender differences in reporting marital violence and its medical and psychological consequences.

Stets, J., & Straus, M. A. (1992).

In M. A. Straus & R. J. Gelles (Eds.), Physical Violence in American Families (pp. 151-166). New Brunswick, NJ: Transaction Publishers.

Victims and aggressors in marital violence.

Straus, M. A. American Behavioral Scientist (1980). 23(5), 681-704. This article is not available through PsycINFO

The Conflict Tactics Scale and its critics: An evaluation and new data on validity and reliability.

Straus, M. A.

In M. A. Straus & R. J. Gelles (Eds.), Physical Violence in American Families (1992). (pp. 49-73). New Brunswick, NJ: Transaction Publishers.

Blaming the messenger for the bad news about partner violence by women: The methodological, theoretical, and value basis of the purported invalidity of the Conflict Tactics Scales.

Straus, Murray A.

Behavioral Sciences & the Law, Vol 30(5), Sep-Oct, 2012. pp. 538-556.

Abstract:

More than 200 studies have found 'gender symmetry' in perpetration of violence against a marital or dating partner in the sense that about the same percent of women as men physically assault a marital or dating partner. Most of these studies obtained the data using the Conflict Tactics Scales (CTS). However, these results have been challenged by numerous articles in the past 25 years that have asserted that the CTS is invalid. This article identifies and responds to 11 purported methodological problems of the CTS, and two other bases for the belief that the CTS is not valid. The discussion argues that the repeated assertion over the past 25 years that the CTS is invalid is not primarily about methodology. Rather it is primarily about theories and values concerning the results of research showing gender symmetry in perpetration. According to the prevailing 'patriarchal dominance' theory, these results cannot be true and therefore the CTS must be invalid. The conclusion suggests that an essential part of the effort to prevent and treat violence against women and

by women requires taking into account the dyadic nature of partner violence through use of instruments such as the CTS that measure violence by both partners.

Cross gender violence.

Vasquez, D., & Falcone, R. (1997).
Annals of Emergency Medicine, 29(3), 427-429.

Abstract.

Reports equal cross gender violence treated at an Ohio trauma center during an 11 mouth period. Of 1,400 trauma admissions, 37 patients sustained injuries inflicted by members of the opposite sex. The severity score of injury was higher for men than women, 11.4 vs 6.9. The majority of men were admitted for stab wounds, 72%; the majority of women for assault, 53%.)

Differences in frequency of violence and reported injury between relationships with reciprocal and nonreciprocal intimate partner violence.

Whitaker, Daniel J., Haileyesus, Tadesse., Swahn, Monica and Saltzman, Linda S.
American Journal of Public Health, Vol 97(5), May, 2007. pp. 941-947.
frequency

Abstract:

Objectives: We sought to examine the prevalence of reciprocal (i.e., perpetrated by both partners) and nonreciprocal intimate partner violence and to determine whether reciprocity is related to violence frequency and injury. Methods: We analyzed data on young US adults aged 18 to 28 years from the 2001 National Longitudinal Study of Adolescent Health, which contained information about partner violence and injury reported by 11370 respondents on 18761 heterosexual relationships. Results: Almost 24% of all relationships had some violence, and half (49.7%) of those were reciprocally violent. In nonreciprocally violent relationships, women were the perpetrators in more than 70% of the cases. Reciprocity was associated with more frequent violence among women (adjusted odds ratio [AOR] = 2.3; 95% confidence interval [CI = 1.9,2.8), but not men (AOR = 1.26; 95% CI = 0.9, 1.7). Regarding injury, men were more likely to inflict injury than were women (AOR = 1.3; 95% CI = 1.1, 1.5), and reciprocal intimate partner violence was associated with greater injury than was nonreciprocal intimate partner violence regardless of the gender of the perpetrator (AOR = 4.4; 95% CI = 3.6, 5.5). Conclusions: The context of the violence (reciprocal vs nonreciprocal) is a strong predictor of reported injury. Prevention approaches that address the escalation of partner violence may be needed to address reciprocal violence.

Countering Counterintuitive Testimony

This topic is reviewed by Dr. Simpson in a separate CLE training – "*Countering Counterintuitive Testimony*". Contact him for a copy of the 94-page handout at doc@arizonaforensics.com.

Typical behaviors that are the focus of Counterintuitive Behaviors (CIB) testimony include:

7. Not fighting or resisting during the assault (*Tonic Immobility*, *Fright-Flight-Fight-Freeze*).
8. Acting "normal" the next morning; shopping, partying, going to work.
9. Not telling, delayed telling, or "piecemeal" disclosure.
10. Continued contact with the offender ("*Trauma Bonding*"; having sex, positive texting, dates after the instant event).
11. Inconsistent, changing, or incomplete memories.
12. Recantation.

The prosecution's expert will tell you which behaviors s/he is going to testify about. For <u>each of these behaviors</u> you want to make sure to utilize one-or-more of the strategies in Part 1 of referenced handout.

1. Why are they proposing a cure for a non-problem?
2. How did the studies they are citing account for sexual assault claims that were true, unfounded, or false?
3. Can they give a single example in which this particular symptom has been shown to be falsifiable?
4. How has the research and expert's testimony accounted for motivations for false reporting?
5. How has the expert's research studies, and testimony accounted for confounding variables?
    - Subject-Variable interactions
    - Possible <u>external</u> mediators
    - Cultural or gender issues
    - Alcohol consumption and alcohol blackout
6. How has the expert's research studies, and testimony accounted for confirmation bias?
    - Blind / double-blind
    - CIB lacks predictive ability
    - It should not be used to infer that rape has or has not occurred
7. The Devil is in the Details. The Government 's CIB expert must provide you the titles and actual copies of the research articles they are basing their opinion upon. Then be sure that you and your own expert read through each study to identify ways in which the study doesn't apply to your case and the cautions/limitations that are always described at the end of the article. This section of the paper includes a multitude of research abstracts for each of these six areas of counterintuitive behaviors listed above. Read through the ones relevant to your case and look for the studies that contradict the expert's.

False/Unfounded Child Abuse Allegations

The following is a compilation of research available regarding false child abuse claims:

One study of 410 children referred for suspected child sexual abuse, 197 (48%) were actually abused, 63 (15%) were determined to be false allegations, Watkeys and Anthony (1991)

A study of 576 child sexual abuse allegations made to the Denver Department of Social Services found that 3% were unreliable accounts and 8% were purely fictitious. Clinical features relevant to the fictitious accounts included: lack of emotion and an absence of coercion and threat in the recount, Jones and McGraw (1987)

Simon B Miranda, Licensed Clinical Psychologist specializing in Child Sexual Abuse reports that some powerful negative motive usually underlies the birth of a false sex abuse allegation, and often questionable (however pro-socially clothed) motives energize its flow through the governmental systems. At the entry point of a false allegation one almost always finds a parent who has questioned a child in indeterminate ways and often also exposed the child to powerful emotional messages. This parent will then pass that exchange through her/his personal psychological filter (beliefs, memories, attitudes, resentments, fears) before delivering this filtered information to a law enforcement professional. This professional has the unique opportunity of detecting the false or doubtful nature of the allegations and stopping them. Unfortunately, too often this person also has the power to give the allegation life and elevate it to an official status. (her father)

2.98 million American children underwent a Child Protective Services investigation (or alternative CPS response) for an allegation of child abuse or neglect in 2010. One-fifth of the claims met the legal requirements of abuse.[2] In the other four-fifths of the claims, the investigation determined that there was not sufficient evidence under state law to conclude or suspect that the child was maltreated or at-risk of being maltreated.[3]

An estimated 2-10% of all child abuse claims are believed to be false.[4,5,6,7] Using a conservative 5% false allegation figure, nearly 150,000 children are involved in a false child abuse claim each year.[8] During child-custody disputes, false allegation rates as high as 36-55% have been reported.[9,10,11]

What factors contribute to false allegations of child abuse?

- Lack of presumption of innocence: According to the National Child Abuse Defense and Resource Center, in "*alleged physical abuse cases, there is seldom a search for an 'equally competing hypothesis' for causation of any injuries. In most cases, the presumption is made that the injurie(s) were non-accidental and therefore must have been inflicted by someone*."[12]
- Overly broad definitions: Each state has its own legal definition of child abuse that often includes vague terms like being "at-risk" for "emotional" abuse. In California, "family problems" can meet the statutory definition of abuse and neglect. In Utah, a child's mere knowledge (not witnessing) of domestic violence by a parent is classified as abuse.[13]
- Low standards of proof: Thirty-two states use the weakest "preponderance of evidence" standard: AL, AK, AR, CA, CO, CT, DE, GA, ID, IA, KY, ME, MD, MI, MN, MO, MT, NE, NH, NJ, NC, ND, RI, SC, SD, TN, TX, VA, WA, WV, WI, and WY. Only two states employ the strong "clear and convincing" standard: KS and PA.[13]
- Lack of accountability: The procedures of Child and Protective Service agencies and administrative law judges are not subject to external review, and their decisions difficult to appeal.

Exonerations

- Over the past two decades, 102 persons who had been convicted for child sex abuse were later exonerated (NRE Report, Table 1).
- Of these 102 persons: 75% had been convicted based on a false accusation or perjury (NRE Report, Table 15).
- In two-thirds of these cases, the alleged crime had been fabricated (NRE Report, Table 15).
- 37 had been given life sentences.
- Conclusion: "Many judges, prosecutors, and child welfare agencies are skeptical of accusations of child sex abuse in custody battles, for obvious reasons." (NRE Report, p. 78)

1. Administration for Children and Families. Child Maltreatment 2010. Washington DC. Department of Health and Human Services. Page 6. http://www.acf.hhs.gov/programs/cb/pubs/cm10/index.htm
2. Administration for Children and Families. Child Maltreatment 2010. Washington DC. Department of Health and Human Services. Table 3-2. http://www.acf.hhs.gov/programs/cb/pubs/cm10/index.htm
3. Administration for Children and Families. Child Maltreatment 2010. Washington DC. Department of Health and Human Services. Pages 7-8. http://www.acf.hhs.gov/programs/cb/pubs/cm10/index.htm
4. Ney T. True and False Allegations of Child Sexual Abuse: Assessment and Case Management. Psychology Press. pp. 23–33. 1995.
5. Hobbs CJ, Hanks HGI, Wynne JM. Child Abuse and Neglect: A Clinician's Handbook. Elsevier Health Sciences. pp. 197. 1999.
6. Schetky DH; Green AH. Child Sexual Abuse: A Handbook for Health Care and Legal Professionals. Psychology Press. pp. 105. 1988.
7. Bolen RM. Child Sexual Abuse: Its Scope and Our Failure. Springer. pp. 109. 2001.
8. 8.2,987,515 children x 0.05 = 149,375
9. Robin M. Assessing Child Maltreatment Reports: The Problem of False Allegations. Haworth Press. pp. 21–24. 1991.
10. Mikkelsen EJ, Gutheil TG, Emens M. False Sexual-Abuse Allegations by Children and Adolescents: Contextual Factors and Clinical Subtypes. American Journal of Psychotherpay. Vol. 46, 1992.
11. Trocme N, Bala N. False allegations of abuse and neglect when parents separate. Child Abuse and Neglect, Vol. 29, 2005. p. 1341.
12. National Child Abuse Defense and Resource Center. http://www.falseallegation.org/ . Accessed May 20, 2012.
13. Administration for Children and Families. Child Maltreatment 2010. Washington DC. Department of Health and Human Services. Appendix D. http://www.acf.hhs.gov/programs/cb/pubs/cm10/index

Research Studies on False/Unfounded Allegations of Child Abuse

False allegations of child sexual abuse: Implications for policy and practice.
Robin, Michael.
The state as parent: International research perspectives on interventions with young persons.
Hudson, Joe, (Ed); Galaway, Burt, (Ed); **pp**. 263-280; New York, NY, US: Kluwer Academic/Plenum Publishers; 1989.
Abstract:

> Reviews available data on false allegations of sexual abuse / the manner in which cases are investigated is reviewed and future research topics are suggested defining false allegations / defining child sexual abuse / unfounded reports / studies of false allegations / childsexual abuse investigations / impact of bias / when a child denies being abused / credibility of children / assessing allegations / behavioral and emotional indicators / when a child retracts an allegation / anatomically correct dolls

Child abuse and neglect reports in foster care: **The issue for foster families of false allegations**.
Carbino, Rosemarie.
Child & Youth Services, Vol 15(2), 1991. pp. 233-247.
Abstract:

> Possible reasons for the reporting of child maltreatment (MAL) when no MAL occurred include reporting standards, reporter misjudgment, deliberate 'false' reporting, and the need for humane services. Foster parent beliefs, experiences, and needs are reviewed in relation to how agencies respond when abuse is alleged. To ease the damaging effects of responses to MAL reports, services, support, and resources should be provided to all reported foster families (FFs). Four areas of positive change are recommended: (1) awareness of the traumatic impact on FFs of some agency responses to MAL allegations; (2) agency policy on dealing with reported FFs; (3) information provided to FFs; and (4) agency response to MAL reports, going well beyond investigation.

The social construction of child abuse and 'false allegations.'
Robin, Michael. U Minnesota School of Social Work, Minneapolis, US
Child & Youth Services, Vol 15(2), 1991. pp. 1-34.

> Traces the evolution and development of child abuse and neglect as a serious social problem and examines how it has been brought to public attention. The content of the claims that have been made about the problem and the practical and political implications of how the problem has been socially constructed are examined. How approaches to the problem of child abuse and neglect have led, in the mid 1980s, to the development of 'false allegations' (FAs) as a serious social problem is also examined. The indifference of the professional community when FAs happen is significant. The injustice of FAs is based not only on the immediate circumstances of the problem but also on the unwillingness of the professional community to acknowledge the phenomenon and to take the necessary steps to prevent and/or ameliorate its negative consequences.

A case study of child sexual false allegation.
Hershkowitz, Irit.
Child Abuse & Neglect, Vol 25(10), Oct, 2001. pp. 1397-1411.
Abstract:

> Follows the path by which a naive suggestion made in the course of a mother-daughter conversation was transformed into an allegation of severe sexual abuse. In addition, this article analyzes the 10-yr-old's interview scientifically and explores the limitations of scientific tools for detecting implausible allegations. Independent case facts were collected and analyzed to determine whether the event described by the child was likely to have happened. The credibility of the child's account was assessed using Criterion-Based Content Analysis and the information provided in both the 'implausible' and 'corrected' statements was compared to quantify the fabricated details in the implausible statement. The event described by the child was 'very unlikely to have happened' but the credibility assessment failed to detect its implausibility. Comparison of the 2 statements

revealed that the child did fabricate central details but incorporated them into a description of an event she really experienced, and most of the information provided was truthful. The pressure to conform to suggestions can be irresistible, inducing some children to make false allegations of sexual abuse. Scientific tools designed for credibility assessment are limited and may fail to detect implausible statements.

False sexual-abuse allegations by children and adolescents: **Contextual factors and clinical subtypes.**

Authors:

Mikkelsen, Edwin J., Gutheil, Thomas G., Emens, Margaret

American Journal of Psychotherapy, Vol 46(4), Oct, 1992. Boundaries, behavior, and **sexual** misconduct: Current issues and the medicolegal interface. pp. 556-570.

Abstract:

Develops, based on a review of the empirical literature, a typology of false allegations of sexual abuse against children. The specific subtypes described are false allegations (1) arising out of custody disputes, (2) stemming from accusers' psychological disturbances, (3) resulting from conscious manipulation, and (4) being caused by iatrogenic elements. Clinical examples are presented.

(Text included below)

FALSE SEXUAL-ABUSE ALLEGATIONS BY CHILDREN AND ADOLESCENTS: CONTEXTUAL FACTORS AND CLINICAL SUBTYPES

The authors present a typology of false allegations of sexual abuse against children that is derived from the literature and their clinical experience. The specific subtypes described are false allegations (1) arising out of custody disputes, (2) stemming from accusers' psychological disturbances, (3) resulting from conscious manipulation, (4) being caused by iatrogenic elements.

INTRODUCTION

The determination of the validity of a child's or adolescent's allegation of sexual abuse is one of the most difficult clinical questions that mental health professionals are confronted with. Despite the fact that many studies now indicate that a certain percentage of these allegations are false, large numbers of clinicians respond to the enormous complexities of these cases by resorting to oversimplified generalizations such as "children never lie." This type of response renders the decision-making process uncomplicated, but can also yield numerous false positives as this logic virtually precludes the existence of false allegations. In this manuscript we will review the literature concerning false allegations and will present a typology of their clinical subtypes to aid in the detection and clinical understanding of false allegations of sexual abuse, as well as in future research in the area.

FREQUENCY OF FALSE ALLEGATIONS OF SEXUAL ABUSE BY ADOLESCENTS AND CHILDREN

A recent review of the literature concerning systematic research into the frequency of false allegations of sexual abuse[1] revealed rates ranging from two to eight percent of referrals to child abuse clinics,[2-4] six percent of emergency room referrals[5] and substantially higher rates of 36.4% [6] to 55.5% [7] for the special circumstance of allegations arising out of the context of custody disputes. These articles are summarized in Table I.

In a large retrospective review involving all 576 complaints of sexual abuse made to the Denver, Colorado, Department of Social Services in 1983, Jones and McGraw [8] utilized the innovative strategy of breaking away from a strict Yes/No dichotomy and put forward four categories that capture the ambiguity of many of these situations. Their four categories and the frequency of each

are as follows: confirmed--53%; suspicious but not conclusive--17%; insufficient evidence to reach a conclusion--24%; and, definite false allegations--2%.

An important variable that has been analyzed in this research is the age of the child as it relates to the frequency of false allegations. This research as summarized by Everson and Boat [1] indicates that the relative frequencies for different age groups is as follows [N for each group indicated in ()]: 1 to 2.9 years of age (N = 124) 6%; 3 to 5.9 years of age (N = 301) 7%; 6 to 11.9 years of age (N = 414) 4.3%; and 12 to 17.9 years of age (N = 410) 8.0%. Thus, it would appear that the risk of an allegation being false is greater with older children.

CLINICAL ASPECTS OF FALSE ALLEGATIONS

While the research cited above is of use in ascertaining anticipated rates of false allegations the studies do not provide a great deal of clinical detail other than to indicate that one's suspicion should be heightened in cases where the allegation arises out of a custody dispute and that older children have higher rates of false allegations. This lack of clinical detail is not a specific shortcoming of the studies per se, but rather is reflective of their goal to determine overall frequencies of false allegations. More clinical detail is presented in the case-report literature which provides clinical descriptions of the reported cases. While these reports do not have the statistical significance of the studies previously mentioned they do provide more detail concerning the context and circumstances which surround false allegations. A summary of reported cases of false allegations made by children and adolescents is presented in Table II. [1,6,9,10-12] We have attempted to locate and summarize as many of these reports as possible, but do not claim that this listing includes every report which has ever been published. We have also excluded those cases that did not appear to have a firm basis for concluding that the allegation was false as opposed to inconclusive.

The reported cases continue the theme elaborated in the empirical research that allegations arising out of custody disputes are more suspect. However, the case reports also extend the range of contextual factors to be considered by highlighting the importance of the psychological stability of the reporting individual be it the child or an involved adult, and manipulation on the part of the child to obtain a specific result.

A TYPOLOGY OF SUBTYPES OF FALSE ALLEGATIONS OF SEXUAL ABUSE BY CHILDREN AND ADOLESCENTS

Our own clinical research into this phenomenon coupled with the literature reviewed has led to the formulation of a typology of subtypes of false allegations that can alert the clinician to contextual factors that should at least heighten concern and which might otherwise go undetected. Our findings suggest that these factors are not usually found in pure culture (although pure forms of each do exist). We will present the major subtypes below accompanied by a brief description of each with references to similar cases in the table. Following these we will present other more complex cases that represent aspects of more than one clinical subtype. All cases described in detail or by brief vignettes have either been reported in the literature, are a matter of public record, have been approved by the individuals involved or have been altered in a minor manner that would be sufficient to avoid identification.

SUBTYPE I: FALSE ALLEGATION IN THE CONTEXT OF CUSTODY DISPUTE

As noted above this would appear to be the most frequent type of false allegation based both on the empirical and case-report literature. This type of allegation is a conscious manipulation on the part of one parent or caregiver to obtain custody of children from another parent or caregiver often as a countermeasure to damning allegations (e.g. physical abuse against the main caretaker). In its purest form this would entail a parent or relative seeking custody who consciously sets out and plots to coerce a child into alleging sexual abuse at the hands of the target parent or caregiver. In

these instances the description of the abuse may be more sophisticated than the child would be expected to have at their developmental level.

Example: The mother of a mentally retarded eleven-year-old boy is in a comatose state as the result of an auto accident. The large monetary settlement has been placed in trust for the boy under control of the maternal grandparents. The boy's biological father maintains custody but, in fact, the boy spends much of his time with the grandparents. The father commences legal action to obtain control of the trust. In the context of this action the boy alleges having been forced to engage in reciprocal oral sex with his seventy-two-year-old grandmother. The boy's descriptions of this activity used words which are much more sophisticated than the rest of his vocabulary. For example, he uses the word ejaculate and cunnilingus, but can not explain what they mean. It emerges that the allegations are fabricated by the father who had coerced and coached the boy as he feels it will aid his efforts to gain sole control of the trust fund.

SUBTYPE II: FALSE ALLEGATIONS RESULTING FROM THE ACCUSER'S PSYCHOLOGICAL DISTURBANCE

This type of false allegation is the outgrowth of psychological disturbance of the reporting individual, be it the child himself/herself, a caregiver, a relative or neighbor. When the reporter is the child the nature of the disorder is usually such that it compromises the ability to differentiate fantasy from reality, such as borderline personality disorder or a psychotic process. In cases where the reporter is an adult caregiver, the disorder usually entailed a circumscribed delusional process in an individual who in general appears to be functioning adequately.

Example 1: A woman who had been sexually abused by her fourteen-year-old brother when she was twelve has two children, an older son and a younger daughter who also are two years apart in age. When the son reaches age fourteen and the daughter twelve, the mother becomes obsessed with the thought that her son is abusing her daughter. The evidence that she reveals is clearly delusional in nature although she does not appear to be grossly psychotic. The allegations (which the daughter denies) are ultimately seen as an outgrowth of the mother's early abuse at the hands of her brother.

Example 2: An immigrant from a civil-war-torn third-world country brings her seven-year-old son for treatment following the dismissal of charges brought against a male summer camp worker who the mother had alleged abused her child. The therapy does not focus on the alleged abuse, but rather, on the difficulty the mother and her children are having in adjusting to a strange culture without family supports. Approximately 18 months after treatment begins the therapists receive a call from a local hospital late in the evening. The mother has arrived with her son at the emergency room stating that she has found blood in her son's underwear and that upon questioning him about this he had admitted that he had been sodomized by a black male teacher at school. The physical examination revealed no signs of anal tears. Both the mother's therapist and the boy's therapist are concerned about the extremely distraught nature of the mother and the reticence of the boy, but decide it is safe for them to return home. Two days later the boy calls his therapist and leaves a message on his answering machine that no abuse had occurred and that he had been forced by the mother into disclosing the abuse. It subsequently emerges that in what would appear to have been a circumscribed delusional episode, the mother had mistaken menstrual blood on her underwear for blood stains on her son's underwear. When he denied that he had been sodomized she had beaten him until he agreed with her. The exact genesis of this delusion is never fully determined, however, the therapist who worked with the mother does elicit an unfolding history of abuse that the mother had suffered in the context of the civil war in her native country.

SUBTYPE III: FALSE ALLEGATION AS CONSCIOUS MANIPULATION BY THE CHILD OR ADOLESCENT

This type of false allegation refers to those instances where a child makes an allegation of abuse toward an adult either as a means to obtain a specific goal or out of vindictiveness, desire for revenge or rage. The most infamous example of this type of allegation involved not sexual abuse, but witchcraft. When the adolescent girls of Salem who started the witchcraft hysteria were asked (after the hysteria had passed) why they had watched their victims hanged or burned at the stake a few of them answered "for sport." [13] This type of sadistic premeditation is fortunately quite rare and most of the case examples cited in the literature involve children who want to extricate themselves from a living situation with a step parent or foster family that is not to their liking. There are also cases involving an allegation that is the outgrowth of anger over a perceived injustice or feelings of abandonment.

Example: A seven-year-old, severely deprived boy forms a close relationship with his primary counselor at a long-term residential treatment center. Following the return from an annual camping trip, the boy alleges that the counselor molested him on a hike, despite the observation that there were almost always others around. Prior to the trip, the counselor had told the boy that he would be terminating in two months to return to college. The counselor was encouraged to continue his termination work with the boy without withdrawing from him. During the course of the subsequent investigation the boy admits that he had fabricated the allegation out of his feelings of anger and abandonment over the counselor's announced termination.

SUBTYPE IV: IATROGENIC

Iatrogenic components can be found in many cases involving false allegations. These factors most often consist of contamination errors involved in the conduct of the evaluation. There is also an iatrogenic quality to much of the pseudo-clinical lore that has developed concerning allegations of sexual abuse by children. Taken in their totality these baseless clinical "axioms," such as "children never lie," make it logically impossible for an allegation not to be found to be true once it has been made. For example, if the child later retracts the allegation it is said to be due to the child's ambivalence and need to protect the perpetrator.

Pure iatrogenic cases are relatively rare. However, one individual can do significant social and clinical harm, such as the pediatrician in England who felt that she could detect sexual abuse based on subtle findings on physical examination which were known only to her. Based on these results charges were made against a number of parents in one village in England. [14] Although we have not been able to obtain material relating to the psychological profile of these individuals one would assume that at least circumscribed psycho-pathological factors are involved. [15] Less flagrant but equally difficult to comprehend cases are summarized in the following narrative provided by a colleague:

An adolescent student at a private school seeks help for an eating disorder. The therapist has read articles concerning the frequency of sexual abuse in females with eating disorders. Despite a negative history of sexual abuse and what would appear to have been a stable family background, the therapist becomes convinced that there must have been an incestuous relationship between the girl and her father. Ultimately, she resorts to hypnotism. Under the influence of the hypnotic state and in response to distorting leading questions, the patient produces a history of sexual contact with the father that the therapist believes supports her theory. When the patient later states misgivings about the allegation she is told that it is common for victims to have ambivalent feelings about disclosure and is told that the allegations must be true.

COMBINATION SUBTYPE

As indicated above, most cases of false allegations do not evolve as purely as the examples cited in this article and involve elements of more than one subtype, (although it is usually possible to discern a major subtype). The following are three more detailed case examples involving multiple themes.

Example 1: Henry is a 32-year-old physician who met and married his wife, Helen, while in college. His wife had been married before and Henry proceeded with efforts to adopt his wife's son by her previous marriage. The couple later has two daughters ages six and four. Helen gradually deteriorates psychologically. She refuses attempts at treatment by different psychiatrists who diagnose her as having a borderline personality disorder. Ultimately Henry seeks a divorce due to Helen's condition and refusal of treatment. The couple have joint legal custody of their children and Helen is awarded physical custody. Henry is given liberal visitation with his children. Following the divorce Helen appears to deteriorate further and Henry becomes increasingly concerned about her refusal of treatment and her ability to care for the children. Reluctantly he petitions for sole legal and physical custody of the children with only visiting rights for Helen. The court-ordered evaluations of the parents are not favorable to Helen, and Henry appears to be on the verge of winning full custody. Literally hours before the final hearing, both daughters allege that Henry has sexually abused them during their visitation with him. Henry's position rapidly changes from being on the verge of winning custody of his children to facing a grand jury. Although ultimately acquitted of the sexual abuse charges, the negative publicity destroys his career and he loses both custody and visitation with his children. The court mandates that he can only resume visitation if he undergoes psychological treatment. The therapist whom he is ordered to see states that as a prerequisite for therapy he must admit to the charges. Henry maintains his innocence and consequently can have only professionally supervised visits with his children. Henry resumes his visits under these constraining and expensive conditions while undertaking legal efforts to regain custody.

Three years after the sexual abuse allegation the adopted stepson comes forward and admits that he heard his mother coercing and coaching her daughters with the details of the allegations just before the final custody hearing. The daughters' fear of the mother was such that they acquiesced. Despite this admission, favorable reports by the visitation supervisor, the dismissal by the grand jury, the reconstruction of his career, a successful second marriage, and favorable reports by subsequent professional evaluations, Henry is granted only a decrease in the percentage of supervised visits. The stigma of the original allegation coupled with the first psychologist's report that he must be guilty because he refused to admit his guilt proves too great an influence on the judge who refuses to reverse his decision.

This case is illustrative of a combination of subtypes involving (1) aspects of those cases arising out of custody disputes, (2) psychological instability on the part of the reporter and, (3) an iatrogenic component. It also illustrates the power of the stigma of the allegation which can, on occasion, not even be undone even by first-hand witnesses to the contrary.

Example 2: Kerri is a fifteen-year-old, mildly retarded girl with Down's syndrome who attends a special school. She lives at home with her parents, two brothers, and three sisters. Teachers at her school became concerned when Kerri begins to engage in sexually provocative behavior such as lifting up her skirt in the classroom. She will also openly masturbate. One of the teachers had attended a seminar in which she had been told that sexually provocative behavior in a student could be a sign of sexual abuse. On this basis the Department of Social Services is contacted. Leading questions by the interviewer yield an ambiguous statement by Kerri that she has been sexually abused. The details as she describes them are sketchy, but primarily consist of inappropriate

touching of her genital area. When asked to name the perpetrator Kerri named her brothers, her father, two male teachers at her school, and a famous rock star.

At this point the Department of Social Services refers her to a local clinic specializing in sexual abuse. After attending the clinic on a weekly basis for several months, Kerri has developed a strong attachment to her female therapist, but still has not narrowed down the list of possible "perpetrators." Out of desperation and pressure from the Department of Social Services, the therapist at the beginning of one session places Kerri in the therapy room by herself, puts a piece of paper in front of her and tells her that she will return in fifteen minutes; she further indicates that if Kerri does not write down the name of one perpetrator by the time she returns she can never come back to see her therapist again. When the therapist returns Kerri has written down the name of her father. The local authorities are contacted and the police come to remove the father from the family home. He is ordered by the court to maintain separate living quarters and to have only supervised visits with his family. The family hires a private attorney and eventually lose the house they are building as they cannot afford both the legal fees (which ultimately exceeded $40,000) and construction costs.

The family is referred to our clinic by their attorney to assist in their re-stabilization following this trauma. In her first interview Kerri states that just the night before the visit she had had dinner in Hollywood with the rock star she had once named as abusing her. When asked how she was able to get back and forth from the West coast so quickly, she says "Like this" and snaps her fingers. After four months of individual work with Kerri, which is purposefully not focused on the alleged abuse, she spontaneously tells her therapist that she has not been sexually abused by her father or anyone else. She has been voluntarily engaging in sexual activity with an older retarded boy at the school. It is this activity which has led to the sexually stimulated behavior observed by the teacher.

Kerri relates that she admitted to the sexual abuse when questioned by the Department of Social Services worker, because she was embarrassed by the sexual activity and afraid that she would get into trouble at school as a result. When asked to name a perpetrator she named several men to avoid blaming any one person. When she was confronted with naming one person, she had singled out her father out of a childish concrete view that her father was so powerful, he could not be hurt. The family subsequently sues the Department of Social Services.

An interesting footnote to this case is the reaction of the therapist to whom Kerri told the correct sequence of events. Even though this version is spontaneous rather than being built upon answers to leading questions, is consistent with the events, and is consistent each time she recounts it, the therapist is still worried that perhaps the father is guilty. After all she reasons he had been initially defensive and had worn dark glasses to one early session which the therapist had thought might be to cover up eyes bloodshot from drinking. This reaction on the part of the therapist again illustrates the stigmatizing power of the allegation.

Example 3: A junior at a small college has a well-known penchant for fabricating stories to friends and comes from a severely abusive background. While in the process of developing a story line for a fictional work, he calls a rape hotline and alleges that he has been sexually assaulted by an unnamed faculty member. The call elicits more of a response than he planned on, and the student retracts the allegation, stating it was made only in the interest of obtaining information for his fictional work.

The representatives of the college do not accept his explanation and begin to pressure the student into naming a faculty member. Under this pressure and hoping for an end to the incident, the student names faculty member A. After an informal evaluation of faculty member A, the college's investigations conclude that it could not have been done by this individual, as he was away at the time of the alleged

incidents. Confronted with this information, the student names faculty member B. Again, the investigations conclude that it could not have been this individual.

The investigators have reasons of their own to suspect yet a third faculty member. Accordingly, when confronting the student with the information that it could not have been faculty member B, they also tell him (even though this is not true) that faculty member C has been accused of sexually abusing a male student in the past. The rationalization of the investigators for engaging in this rather blatant falsehood is that they are sure that faculty member C is guilty, and a campus therapist told them that victims of abuse will often try to conceal the name of the perpetrator to protect him/her. Given this false information, the student formally names faculty member C and charges are brought against him.

This case represents elements of both subtype II (psychologically disturbed reporter) and subtype IV (iatrogenic). The jury spent fifteen minutes in deliberation before reaching a verdict of not guilty.

DISCUSSION

False allegations of sexual abuse by children and adolescents are statistically uncommon, occurring at the rate of 2 to 10 percent of all cases with rates up to 50% in special situations such as heated custody disputes. Nevertheless, when they do occur, they can be extremely detrimental to all involved including the accuser. Thus it is important that those who evaluate these allegations be open to the possibility of a false allegation and have a knowledge of the principal clinical subtypes of false allegation. Our research indicates that it is a narrow focus on the reporter and ignorance or dismissal of the broader contextual factors that often leads to the perpetuation of a false allegation.

The literature and our own clinical research has revealed four clinical subtypes of false allegations:

(1) Allegations arising in the context of custody disputes;
(2) Allegations stemming from psychological disturbances on the part of the accuser;
(3) Allegations resulting from conscious manipulation by the child or adolescent;
(4) Allegations based on iatrogenic elements.

While pure examples exist of all of these subtypes complicated cases will often have elements of more than one subtype although usually one subtype can be seen as the primary factor. Both subtypes I and III involve conscious manipulation. In subtype I an adult is consciously manipulating the child and in subtype three the child is consciously fabricating the allegation for manipulative purposes. Significant inertia on the part of authorities frustrates attempts to correct even recognized false allegations.

This material is presented in the interests of heightening the awareness of this serious miscarriage of clinical and legal processes and its severe and potentially irreversible social consequences. The field would benefit from the further research into the relative frequency of these subtypes of false allegations.

SUMMARY

The authors review the empirical literature concerning the frequency of false allegations of sexual abuse as well as the case report literature that describes individual episodes of false allegations in detail. The authors then construct a clinical typology that is derived from the literature and their own clinical experience with similar cases. The specific subtypes of the typology are: (1) False allegation in the context of a custody dispute, (2) false allegations resulting from psychological disturbance on the part of the accuser, (3) false allegation as a conscious manipulation by the child or adolescent and, (4) false allegations based on iatrogenic factors. Clinical examples of each subtype are presented. The case material presented and reviewed indicates the importance of attending to the contextual factors surrounding the allegation and pursuing a detailed comprehensive evaluation that is as free of bias as possible.

Child Sexual Abuse *"Symptoms"*

From Institute for Psychological Therapies (2014).
Mental health professionals may testify about behavioral characteristics of a particular child that are "typical" of sexually abused children. Such behavioral indicators include a wide variety of symptoms such as regression, withdrawal, aggression, nightmares, bed wetting, fears, masturbation, and tantrums but are completely nonspecific (Wakefield and Underwager, 1991b). They appear in many different situations, including conflict between parents, divorce, economic stress, wartime separations, father absence, natural disaster, and physical, emotional, but nonsexual abuse (Emery, 1982; Hughes and Barad, 1983; Jaffe et al., 1986; Porter and O'Leary, 1980; Wallerstein and Kelly, 1980; Wolman, 1983). There are no behaviors that occur only in victims of sexual abuse. With the exception of sexualized behavior, the majority of symptoms shown in sexually abused children characterize child clinical samples in general (Beitchman et al., 1991).

Even sexualized behavior cannot be used as proof of abuse. What children normally do sexually is more involved than most people believe (Best, 1983; Gundersen et al., 1981; Langfeldt, 1981; Leung and Robson, 1993; Martinson, 1981; Okami, 1992). Friedrich et al. (1991) asked mothers of 880 nonabused two- to twelve-year-old children to complete questionnaires concerning sexual behavior. Although behaviors imitative of adult sexual behaviors were rare, the children exhibited a wide variety of sexual behaviors at relatively high frequencies. Mannarino et al. (1991) report no differences in sexual behavior between abused girls and a clinical control group, although both scored higher than did the normal controls. Gordon et al. (1990) found no differences in sexual knowledge between their samples of sexually abused and nonabused children. Haugaard and Tilly (1988) found that approximately 28% of male and female undergraduates reported having engaged in sexual play with another child when they were children. Lamb and Coakley (1993) report that 85% of their sample of female undergraduates described a childhood sexual game experience. A third of these experiences, which the respondents rated as "normal," involved genital fondling with or without clothing and some reported oral-genital contact and attempts at sexual intercourse.

In addition, since many sexually abused children do not suffer significant trauma (Browne and Finkelhor, 1986; Finkelhor, 1990; Gomes-Schwartz et al., 1990; Kendall-Tackett et al., 1993; Wakefield and Underwager, 1988a), an abused child may fail to exhibit any behavioral signs. It is a mistake to use the *absence* of behavioral signs as support for an allegation being false.

Using behavioral indicators to assess sexual abuse may result in a mistake in either direction. Besharov (1990) observes that behavioral indicators, by themselves, are not a sufficient basis for a report. Levine and Battistoni (1991) state that none of these indicators, in any combination, are valid without a direct statement by the child about sexual involvement or sexual knowledge. A statement representing the consensus of a group of international, interdisciplinary experts in child sexual abuse (Lamb, 1994b) concluded:

> *"No specific behavioral syndromes characterize victims of sexual abuse. Sexual abuse involves a wide range of possible behaviors which appear to have widely varying effects on its victims. The absence of any sexualized behavior does not confirm that sexual abuse did not take place any more than the presence of sexualized behavior conclusively demonstrates that sexual abuse occurred; rather, both pieces of information affect the level of suspicion concerning the child's possible experiences and should to serve to promote careful and nonsuggestive investigation."* (p. 154)

Questions for crossing an expert who claims a child has symptoms of abuse

From Institute for Psychological Therapies (2014).

In the 1980s and early 1990s there have been lists of behaviors circulating in legal circles, mental health meetings, medical conferences, etc. None of the behaviors on any of these lists were empirically/scientifically validated at that time and can be found in the general population. In the middle and latter 1990s the researchers found that these behaviors are widespread with the abused and non-abused and overlap to such an extent that they cannot be used diagnostically (Kendall-Tackett and Friederich).

The correct answer to each question should be "Yes" unless otherwise indicated.

1. Is it your belief/opinion that the behavioral indicators you relied on in arriving at your opinion in this matter are, in fact, reliable (accurate) and diagnostic indicators of sexually abused children?
2. If these indicators are reliable (accurate) indicators of sexually abused children, then can we expect that two or more mental health professionals – independently evaluating the same child – would reach the same conclusions using these indicators?
3. If two or more mental health professionals independently evaluate the same child and reach the same conclusion, does that demonstrate inter-rater reliability?
4. In your opinion this list of behavioral indicators is reliable (accurate), is it true that you cannot cite any empirical/scientific evidence published in a legitimate, peer reviewed journal demonstrating their inter-rater reliability?
5. In other words, this court can only rely on your unsubstantiated opinions regarding the reliability of these indicators. Correct?
6. Would you please tell the court what the difference is between diagnostic **sensitivity** and diagnostic **specificity**? [**Sensitivity** (also called the *true positive rate*) measures the proportion of actual positives which are correctly identified as such (e.g. the percentage of sick people who are correctly identified as having the condition). **Specificity** measures the proportion of negatives which are correctly identified as such (e.g. the percentage of healthy people who are correctly identified as not having the condition, sometimes called the *true negative rate*). These two measures are closely related to the concepts of type I and type II errors. A perfect predictor would be described as 100% sensitive (i.e. predicting all people from the sick group as sick) and 100% specific (i.e. not predicting anyone from the healthy group as sick).
7. Would you agree that applied to this case, a) diagnostic sensitivity refers to how accurately an indicator identifies children who have been sexually abused? B) Diagnostic specificity refers to how accurately an indicator identifies children who have not been sexually abused?
8. In arriving at your opinions in this matter, I assume you were very concerned with considerations of diagnostic sensitivity. Isn't it true that these indicators do not clearly indicate and differentiate between the abused and not abused?
9. In arriving at your opinions in this matter, did you even think about considerations of diagnostic specificity, that is, do these indicators accurately identify children who have not been sexually abused?
10. Is it true that indicator lists have been designed for the express purpose of ruling in allegations of sexual abuse?
11. Is it true that indicator lists do not allow a mental health expert to rule out such allegations?
12. Is it true that there is no empirical/scientific evidence published in a legitimate, peer reviewed journal reporting the diagnostic sensitivity and diagnostic sensitivity of these indicators? (Note no evidence exists as of this time)
13. Would you agree that it is absolutely ill advised for any mental health professional to rely on indicator lists when testifying under oath in a legal proceeding?

14. Once again, then, this court can only rely on your unsubstantiated opinions regarding the diagnostic sensitivity and diagnostic specificity of the indicators. Correct?
15. Are you stating that you are using an indicator list(s) that is not accepted by the relevant professional community?
16. If your thinking in this case responded more to considerations of diagnostic sensitivity rather than diagnostic specificity, could that be because of a systematic/pervasive/persistent bias on your part? (Note: forces admission of bias)

Note: Indicator lists have been used previous to research. In 1985, the American Medical Association published a list claiming to identify children who have been sexually abused. The various behavioral indicators have not been scientifically supported. The list includes:

- Become withdrawn and daydream excessively
- Evidence poor peer relationships
- Express general feelings of shame or guilt
- Display a positive relationship toward the offender
- Display regressive behavior
- Display enuresis and/or encopresis
- Engage in excessive masturbation, etc.

Other lists contain items such as: overly compliant behavior, acting-out aggressive behavior, pseudo-mature behavior, arriving early at school or leaving late with few, if any, absences, inability to concentrate at school, sudden drop in school performance, etc (Sgroi, S.M., 1982, Handbook of Clinical Intervention in Child Sexual Abuse, Lexington, MA: Lexington Books)

2nd Note: Diagnostic sensitivity refers to how accurately an indicator identifies a population exhibits some characteristic of such as sexual abuse. Diagnostic specificity refers to how accurately an indicator identifies the population that does not exhibit that characteristic. In other words:

- Diagnostic sensitivity: "*Can this indicator rule in sexual abuse?*"
- Diagnostic specificity: "*Can this indicator rule out sexual abuse?*"

Berliner & Conte (1983) from Kuehnle (p-159) *"…fundamentally, there is little, if any, empirically based evidence that the criteria discriminate sexually abused from non-sexually abused children*".

Child Memory and Suggestibility

The following text borrows from Wikipedia, which offers a helpful synopsis.

An eyewitness testimony is a statement given under oath by a person present at an event who can describe what happened.[1][2] During circumstances in which a child is a witness to the event, the child can be used to deliver a testimony on the stand. The credibility of a child, however, is often questioned due to their underdeveloped memory capacity and overall brain physiology. Researchers found that eyewitness memory requires high-order memory capacity even for well-developed adult brain.[3] Because a child's brain is not yet fully developed, each child witness must be assessed by the proper authorities to determine their reliability as a witness and whether or not they are mature enough to accurately recall the event, provide important details and withstand leading questions.

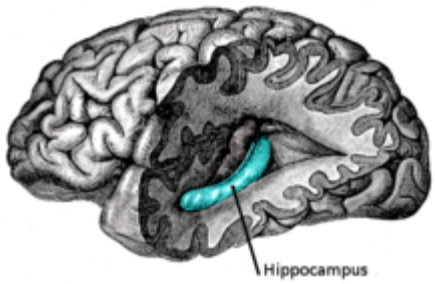
Brain Development Associated with Eyewitness Testimony

Brain development is an after-forward process; from the occipital lobe (visual), to the temporal lobe (sensory, auditory and memory), to the parietal lobe (motor, pain, temperature, and stress), and finally to the frontal lobe (language, reasoning, planning, and emotion).[4] All of these brain regions work together to build up our eyewitness memory.

Generally, infants are born with formed brain systems and their brains develop very rapidly during the first three years.[5] The size of a newborn brain is approximately 400g and continues to grow to 1100g at the age of three, which is close to the size of an adult brain (1300-1400g).[6]
Although infants are born with a properly formed brain, they are still far away from full development. The glial cells, which play a vital role in proper brain function (e.g. insulating nerve cells with myelin), keep growing to divide and multiply after birth.[7] However, to have a fully developed eyewitness memory, the development of gray matter, white matter, the denate gyrus and density of synapses are highly necessary.

The volume of white matter starts its linear increase from age four to 20, but cortical gray matter is decreases in the parietal, occipital and temporal regions starting from age four, continually changing until after age 12.[8] The development of the denate gyrus starts forming at 12 to 15 months in the hippocampus, which is essential for the formation of declarative memory in eyewitness testimony.[5] After the formation of the dentate gyrus of the hippocampus, the density of synapses in the prefrontal cortex, which is involved in eyewitness memory, is peaks in its development during 15 to 24 months, changing until the age of adolescence.[5]

Major Brain Regions Necessary for Eyewitness Performance



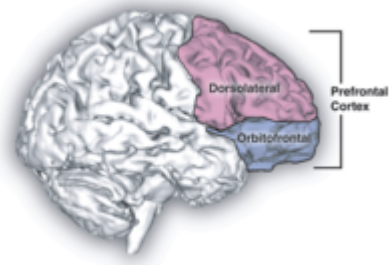
Hippocampus

The hippocampus is one of the brain structures located within the medial temporal lobe and is considered one of the main structures of the brain associated with eyewitness testimony because it is the area that is important for the formation of long term memories.[9] Declarative memories are long term memories that can be consciously remembered, which include: specific events and factual knowledge.[9] Eyewitnesses use declarative memories, specifically episodic memory when they are asked to recall specific events that took place in the past. For example, "*Do you remember what the doctor said to you last time you visited him?*" Research on children as eyewitnesses found that children do not have accurate long term memories for past events.[10]

The hippocampus is not yet completely developed until 2–8 years of age; however, there are mixed findings for the exact moment when the hippocampus stops maturing.[11] Though the hippocampus may stop maturing at a certain age, behavioral evidence shows that declarative memories are known to develop from childhood up until adulthood.[9]

A study looking at age differences in which children can remember episodic memories (e.g. their first day of school, attending a friend's birthday party), elementary and preschool students were questioned about delay interval in past experiences and found significant differences in what children recall. Elementary school students were more successful at this task than preschoolers. Overall, children need more prompts to remember past events and recall fewer details than older children.

Stress also appears to disrupt the function of the hippocampus as it reduces the likelihood for details to be remembered in a logical sequence.[10] Since most children are asked to recall stressful events for eyewitness testimonies, they may explain them in fragmented sequences of events.



The prefrontal cortex

Prefrontal Cortex

The prefrontal cortex is another brain region involved in eyewitness testimonies. Its function in relation to memory is to create memories that are vivid and that have a lot of contextual detail.[9] Research in the Journal of Law and Human Behaviour found that the ability for child eyewitnesses to accurately recall details of events increases with age, as did the ability to answer specific questions, identify the confederate and resist suggestion. Studies have found that children tend to give few details of the event and sometimes distort them in eyewitness testimonies.[10] This brain region is one of the last regions to develop.

Short term memory occurs in the prefrontal cortex. Working memory is another process that relies on the prefrontal cortex.[12]



Red section of the brain indicates the location of the temporal lobe

Temporal Lobe
The temporal lobes are involved in several functions of the body including: hearing, meaning, auditory stimuli, memory, and speech. They also play a role in emotion and learning [13] and are concerned with processing and interpreting auditory stimuli. This is a major location for memory storage and is associated with memory skills.

Parts of the temporal lobe show late maturation. These regions are of the last brain regions to mature.[14] The gray matter in the temporal lobe continues developing until it reaches its peak development at age 16 for both males and females.



The red areas indicate the location of the amygdala

Amygdala
The amygdala is located deep within the temporal lobe of the brain and is involved in the acquisition and retrieval of information on highly salient events.[15] It is also involved in several functions of the body, which include determining what and where memories are stored in the brain. The determination of what/where memories are stored is dependent on how big of an emotional response an event evokes.[15] This is related to eyewitness testimonies because young children usually have poorer recall for details of events, but when an event evokes a highly aversive response (unpleasant, arousing), they tend to remember it.

The amygdala does not stop developing until late adolescence. Research studies have found that in normal developing children, the volume of amygdala increases substantially between seven to 18 years of age.[16] This influences how children perform as eyewitnesses because children will have poorer skills for storing and recalling memories of events prior to the age of seven.

Short Term Memory

Short term memory is defined as the ability to store information for a short period of time. If it is rehearsed enough, it will be transferred into long term memory. This is important to know in regards to eyewitness testimonies because children have problems transferring short term memories to long term, as discussed previously.

Overall, there are a number of differences in memory among adults and children. With regards to short term memory, a child's capacity to store items is less than that of an adult. More specifically, evidence has shown that a five year old can only store up to five items in short term memory, whereas adults are able to store around seven items.[17] This can play a role in how accurate a child's memory performance is in comparison to an adolescent or an adult's recall of the same crime scene.

The amount of time elapsed from when the child witnessed the scene to when they give their testimony is also a contributing factor to how short term memory influences the accuracy of their recall as an eyewitness.[18] It was found that a child's short term memory is more susceptible to interference as the amount of time increases between the event and the testimony.[18] This can lead to misinformation on the child's part and an inaccurate recall of events.[18] One explanation for this is that information that is learned shortly after the event is combined with information that is being temporarily stored in short term memory, having yet to make it into long term memory, causing contradictory traces to coexist.[18]

Long Term Memory

Eyewitness testimonies can be impacted by long term memory by the loss of information during the process of encoding and storing event details into long term memory.[10] According to the information processing model, if sensory information about an event is not directly transferred from short term memory into long term memory, the information is difficult to retrieve. Research has also found that the rate of transfer of sensory information from short term to long term memory is related to age of the witness. Older children have higher success rates in transferring memory from short term to long term than younger children, which plays a role in why younger children have poorer recall in eyewitness testimonies.[10]

Selective attention also contributes to the impairment of younger children's information encoding process.[10] Namely, if children's attentions are disrupted by an object (e.g. a gun) while witnessing a crime, they might be unable to fully encode all of the details, resulting in poor recall of the event later on in life.

Factors Affecting Eyewitness Testimony

Retroactive Interference

Retroactive interference encourages incidental forgetting, in which the newly learned information impairs the retrieval of previously learned knowledge, especially for similar and related information.[19] For example, if you have already learned about proactive interference and recently learned new information about retroactive interference, the knowledge you learned about retroactive interference has the tendency to impede the retrieval of the knowledge of proactive interference.

The passage of time is not of major importance but still has relevance to retroactrive interference. The results of a study on rugby players by Hitch and Baddeley showed that trace decay contributes relatively nonsignificant effects on retroactive recall.[20]

Consolidation of the previously learned knowledge and the new information is important.[21] If the previously learned knowledge is well consolidated in memory, the impeding influence caused by the new encoding has less effect; inversely, if the newly learned information is better encoded than the old knowledge, the interference is greater. This is especially true when the previously learned knowledge is simply encoded in short-term and working memory—basically, the low level of consolidation.[20] The similarity between the new information and old knowledge can have an effect on performance as well. When the recently acquired information is phonologically and semantically similar with the known knowledge, the rate of retroactive interference is increased through confusion between the two materials.[22][23]

The encoding process, retrieval traces and contextual cues of the newly learned information play significant roles in impairment. The ways that information is encoded can impair the retrieval performance of that information. The better encoding, the better retrieval will be, especially under circumstances of appropriate retrieval traces and sufficient contextual cues.[24] How to retrieve the encoded information, a.k.a retrieval strategy, is also essential for preventing retroactive interference. The failure in binding and tracking the contextual information has an increased impact on the retroactive interference effect.[25]

Retroactive interference can also be attributed to personal experiences and memories. The schematic knowledge in memory is useful in forming expectations and drawing inferences for understanding, but it is also able to cause distortion and interference when the encoding information is inconsistent with what has been stored.[26] In addition, the extent of knowledge stored in memory has impacts on the accuracy of the encoding and storing of information.[27] Knowing a lot about a subject helps to improve the accuracy of other related subjects. A lack of essential experience can interfere with the processes of learned knowledge and increase the risk of retroactive interference when learning new information about the already learned subject.

Memory capacity involves the state of maturity and plasticity of the brain and can impair memory performance especially in terms of interference.[4] The development of brain function has a great influence on memory capacity which is responsible for the performance of memory. This includes verbal expression, object recognition, etc.

In children, memory capacity, source monitoring, and language development are limited because their brains are not yet mature. These limitations enhance the effect of retroactive interference on the accuracy of a child's eyewitness testimony. For instance, a five year-old child is generally able to tell the genital contact of a sexual abuse perpetrator, but it is difficult for the child to identify other features such as facial features and clothing due to their underdeveloped memory capacity.[28] The undeveloped conceptual functions of a child's brain restricts their capacities in object recognition, social cognition, language, and human capacity (the ability to remember the past and imagine the future), and impairs the retrieval and accuracy of their eyewitness memory.[24]

Due to their young age, children have less personal experience, making them vulnerable to impairments from retroactive interference. Therefore, when used as eyewitnesses, it is less possible for them to encode and store the features of the criminal in an appropriate or sufficient way, which impedes the accuracy of the eyewitness retrieval.

Stress and Trauma

There are many reason why children eyewitness testimonies may not be completely accurate, one of which could be stress and trauma. When children experience a traumatic and stressful event, their ability to accurately recall the event becomes impaired.

The American Psychological Association often claims that emotional events are remembered less accurately than details of neutral or everyday events. Their explanation for why stress and trauma

could impair memories under high emotional arousal is a decrease in the available processing capacity which leads to lower memory processing.[29]

Stressful events can also have positive effects on children. Physiological evidence indicates that stressful events are retained particularly well the more children experience positive events in their lives.[30]

Other theorists have relied on The Yerkes-Dodson Law for explaining the effects of stress on a child's memories. The Yerkes-Dodson Law states that too little or too much stress is associated with a decline in memory. Too much stress can narrow someone's attention for stressful memories but aid in consolidation so that details are attended to. Goodman gave inoculations to 76 children between the ages of three and seven and found that those who were most severely distressed by the experience (those who screamed, cried, struggled) later remembered more about the event and were more resistant to suggestion than those who did not experience distress.[30]

In order to help reduce stress and trauma to the child, some studies have shown that good social support during the interviewing process can help children reduce their anxiety. If an interviewer is supportive by smiling, nodding his head and compliments the child during the interviewing process the child's anxiety decreased by a decent margin. The study also showed that the less supportive an interviewer was, the higher the child's anxiety rose. [31]

Early research has studied the impacts of emotion on memory. Sigmund Freud used his psychoanalytic approach to study people with hysteria. Freud found that people are constantly confronted with thoughts and some of the memories are too painful, so people become repressed.[32]

Another method by Kuehn analyzed the data from police reports about victims experiencing traumatic events. He looked specifically at how capable these victims were in being able to provide a description of the traumatic event in a police report. These victims experienced two homicides, 22 rapes, 15 assaults and 61 robberies, respectively. He found that victims of robberies were able to provide more detailed description for the events than did victims of rape or assault. He also found that people who were injured provided more less of description than non injured people.[32]

Stress and trauma can also cause create other problems in eyewitness testimonies such as repression. Repression has an impact on eyewitness testimonies because if a child goes through a stressful or traumatic event they will sometimes repress their memories. According to Freud's theory on repression, a repressed memory is the memory of a traumatic event unconsciously retained in the mind, where it is said to adversely affect conscious thought, desire, and action. As a result, children will have trouble recalling this information or accessing it consciously. If a child who has witnessed a traumatic event is used as an eyewitness, they may have a harder time recalling the event due to the possibility of memory repression.

According to the journal of Law and Human Behaviour, children who have been through traumatic events will find it harder to remember a regular event as opposed to a non-traumatic event. In a study conducted by Goodman, they found that non-abused children were more accurate in answering specific questions and made fewer errors in identifying an unfamiliar person in pictures.[33]

Intelligence

Another factor that has been studied as a contributing variable in the accuracy of child eyewitness testimony is intelligence. Individual differences in intelligence, based on IQ, have been used to explain variances in memory performance among children giving eyewitness testimonies.

The ability for a child to give a free narrative of what happened involves the practice of episodic memory and working memory, which are both influenced by an individual's capacity to cognitively process events.[34] A child's fluid and crystallized intelligence are theorized to predict memory recall.[34] Evidence has shown that higher verbal intelligence is positively correlated with memory performance and negatively correlated with suggestibility in children.[35]

Further analyses of research concerning intelligence and free recall have shown that there are relatively large differences in intelligence when a positive correlation between recall and intelligence is demonstrated.[36] This implies that intelligence significantly influences child eyewitness memory when comparing high and low levels; however, small differences in intelligence are not significant.[36]

Another finding in the influence of intelligence on a memory recall in children is that it seems to be age-dependent.[36] Differences in age group explains the variance in which intelligence has an effect on memory performance. Older children have higher correlations of intelligence and recall, whereas chronological age is more significant of a factor than intelligence for young children's eyewitness memory.[36] More specifically, a study examining the influence of fluid intelligence on recall of children's eyewitness memory regarding a videotaped event found that there was not a positive relationship between fluid intelligence and free narrative for six and eight year olds; however, the positive relationship was present for ten year olds.[36]

Likewise, in studies of real cases of children testimony, the general finding is that intelligence is a considerable predictor for witness reports for children in their late elementary school years, but not for children up to the age of six.[35] Therefore, the effect of individual differences in intelligence on eyewitness memory increases with the child's age.[36]

The range in children's intellectual capacities may explain the positive relationship between intelligence and eyewitness memory.[35] Intellectually disabled children and children with below average to very low IQ's have been included in studies examining the influence of intelligence on memory recall. It was found that when giving an eyewitness testimony, there is a stronger positive relationship between intelligence and recall for intellectually disabled children, with recall accuracy being poorer with children of lower IQ than for children with average or high intelligence.[37] A possible explanation for this may be that in comparison to a child of mainstream intelligence, children of lower intelligence encode weaker memory traces of events.[37]

Another explanation is that individuals with intellectual disabilities have poorer cognitive and language functioning, which would directly impact their performance on memory and language tasks.[38] A study examining the extent to which the degree of intellectual disability (mild to moderate) has an effect on the relationship between intelligence and witness memory found that there was no significant difference in same-aged children with mild intellectual disabilities (IQ 55-79) and children with normal intelligence (IQ 80-100). Individuals with moderate intellectual disabilities (IQ 40-54) performed significantly worse on almost every eyewitness measure.[39]

Suggestibility

In general, the judicial system has always been cautious when using children as eyewitnesses resulting in rules that demand all child testimonies be confirmed by designated officials prior to its acceptance as evidence in the court of law.[40] One of the reasons for this partiality is suggestibility—a state in which a person will accept the suggestions of another person and act accordingly.[41]With regards to court proceedings, a child's testimony or recollection of an event is especially vulnerable to leading questions.[40]

Although suggestibility decreases with age, there is a growing consensus that the presence of an interplay between individual characteristics and situational factors may affect suggestibility, in this case, of children. This explains why children of the same age may significantly vary in levels of suggestibility.[42]

There are several factors that contribute to a child's suggestibility. Age-related differences are often synonymous with developmental differences, though the latter, when not comparing two different age groups, has no effect on a child's suggestibility.[43] Basically, individual differences between children of the same age group do not play a significant role in a child's level of suggestibility. If there is a difference in suggestibility levels of children that are of the same age, they are most likely due to maturational differences in specific cognitive skills.[42]

Studies also show that it is not the leading questions themselves that can alter a child's recall of the event, but the event in question. When children are questioned about true events that they actually participated in, they are much more accurate with their answers. With suggested events in which the questioner is suggesting the child may have been involved, children become more suggestible and easier to influence. Younger children also have a larger tendency to change their answers when making "yes," "no," or "I don't know" statements.[42]

It is yet to be determined whether there is a particular age or level of specific cognitive functioning at which suggestibility becomes more of a universal trait or characteristic; However, a study involving four year-olds suggests that due to their development of theory of mind, this may be close to the age at which suggestibility begins its 'trait-like' transition.[42]

Emotion can also make children more suggestible. When using sad stories, children are much more vulnerable to misleading questions than when using angry or happy events. In an experiment, when asked to recall a sad story previously read to them, children were much more descriptive and detailed when answering misleading questions, as opposed to when regular, stories were used.[44] Very similar results were found in a separate experiment in which stress was induced in children.[45]

Children were also more likely to agree with misleading questions and more likely to incorporate fabricated details when asked to recall the event. In this experiment using sad, angry or happy stories, it is at age six that the researchers deemed the average age at which suggestibility levels off.

As with most factors that elicit suggestibility, susceptibility to emotional influences decrease with age. Possible reasons for this may be the increase in narrative skill, knowledge, memory abilities, as well as the ability to properly encode memories. It is also implied that older children may be less trusting of adults' omniscience and more willing to contradict them.[44]

In 1999, Ceci and Scullin developed the Video Suggestibility Scale for Children (VSSC), which measures individual differences in suggestibility in preschool children.[46] The scale was administered to children of 3–5 years of age.

The results suggested that children tend to respond affirmatively to suggestive questions and change their answers in response to negative ones. Older children were able to recall the events in the video better than younger children, but were also more likely to shift their answers in response to negative feedback. Overall, this scale and study supports Gudjonsson's view that there are at least two basic types of interrogative suggestibility [47]

From Childhood to Adolescence

In general, adolescents are far more trustworthy eyewitnesses than children. They are already fully mature in terms of cognition (i.e. narrative skills, memory recall and encoding, etc.) Researchers found that the ability to recall single pieces of spatial information developed until ages 11 to 12, while the ability to remember multiple units of information developed until ages 13 to 15. However, strategic self-organized thinking, which demands a high level of multi-tasking skill, continues to develop until ages 16 to 17.

The frontal lobe and prefrontal cortex continues to develop until late adolescence, depending on the complexity of the task. When accomplishing complicated tasks, teenagers are still developing the cognitive skills necessary to efficiently manage multiple pieces of information simultaneously. These skills improve over time as the connections between brain cells become more refined, enabling more information to be simultaneously managed.[48]

In regards to credibility as an eyewitness, adolescents are no longer easy to manipulate and are not suggestible like young children. This is due to obvious cognitive factors, as well as maturation as a person. Young children look at adults as powerful and extremely knowledgeable whereas adolescents are not so intimidated when questioned by adults.[49]

However, this does not mean that adolescents are invincible and impermeable when on the stand. Because adolescents have much more experience in the world, their knowledge may actually hinder their eyewitness performance. When asked about details of a story or movie that was just read or watched, college students were just as likely as sixth graders to produce detailed, but false additions.[45] This study further explains that this is a result of behavioural scripts. They used inferences from what they already knew about people, actions, and situations and acted based on their instincts.

For example, when asked about a movie about cheating on tests, the college students added details explaining why the student cheated although it was not included in the film. They described the thoughts and feelings of the student because they are able to draw from their own separate experiences and knowledge of the situation. However, third graders were found to be less suggestible in questioning due to their limited knowledge as well as their limited script involving cheating.

References

1. http://dictionary.reference.com/browse/eyewitness
2. http://www.businessdictionary.com/definition/eyewitness-testimony.html
3. Loftus, E., F. (1980). Impact of expert psychological testimony on the unreliability of eyewitness identification. Journal of Applied Psychology, 65(1): 9-15
4. Casey, B. J., Giedd, J. N., Thomas, K. M. (2000). Structural and functional brain development and its relation to cognitive development. Biological Psychology, 54(1-3), 241-257.
5. Bauer, P. J., & Pathman, T. (2008). Memory and early brain development. Encyclopedia on Early Childhood Development, 1-6
6. Dekaban, A.S., & Sadowsky, D. (1978) Changes in brain weights during the span of human life: relation of brain weights to body heights and body weights. Ann Neurology, 4, 345-356.
7. Neuronscience for kids
8. Giedd, J. N., Blumenthal, J., Jeffries, N. O., Castellanos, F. X., Liu, H., Zijdenbos, A., Rapoport, J. L. (1999) Brain development during childhood and adolescence: a longitudinal MRI study. Nature neuronscience, 2(10), 861-863.

9. Noa, O., Kao, Yun., Peter, Sokol., (2007). Development of declarative memory system in the brain. Nature Neuroscience. 10, 1198- 205.
10. Gail, G., Rudy B., Davis, L. (2001). Effects of past abuse experiences on children's eyewitness memory. Law and Human Behaviour, 25, 1-30.
11. Wertlieb, D., Rose, D. (1979). Maturation of maze behaviour in preschool children. Developmental Psychology, 15,478-479.
12. Department of Health and Human Services. (2011) Maturation of the Prefrontal Cortex. Retrieved from: http://www.hhs.gov/opa/familylife/tech_assistance/etraining/adolescent_brain/risk_taking/index.html
13. Lehr, R. (2011). Brain Functions and Map. Retrieved from http://www.neuroskills.com/brain-injury/brain-function.php
14. Gotgay, N., Giedd, J. N., Lusk, L., hayashi, K. M., Greenstein, D., Vaituzis, A. C., Nugent, T. F., Herman, D. H., Clasen, L. S., Toga, A. W. et al. (2004). Dynamic mapping of human cortical development during childhood through early adulthood. Proc Natl Acad Sci USA, 101, 8174-8179.
15. Ralph, A., Natalie, D., (2001). The amygdala's role in long-term declarative memory for gist and detail. Journal of Neuroscience, 3, 983-992.
16. Schumann, C., Hamstra, J., (2004). The amygdala is enlarged in children but not adolescence with autism; the hippocampus is enlarged in all ages. The Journal of Neuroscience, 24, 6392-6401.
17. Davies, G., Lloyd-Bostock, S., McMurran, M., & Wilson, C., (1996) Law and Criminal Justice: international developments In research and practice. Oxford, England: Walter De Gruyter Inc.
18. McCauley, M., & Fisher, R. P. (1996). Enhancing children's eyewitness testimony with cognitive interview. Oxford, England: Walter De Gruyter Inc.
19. Bower, G. H., Thompson-Schill, T., Tulving, E. (1994) Reducing retroactive interference: an interference analysis. Journal of experimental psychology: Learning, Memory, and Cognition, 20(1), 51-66
20. Baddeley, A. D., & Hitch, G. J., (1994) Developments in the concept of working memory. Neuropsychology, 8(4), 485-493. What is of great importance is the
21. Nadel, L., & Moscovitch, Morris. (1997) Memory consolidation, retrograde amnesia and the hippocampal complex. Current Opinion in Neurobiology, 7, 217-227
22. Hintzman, D. L., Curran, T., Oppy, B. (1992) Effect of similarity and repetition on memory: registration without learning? Journal of Experimental Psychology: Learning, Memory, and Cognitiion, 18(4), 667-680
23. Baddeley, A. D., & Dale, C. A. (1966) The effect of semantic similarity on retroactive interference in long- and short-term memory. Journal of Verbal Learning and Verbal Behaviour, 5, 417-420
24. Hayne, H., & Herbert, J. (2004) Verbal cues facilitate memory retrieval during infancy. J. Experimental Child Psychology, 89, 127-139.
25. Hedden. T., & Park, D. C. (2003) Contributions of source and inhibitory mechanisms to age-related retroactive interference in verbal working memory. Journal of Experimental Psychology: General, 132(1), 93-112.
26. Whitney, P. (2001)Schemas, frames, and scripts in cognitive psychology. International Encyclopedia of the Social & Behavioral Sciences,13522-13526
27. McNichol, S., Shute, R., Tucker, A. (1999) Children's eyewitness memory for a repeated event. Child Abuse & Neglect, 23(1), 1127-1139
28. Goodman, C. S., Bottoms, B. L., Rudy, L., Davis, S. L., & Schwartz-Kenney, B. (2001). Effects of past abuse experiences on children's eyewitness memory. Law and Human Behavior, 25(3), 269-98. Retrieved from http://search.proquest.com/docview/204157441?accountid=11233
29. Aharonian, A., Bornstein, B. (2008). Stress and eyewitness memory. Journal of Psychology and Law, 1, 2-3.
30. Goodman, G., Bottoms, B., Kenny, B. (1991). Children's testimony about a stressful event: improving children's reports. Journal of Narrative and Life History, 1 (1), 69- 99.
31. Davis, S. L., & Bottoms, B. L. (2002). Effects of social support on children's eyewitness reports: A test of the underlying mechanism. Law and Human Behavior, 26(2), 185-215.
32. Christiansen, S., (1992). Emotional stress and eyewitness memory: a critical review. Journal of American Psychological Association, 112, 284-309.
33. Goodman, G., Golding, J., Helgeson, V. (1987). When a child takes the stand: jurors perceptions of children's eyewitness testimonies. Journal of Human Behaviour and Law, 11,1-189.
34. Fry, A. F., & Hale, S. (2000). Relationships among processing speed, working memory, and fluid intelligence in children. Biological Psychology, 54, 1-34.
35. Chae, Y., & Ceci, S. J. (2005). Individual differences in children's recall and suggestibility: the effect of intelligence, temperament, and self-perceptions. Applied Cognitive Psychology, 19, 383-407.
36. Roebers, C. M., & Schneider, W. (2001). Individual differences in children's eyewitness recall: The influence of intelligence and shyness. Applied Developmental Science, 5(1), 9-20.
37. Young, K., Powell, M. B., & Dudgeon, P. (2003). Individual differences in children's suggestibility: A comparison between intellectual disabled and mainstream samples. Personality and Individual Differences, 35, 31-39.

38. Agnew, S. E., & Powell, M. B. (2004). The effect of intellectual disability on children's recall of an event across different question types. Law and Human Behaviour, 28(3), 273-294.
39. Henry, L. A. & Guoljonsson, G. H. (2003). Eyewitness memory, suggestibility, and repeated recall sessions in children with mild and moderate intellectual disabilities. Law and Human Behaviour. 27(5), 481-505.
40. Ceci, S. J., Ross, D. F., & Toglia, M. P. (1987). Suggestibility of children's memory: Psycholegal implications. Journal of Experimental Psychology: General, 116(1), 38-49.
41. suggestibility. CollinsDictionary.com. Collins English Dictionary - Complete & Unabridged 11th Edition. Retrieved September 22, 2012
42. Scullin, M. H., Kanaya, T., & Ceci, S. J. (2002). Measurement of individual differences in children's suggestibility across situations. Journal of Experimental Psychology: Applied, 8(4), 233-246. doi: 10.1037/1076-898X.8.4.233
43. Ceci, S. J., Ross, D. F., & Toglia, M. P. (1988). On remembering . . . more or less: A trace strength interpretation of developmental differences in suggestibility. Journal of Experimental Psychology: General, 117(2), 201-203.
44. Levine, J. L., Laney, C., & Burgess, S. L. (2008). Effects of discrete emotions on young children's suggestibility. Developmental Psychology, 44(3), 681-694. doi: 10.1037/0012-1649.44.3.681
45. Ceci, S. J., & Bruck, M. (1993). Suggestibility of the child witness: A historical review and synthesis.Psychological Bulletin, 113(3), 403-439.
46. Scullin, M. H., & Ceci, S. J. (2001). A suggestibility scale for children. Personality and Individual Differences, 30, 843-856. doi: 10.1016/S0191-8869(00)00077-5
47. Gudjonsson, G. H. (1984). A new scale of interrogative suggestibility. Personality and Individual Diff€erences, 5, 303-314.
48. http://www.sciencedaily.com/releases/2005/05/050518104401.htm
49. Levine, L. J., Burgess, S. L., & Laney, C. (2008). Effects of discrete emotions on young children's suggestibility. Developmental Psychology, 44(3), 681-694. doi: 10.1037/0012-1649.44.3.681

Relevant Research Articles related to Child Testimony

Deficient cognitive control fuels children's exuberant false allegations.

Poole, Debra Ann, Dickinson, Jason J., Brubacher, Sonja P., Liberty, Allison E., Kaake, Amanda M., (2014). Journal of Experimental Child Psychology, Vol 118, Feb, 2014. pp. 101-109.

Abstract:

In eyewitness studies as in actual investigations, a minority of children generate numerous false (and sometimes incredulous) allegations. To explore the characteristics of these children, we reinterviewed and administered a battery of tasks to 61 children (ages 4–9 years) who had previously participated in an eyewitness study where a man broke a "germ rule" twice when he tried to touch them. Performance on utilization, response conflict (Luria tapping), and theory of mind tasks predicted the number of false reports of touching (with age and time since the event controlled) and correctly classified 90.16% of the children as typical witnesses or exuberant (more than 3) false reporters. Results of a factor analysis pointed to a common process underlying performance on these tasks that accounted for 49% of the variability in false reports. Relations between task performance and testimony confirmed that the mechanisms underlying occasional intrusions are different from those that drive persistent confabulation and that deficient cognitive control fuels young children's exuberant false reports.

Individual Differences in Children's Suggestibility: A Review and Synthesis.

Bruck, Maggie, Melnyk, Laura, Applied Cognitive Psychology, Vol 18(8), Dec, 2004. Special issue: Individual and Developmental Differences in Suggestibility. pp. 947-996.

Abstract:

Over the last decade, there has been a significant growth in the study of individual differences factors predicting children's suggestibility. In this paper, we synthesize the results of 69 studies examining the relationship of demographic factors (socioeconomic status and gender), cognitive factors (intelligence, language, memory, theory of mind, executive functioning, behavioural ratings of distractibility, and creativity), and psycho-social factors (social engagement, self concept/self-efficacy, stress/emotional arousal/state anxiety, maternal attachment styles, parent-child relationship, parenting styles, temperament, and mental health) and children's suggestibility. We found that for cognitive factors, language ability and creativity were fairly consistently related to suggestibility. The highest correlations for psycho-social factors and suggestibility were obtained for measures of self-concept/self-efficacy, maternal attachment, and the parent-child relationship. Implications for future research and mechanisms underlying children's suggestibility are discussed.

Children's memory for their mother's murder: Accuracy, suggestibility, and resistance to suggestion.

McWilliams, Kelly, Narr, Rachel, Goodman, Gail S., Ruiz, Sandra, Mendoza, Macaria, Memory, Vol 21(5), Jul, 2013. Special issue: Memory and The Law: Case Studies. pp. 591-598.

Abstract:

From its inception, child eyewitness memory research has been guided by dramatic legal cases that turn on the testimony of children. Decades of scientific research reveal that, under many conditions, children can provide veracious accounts of traumatic experiences. Scientific studies also document factors that lead children to make false statements. In this paper we describe a legal case in which children testified about their mother's murder. We discuss factors that may have influenced the accuracy of the children's eyewitness memory. Children's suggestibility and resistance to suggestion are illustrated. Expert testimony, based on scientific research, can aid the trier of fact when children provide crucial evidence in criminal investigations and courtroom trials about tragic events.

Editor's preface to the special issue.

Geffner, Robert (Ed). Journal of Child Sexual Abuse: Research, Treatment, & Program Innovations for Victims, Survivors, & Offenders, Vol 21(1), Jan, 2012. pp. 1-2.

Abstract:

Over the past three decades, there have been contested issues and controversies about the most appropriate and effective techniques for investigating and forensically interviewing children when sexual abuse allegations occur. The current special issue of the Journal of Child Sexual Abuse focuses on some of the controversies and contested issues, and also challenges some of the ideas advanced by some authors in the Kuehnle and Connell book. Commentaries by some of the authors of this special issue and other experts in the field will also be published. It is hoped that this exchange will enable greater consensus about evaluating child sexual abuse allegations, thereby ensuring that children who have been sexually abused are identified in the evaluation or investigation of the allegations, and that children who have not been sexually abused are also correctly categorized.

Putting it all together.

Finkel, Martin. Journal of Child Sexual Abuse: Research, Treatment, & Program Innovations for Victims, Survivors, & Offenders, Vol 20(6), Nov, 2011. pp. 643-656.

Abstract:

The most available form of evidence in child sexual abuse cases is what the child has to say about his or her alleged experience. The most difficult skill for clinicians to develop is the "how tos" of talking to children in a developmentally appropriate, nonjudgmental, facilitative, and empathetic manner. This manuscript provides insight into obtaining historical details about a child's experience and guidance regarding how to incorporate those details when formulating a balanced and defensible opinion. The consultative report should be an instrument to explain the presence or absence of physical findings, the significance of symptoms temporally related to sexual contact, and discrepancies between a child's perception of an experience and physical findings.

A call for field-relevant research about child forensic interviewing for child protection.

Olafson, Erna. Journal of Child Sexual Abuse: Research, Treatment, & Program Innovations for Victims, Survivors, & Offenders, Vol 21(1), Jan, 2012. pp. 109-129.

Abstract:

This article reviews some sensitivity versus specificity imbalances in forensic investigations of child sexual abuse. It then proposes the development or further testing of additional approaches for those children who do not respond to the current, single-interview National Institute of Child Health and Human Development (NICHD) protocol. Although there are other interview protocols based on similar principles, the NICHD protocol has the strongest evidence base in both field and laboratory studies to elicit detailed and accurate information from children. Adaptations of the NICHD protocol or additional approaches need to be developed and tested for nondisclosing, partially disclosing, or recanting children, very young children, children with developmental disabilities, and children whose sexual abuse allegations are evaluated in the context of custody or visitation disputes.

Interviewing children versus tossing coins: Accurately assessing the diagnosticity of children's disclosures of abuse.

Lyon, Thomas D., Ahern, Elizabeth C., Scurich, Nicholas. Journal of Child Sexual Abuse: Research, Treatment, & Program Innovations for Victims, Survivors, & Offenders, Vol 21(1), Jan, 2012. pp. 19-44.

Abstract:

We describe a Bayesian approach to evaluating children's abuse disclosures and review research demonstrating that children's disclosure of genital touch can be highly probative of sexual abuse, with the probative value depending on disclosure spontaneity and children's age. We discuss how some commentators understate the probative value of children's disclosures by: confusing the probability of abuse given disclosure with the probability of disclosure given abuse, assuming that children formally questioned about sexual abuse have a low prior probability of sexual abuse, misstating the probative value of abuse disclosure, and confusing the distinction between disclosure and nondisclosure with the distinction between true and false disclosures. We review interviewing methods that increase the probative value of disclosures, including interview instructions, narrative practice, noncontingent reinforcement, and questions about perpetrator/caregiver statements and children's reactions to the alleged abuse.

A response to commentary on Faust, Bridges, and Ahern's (2009) "Methods for the identification of sexually abused children".

Ahern, David C., Bridges, Ana J., Faust, David. Journal of Child Sexual Abuse: Research, Treatment, & Program Innovations for Victims, Survivors, & Offenders, Vol 21(2), Mar, 2012. Special issue: Male and female survivors of sexual abuse. pp. 210-219.

Abstract:

Responds to the comments made by M. D. Everson and K. C. Faller (see record 2012-04562-004) & T. D. Lyon et al (see record 2012-04562-003) on the current authors' chapters in the book The Evaluation of Child Sexual Abuse Allegations: A Comprehensive Guide to Assessment and Testimony (see record 2009-01883-000). Our series of three chapters (Faust, Bridges, & Ahern, 2009a, 2009b; Bridges, Faust, & Ahern, 2009) on the methodology of identifying sexually abused children elicited a number of comments, both supportive and critical. The criticisms appear related to three primary issues or apparent misconceptions of our work, perhaps due in part to incomplete exposition or ambiguity in presented material: our use of hypotheticals, our argument against "double-dipping," and our use of Bayesian analyses. We address each of these criticisms here in the hope of clarifying any misunderstandings and contributing in a constructive way to progress in this critical arena.

Event memory and suggestibility in abused and neglected children: Trauma-related psychopathology and cognitive functioning.

Chae, Yoojin, Goodman, Gail S., Eisen, Mitchell L., Qin, Jianjian. Journal of Experimental Child Psychology, Vol 110(4), Dec, 2011. pp. 520-538.

Abstract:

This study examined event memory and suggestibility in 3- to 16-year-olds involved in forensic investigations of child maltreatment. A total of 322 children were interviewed about a play activity with an unfamiliar adult. Comprehensive measures of individual differences in trauma-related psychopathology and cognitive functioning were administered. Sexually and/or physically abused children obtained higher dissociation scores than neglected children, and sexually abused children were more likely to obtain a diagnosis of posttraumatic stress disorder than physically abused children, neglected children, and children with no substantiated abuse histories. Overall, older children and children with better cognitive functioning produced more correct information and fewer memory errors. Abuse status per se did not significantly predict children's memory or suggestibility whether considered alone or in interaction with age. However, among highly dissociative children, more trauma symptoms were associated with greater inaccuracy, whereas trauma symptoms were not associated with increased error for children who were lower in dissociative tendencies. Implications of the findings for understanding eyewitness memory in maltreated children are discussed.

Methodological issues and practical strategies in research on child maltreatment victims' abilities and experiences as witnesses.

Chae, Yoojin, Goodman, Gail S., Bederian-Gardner, Daniel, Lindsay, Adam. Child Abuse & Neglect, Vol 35(4), Apr, 2011. pp. 240-248.

Abstract:

Modern scientific research on child maltreatment victims' memory abilities and court experiences has informed and guided legal professionals, policy makers, mental health professionals, and the lay public for nearly three decades. The importance of addressing legal, psychological, and clinical issues on behalf of child witnesses has spawned an abundance of research. For the past several decades, our laboratory has conducted a number of research projects to examine child maltreatment victims' abilities and experiences as witnesses. In this paper, we first review several scientific studies performed by our laboratory with maltreated children and adults. Specifically, we describe some of the laboratory's key studies on maltreated children's memory and suggestibility and then some of our key studies on maltreated children's reactions to criminal and dependency court, including their later reactions as adults. Following this, we address practical strategies used to deal with many of the challenges involved in child witness research projects when actual child victims are involved. We focus on methods for recruiting maltreatment victims, seeking informed consent for research participation, ensuring representativeness of samples, selecting appropriate interview questions and questionnaires, and retaining participants longitudinally. When considering each of these, we first address a number of general points, and then separately discuss problems and practical strategies that emanate from research on memory and suggestibility of maltreated children, followed by problems and practical strategies that arise in research on children's legal involvement. The one exception is that in considering practical challenges of conducting longitudinal research, the issues for memory and suggestibility research and those for children's legal involvement studies largely overlap and are discussed together.

Commentaries on contested issues in the evaluation of child sexual abuse allegations: Introduction to the current commentaries.

Faller, Kathleen Coulborn, Everson, Mark D., Journal of Child Sexual Abuse: Research, Treatment, & Program Innovations for Victims, Survivors, & Offenders, Vol 21(2), Mar, 2012. Special issue: Male and female survivors of sexual abuse. pp. 200-202.

Abstract:

The Evaluation of Child Sexual Abuse Allegations: A Comprehensive Guide to Assessment and Testimony is composed of 20 chapters written by scholars with diverse areas of expertise, such as clinical decision making, child forensic interviewing, research on memory and suggestibility, and professional ethics. The majority of chapters offer excellent reviews of relevant research as well as practical guidelines for forensic evaluators seeking to update to best practice standards. However, at least four chapters in the Kuehnle and Connell (2009) book dispute the validity of long-established forensic methodology. Because of concerns that such criticisms of established practice may be mistaken by the courts and child welfare professionals as representative of empirical or expert consensus, we assembled a group of experienced forensic evaluators and respected child maltreatment researchers to prepare articles that challenge the most troubling chapters in the Kuehnle and Connell book. The resulting six articles were published as a recent special issue of the Journal of Child Sexual Abuse (JCSA) (2012, Volume 21, Issue 1) entitled, "Contested Issues in the Evaluation of Child Sexual Abuse Evaluations." The six commentaries in this section continue the discussion of this critical debate about what constitutes appropriate practice in CSA evaluations. The reader is cautioned that each commentary represents only one side of the debate. As authors of two of the JCSA special issue articles (Everson & Faller, 2012; Faller & Everson, 2012), we urge the reader to refer to the special issue articles, as well as the original Kuehnle and Connell chapters, for a more complete perspective.

Children's eyewitness memory: Methodological issues.

Goodman, Gail S., Pipe, Margaret-Ellen, McWilliams, Kelly, Research methods in forensic psychology. Rosenfeld, Barry (Ed.); Penrod, Steven D. (Ed.); pp. 257-282. Hoboken, NJ, US: John Wiley & Sons Inc, 2011. xvi, 535 pp.

Abstract:

(from the chapter) In this chapter, we first describe a modicum of case law that concerns child witnesses. We then turn to a brief history of scientific research on child eyewitness memory. Internal and external validity issues and ethical concerns are also reviewed. We then discuss methodological issues regarding trauma and child memory, child maltreatment and memory, children's suggestibility and false memory, forensic protocols, and children's testimony in court.

Talking with children about past events: Children's memory and suggestibility.

Gregory, Amy Hyman, Carol, Rolando N., Compo, Nadja Schreiber, A clinician's guide to normal cognitive development in childhood. Sandberg, Elisabeth Hollister (Ed.); Spritz, Becky L. (Ed.); pp. 159-175. New York, NY, US: Routledge/Taylor & Francis Group, 2010. x, 257 pp.

Abstract:

(from the chapter) Although much of this chapter will have a legal/forensic perspective, the issues discussed have important implications for all clinicians, practitioners, and educators who are working with children in a variety of settings. Namely, to understand the harmful effects that suggestibility can have on children's recollections of personal experiences is important for anyone interacting with children. For example, what would you do if you suspected that a child might be the victim of abuse or a bullying situation? How do you verify a child's report about a domestic violence situation or make decisions regarding the child's best interests when a child is trapped in the midst of a bitter parental divorce? Having the best interest of the child at heart, most professionals would strive to obtain as much information as possible from the child, resulting in the child being asked many questions. However, the way a child is questioned about a negative experience may influence his or her memory for what happened. Therefore, a primary goal of this chapter is to build upon what we know about children's memory (Chapters 7 and 8) to help readers understand the most effective and least damaging procedures to use when talking to children about past experiences. Investigating children's nonabuse experiences (e.g., witnessing a bad car accident, negative interactions with a teacher) should be approached with the same care and precautions that one might use when concerned about an abuse situation. The variables and techniques described in the following sections evolved from forensic interviews surrounding suspected child abuse but should be applied to any situation in which children talk about negative events.

Child maltreatment and memory.

Goodman, Gail S., Quas, Jodi A., Ogle, Christin M., Annual Review of Psychology, Vol 61, 2010. pp. 325-351.

Abstract:

Exposure to childhood trauma, especially child maltreatment, has important implications for memory of emotionally distressing experiences. These implications stem from cognitive, socio-emotional, mental health, and neurobiological consequences of maltreatment and can be at least partially explained by current theories concerning the effects of childhood trauma. In this review, two main hypotheses are advanced: (a) Maltreatment in childhood is associated with especially robust memory for emotionally distressing material in many individuals, but (b) maltreatment can impair memory for such material in individuals who defensively avoid it. Support for these hypotheses comes from research on child abuse victims' memory and suggestibility regarding distressing but nonabusive events, memory for child abuse itself, and autobiographical memory. However, more direct investigations are needed to test precisely when and how childhood trauma affects memory for emotionally significant, distressing experiences. Legal implications and future directions are discussed.

Children as witnesses.

Davies, Graham, Pezdek, Kathy, Forensic psychology. Towl, Graham J. (Ed.); Crighton, David A. (Ed.); pp. 178-194. Wiley-Blackwell, 2010. xv, 458 pp.

Abstract:

(from the chapter) When children are victims of a crime, frequently their testimony is the only prosecution evidence in the case. This is because crimes against children—particularly crimes of child abuse - typically occur in situations that are unlikely to involve other evidence or other witnesses. It is thus especially important that child witness evidence be collected, documented and evaluated carefully. Elsewhere, Pezdek (1994) has argued about the costs and benefits of weighing children's eyewitness accounts too lightly or too heavily. Suffice it to say here, that weighing children's eyewitness accounts

too lightly can result in the perpetuation of child victimisation; weighing children's eyewitness accounts too heavily can result in false charges that can permanently destroy families. In light of the dire consequences at both ends of this criterion, it is critical for forensic investigators and the courts to understand the factors that affect children's memory for traumatic events, and to follow procedures that are most likely to maximise the veracity of children's accounts. In this chapter we first present what is known from the scientific research about factors that affect the veracity of children's memory, with the focus on the topics of the suggestibility of children's memory and false memories for childhood events. Second, we review research on interview procedures and the special measures that have been suggested for interviewing children and presenting their evidence at court and discuss the experimental and field research on the utility of these procedures. Together, these two sections of this chapter provide the reader with a solid understanding of how best to interview children and present their evidence at court and the scientific basis for these recommendations. We believe that professionals are more likely to follow the suggested procedures if they understand the rationale for them.

Children's false memory and true disclosure in the face of repeated questions.

Schaaf, Jennifer M., Alexander, Kristen Weede, Goodman, Gail S., Journal of Experimental Child Psychology, Vol 100(3), Jul, 2008. pp. 157-185.

Abstract:

The current study was designed to investigate children's memory and suggestibility for events differing in valence (positive or negative) and veracity (true or false). A total of 82 3- and 5-year-olds were asked repeated questions about true and false events, either in a grouped order (i.e., all questions about a certain event asked consecutively) or in a nongrouped order (i.e., questions about a certain event were interspersed with questions about other events). Interviewer gender was also varied. Individual differences, including attachment style, inhibition, and behavioral adjustment, were examined as potential predictors of memory and suggestibility. Results revealed significant age, valence, and veracity effects on children's memory reports. Path analysis demonstrated that individual differences in behavioral problems and inhibitory ability predicted children's provision of inaccurate information. Implications for psychological theory and legal application are discussed.

Children, sexual abuse and suggestibility: What laypeople think they Know and what the literature tells us.

Cossins, Anne, Psychiatry, Psychology and Law, Vol 15(1), Mar, 2008. pp. 153-170.

Abstract:

This article summarizes the extensive research literature on laypeople's and jurors' beliefs about children's memory, suggestibility and responses to child sexual abuse. In particular, it discusses the extent and types of misconceptions held by laypeople/jurors, as well as the effects of age, education and gender on those misconceptions. The results from an analysis of mock jury studies where different types of expert testimony were presented are then considered in order to understand the types of expert testimony that would be admissible in courts in Australia, with a particular focus on the Uniform Evidence Act. As a result of this analysis, particular reform options are discussed and recommended in order to counter juror misconceptions in child sexual abuse trials.

A comparison of expert evidence and judicial directions to counter misconceptions in child sexual abuse trials.

Goodman-Delahunty, Jane, Cossins, Anne, O'Brien, Kate, Australian and New Zealand Journal of Criminology, Vol 44(2), Aug, 2011. pp. 196-217.

Abstract:

Studies on the influence of expert evidence and judicial instructions in child sexual abuse (CSA) cases have produced mixed outcomes. Using repeated measures, we tested the effectiveness of expert evidence and judicial directions in challenging common misconceptions about children's memory and responses to sexual abuse. A CSA Misconceptions Questionnaire was administered to 118 psychology undergraduates who later served as virtual jurors in a simulated criminal trial. Specialized CSA knowledge was provided by a psychologist or via judicial directions. Expert evidence had two levels: clinical versus scientific testimony. Timing of judicial instructions had two levels: directions presented before the child testified versus during the judge's summing up. In a fifth control condition, no

specialized CSA information was included. After reading a trial transcript, mock-jurors assessed witness credibility, rendered verdicts and again completed the CSA Misconceptions Questionnaire. All four interventions significantly increased jurors' CSA knowledge. The more they knew, the more likely they were to convict. Perceived victim credibility fully mediated the effect of CSA knowledge on verdict: information presented via expert testimony or judicial directions enhanced perceptions of victim credibility, which in turn increased convictions. Conviction rates were significantly higher in response to expert testimony from a clinical psychologist and a judicial instruction provided in the trial summation. These results are promising for courts and policy-makers grappling with low conviction rates in CSA jury trials.

Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors. Ullman, Sarah E.; Journal of Child Sexual Abuse, Vol 16(1), 2007. pp. 19-36.

Abstract

This research examined victim relationship to the perpetrator, disclosure characteristics, social reactions, and PTSD in adult survivors' of child sexual abuse (CSA) identified in a convenience sample of 733 college students. Results indicated that relationship to the perpetrator was related to CSA characteristics and outcomes. More negative reactions such as disbelief were observed for those victimized by relatives compared with acquaintance and stranger victims, especially for those disclosing in childhood. Victims of relatives had more PTSD symptoms if they delayed disclosure, received more negative reactions in childhood, and engaged in self-blame at the time of the abuse. Results are discussed in the context of Fred's (1996) betrayal trauma theory, in order to better understand the traumatic impact of CSA.

Delayed Disclosure of Alleged Child Abuse Victims in Israel. Hershkowitz, Irit; American Journal of Orthopsychiatry, Vol 76(4), Oct 2006. pp. 444-450.

Abstract

This study identifies characteristics of alleged child abuse victims that are associated with delayed disclosure of abuse. The database includes all alleged victims investigated in Israel between 1998 and 2004. Analyses suggest that most children delay disclosure and that delay is associated with type of abuse, child's age and gender, relationship to suspect and characteristics of abusive event.

The hearsay rule and delayed complaints of child sexual abuse: The law and the evidence. Cossins, Anne; Psychiatry, Psychology and Law, Vol 9(2), 2002. pp. 163-176.

Abstract

This article discusses the implications of two recent High Court cases on the admissibility of hearsay evidence of a child's delayed disclosure of child sexual abuse. It compares and contrasts the traditional legal significance of delayed disclosure (as being evidence of fabrication) with prevalence studies from the psychological literature which show that a majority of children delay disclosure and that, rather than being an aberrant feature of child sexual abuse, delay is a typical response of sexually abused children as a result of confusion, denial, self-blame and overt and covert threats by offenders. In addition, several self-report studies of offenders confirm that grooming processes create a relationship of power between the child and offender such that delayed disclosure appears to reflect the position of powerlessness of the sexually abused child within that relationship. In light of what the psychological literature tells us, this article challenges the narrow legal approach to the admissibility of hearsay evidence of delayed disclosure and suggests that a special exception should be made for hearsay statements of a child's delayed disclosure in child sexual assault trials.

Variables in delayed disclosure of childhood sexual abuse. Somer, Eli; Szwarcberg, Sharona; American Journal of Orthopsychiatry, Vol 71(3), Jul 2001. pp. 332-341.

Abstract

In a study of 41 adult survivors (aged 16-56 yrs) of childhood sexual abuse, the level of childhood traumatization was found to have contributed to delayed disclosure of the abuse. Other delaying variables included: belief in the importance of obedience to grownups, mistrust of people, fear of social rejection, and fear of the criminal justice system. Variables such as media attention to similar cases and experiences of personal achievement were inversely related to the age at disclosure. Recommendations for policy are discussed.

Children's self-disclosure of sexual abuse: Effects of victim, perpetrator, and abuse characteristics. Paine, Mary Lou; Dissertation Abstracts International: Section B: The Sciences and Engineering, Vol 61(4-B), Oct 2000. pp. 2215.

Abstract

A child's disclosure of sexual abuse is critical to end the abuse, initiate legal and therapeutic intervention, and protect other children. Research findings indicate delayed disclosure is the norm and many victims never disclose. An extensive review of the literature revealed few empirical studies specific to

disclosure. Most studies have examined disclosure in the context of a formal abuse investigation, medical examination, or psychotherapy. Using an archival design, data was gathered on 103 victims (75 girls, 32 boys) accessed through the files of convicted adult males who received treatment in an inpatient sex-offender program. The study was a comprehensive, integrated examination of self-disclosure of sexual abuse by child victims prior to investigation. The effects of victim, perpetrator, victim-perpetrator relationship, and abuse characteristics on disclosure and delay to disclosure were examined. Gender differences in abuse characteristics and aspects of disclosure were also examined. Delay to disclosure proved to be a more sensitive measure with the capacity to detect degrees of reluctance. Abuse by a parent/parent-figure, penetration, home violence, abuse duration, and younger age at onset were associated with significantly longer disclosure delays. Prior research reveals mixed findings regarding gender differences in disclosure. It is generally believed boys are more hesitant than girls to disclose. Findings of the present study revealed no gender differences in rates of disclosure prior to investigation. The mean disclosure delay was twice as long for girls than boys, however. The gender difference observed appeared secondary to the relationship between the victim and the perpetrator. Compared to boys, proportionately more girls were victimized by a parent/parent-figure and fewer were victimized by a non-family member. The confidant delayed or failed to report the abuse to the appropriate authorities in 24% of the cases in which the victim disclosed. Social and research implications are discussed. Suggestions are offered for data collection during investigative interviews in order to facilitate research on disclosure and reporting failures.

Developmental differences in detection and disclosure of sexual abuse. Campis, Leslie B.; Hebden-Curtis, Joanne; DeMaso, David R.; Journal of the American Academy of Child & Adolescent Psychiatry, Vol 32(5), Sep 1993. pp. 920-924.

Abstract

Examined developmental differences in the detection and disclosure of child sexual abuse. A random medical record review was conducted of 72 children and adolescents (aged 23 mo to 17 yrs) seen over a 3-yr period for suspected sexual abuse in the emergency room of a pediatric hospital. Data on demographics, presenting symptomatology, type of disclosure, and precipitants to disclosure were gathered. Preschool-age Ss were significantly more likely than school-age Ss and adolescents to exhibit behavioral or physical symptoms that prompted caregivers' suspicion of sexual abuse. Preschool-age Ss made disclosures accidentally and typically with an immediate precipitating event unrelated to the abuse itself. In contrast, sexual abuse disclosures from school-age Ss were purposeful and not associated with a precipitating event.

Forensic sexual abuse evaluations of older children: Disclosures and symptomatology. Elliott, Diana M.; Briere, John; Behavioral Sciences & the Law, Vol 12(3), Sum 1994. pp. 261-277.

Abstract

Examined the results of forensic evaluations of 320 children (aged 8-15 yrs) who were seen at an urban evaluation center regarding allegations of sexual abuse. Ss were given a medical examination and were asked to complete the Trauma Symptom Checklist for Children to assess psychological distress. Ss and primary nonoffending caretakers were interviewed to determine demographic, family environment, and abuse variables. Ss were grouped according to the outcome of the evaluation: nonabused, abused-disclosing, and abused-nondisclosing. Variables that predicted group membership included race, sex, cognitive delays, mother's belief or disbelief in the allegation, and psychological distress. Sexually abused Ss who disclosed abuse reported particularly high levels of distress, while abused but nondisclosing Ss reported the lowest levels. Nonabused Ss reported intermediate symptom levels.

Factors associated with disclosure during child sexual abuse assessment. Gries, Leonard T.; Goh, David S.; Cavanaugh, Jeanne; Journal of ***Child Sexual Abuse***, Vol 5(3), 1996. pp. 1-20.

Abstract

Studied the relationship among the eliciting stimulus for sexual abuse disclosure, the child's age and gender, and the sexual abuse type reported by the child. 96 3-17 yr old children in foster care placement were referred due to suspicion of sexual abuse or a previous disclosure by the S or another person. Interviews indicated close to 67% of the Ss disclosed at least 1 type of sexual abuse, with almost 40%

of those who had not disclosed before disclosing for the 1st time. Fondling, physical abuse, genital penetration, and touching the offender were the most frequently disclosed sexual abuse types. "Personal history" and "interview/worst experience" were the most effective stimuli in eliciting disclosure. A number of significant differential effects due to age, gender, and diagnosed disorder of the S were found on the eliciting stimuli and/or types of sexual abuse disclosed. Implications for child sexual abuse assessment practice are discussed.

Factors influencing children to self-disclose sexual abuse. Paine, Mary L.; Hansen, David J.; Clinical Psychology Review, Vol 22(2), Mar 2002. pp. 271-295.

Abstract

Self-disclosure by victims of child sexual abuse (CSA) is critical to initiate legal and therapeutic intervention. Unfortunately, research indicates that lengthy delays in disclosure and even nondisclosure are common. A comprehensive review of the clinical and research literature on CSA and an overview of related bodies of literature was conducted. Areas addressed include the context of sexual abuse as it relates to disclosure, the context and elements of children's disclosures, motivational factors inhibiting disclosure, and models of the disclosure process. Ancillary and analogue research on secrecy and disclosure are also reviewed. Implications for future research and practice are discussed.

How do children tell? The disclosure process in child sexual abuse. Bradley, April R.; Wood, James M.; Child Abuse & Neglect, Vol 20(9), Sep 1996. pp. 881-891.

Abstract

Examined children's disclosures of sexual abuse in 234 sexual abuse cases validated by Protective Services in Texas. Denial of abuse occurred in 6% of cases, and recantation in 4% of cases in which a child had already disclosed abuse. Four of the 8 victims who recanted appeared to do so in response to pressure from a caretaker. 72% had disclosed abuse to someone else prior to contact with Protective Services or the police. 96% made a partial or full disclosure of abuse during at least 1 interview with Protective Services or police. The child sexual abuse accommodation syndrome described by R. C. Summit (1983) seems to be infrequent among the types of cases seen by child protection agencies. Findings do not support the view that disclosure is a quasi-developmental process that follows sequential stages.

The characteristics of disclosure among children who may have been sexually abused. ***DeVoe***, Ellen R.; Faller, Kathleen Coulborn; Child Maltreatment, Vol 4(3), Aug 1999. pp. 217-227.

Abstract

Seventy-six 5-10 yr olds (47 females), who were referred because of concerns about sexual abuse, were interviewed as part of a larger study testing the efficacy of a computer-assisted interview in sexual abuse evaluations. Data from initial interviews were coded according to the presence of disclosure and the details revealed about sexual abuse. The presence and amount of corroboration were coded through case review. Although 56 children were coded as having disclosed prior to evaluation, only 44 subjects disclosed during the initial interview. Only 1 child disclosed spontaneously. An additional 8 children (11%) disclosed possible sexual abuse in a second or later interview. Although girls disclosed at a higher rate than boys, children did not differ in the amount or types of information they provided about alleged sexual abuse. Findings are discussed in terms of the conceptualization of disclosure as a process. Implications for interviewing strategies are addressed.

Children's disclosure of sexual abuse during formal investigation. Keary, Kay; Fitzpatrick, Carol; Child Abuse & Neglect, Vol 18(7), Jul 1994. pp. 543-548.

Abstract

251 children who had full assessments over a 12-mo period were divided at time of referral into 2 groups, those who had previously told someone about abusive experiences prior to investigations and those who had not. There was a strong positive correlation between having previously told someone about sexual abuse and disclosure of such abuse during formal investigation. There was also a strong positive correlation between not having previously told someone and not disclosing during formal investigation. Age was an important variable, with children under 5 yrs being least likely to disclose abuse during

formal investigation, irrespective of whether they had previously told someone about abuse. Disclosure of sexual abuse during investigation was strongly correlated with abuse being regarded as confirmed.

False negatives in sexual abuse interviews: Preliminary investigation of a relationship to dissociation. Chaffin, Mark; Lawson, Louanne; Selby, Abby; Journal of Child Sexual Abuse, Vol 6(3), 1997. Pp. 15-29.

Abstract

Examined 8-12.5 yr old female children who presented to a hospital emergency room with physical complaints which were later determined to be compelling evidence of sexual abuse. Cases were selected where there was no prior history, suspicion, or disclosure of abuse, and the child failed to disclose any sexual contact in the initial sexual abuse disclosure interview. These interview "false negatives" previously had been found to be related to caretaker biases against considering the possibility that abuse may have occurred. However, it was not clear what role, if any, individual psychological processes may have played in the false negative interviews. The present study re-located and assessed a small number of these children for dissociative and behavioral symptoms. Two non-contemporaneous comparison groups were used: (1) "true-positive" (i.e., disclosing) sexually abused children from the same hospital emergency room and (2) nonabused, non-psychiatric controls from the same hospital. False negative children were found to have significantly higher levels of dissociative symptoms, although they did not differ from true positives and non-abused controls on general behavioral problems. The results are consistent with an association between false negatives in sexual abuse interviews and dissociation.

Disclosure of Child Sexual Abuse: What Does the Research Tell Us About the Ways That Children Tell? London, Kamala; Bruck, Maggie; Ceci, Stephen J.; Psychology, Public Policy, and Law, Vol 11(1), Mar 2005. pp. 194-226.

Abstract

The empirical basis for the child sexual abuse accommodation syndrome (CSAAS), a theoretical model that posits that sexually abused children frequently display secrecy, tentative disclosures, and retractions of abuse statements was reviewed. Two data sources were evaluated: retrospective studies of adults' reports of having been abused as children and concurrent or chart-review studies of children undergoing evaluation or treatment for sexual abuse. The evidence indicates that the majority of abused children do not reveal abuse during childhood. However, the evidence fails to support the notion that denials, tentative disclosures, and recantations characterize the disclosure patterns of children with validated histories of sexual abuse. These results are discussed in terms of their implications governing the admissibility of expert testimony on CSAAS.

Disclosure, delay, and denial: In search of truth. Bradley, April R.; Rusinko, Holly M.; PsycCRITIQUES, Vol 53 (2), 2008.

Abstract

Reviews the book, Child sexual abuse: Disclosure, delay, and denial by Margaret-Ellen Pipe, Michael E. Lamb, Yael Orbach, and Ann-Christin Cederborg (Eds.) (see record 2007-06518-000). The book provides a comprehensive review of the literature in the area of abuse disclosure and includes an abundance of new research findings. The reviewers thought the editors compiled a well-organized book--one in which the overall structure of the book was easy to follow. They also thought the chapter authors did an excellent job emphasizing the complicated nature of this issue, and provided analyses of multiple research methodologies and conclusions. Several chapters report new research data related to various aspects of disclosure. The book concludes with chapters discussing policy implications of research on disclosure (delay and denial). For the reviewers, this section was especially helpful in synthesizing all of the information with recommendations for application in various settings. In their review, Bradley and Rusinko comment on the authors' discussions of: (1) clinical and forensic ramifications; (2) false memories and intentional deception; (3) reasons for non-disclosure; (4) interviewing techniques and protocols (including the National Institute of Child Health and Human Development investigative interview protocol); (5) developmental issues; (6) behavioral correlates of abuse denial; and (7) evidence-based strategies. In summary, the reviewers believe this book offers one of the most comprehensive reviews of literature in this area and presents important new research findings. In their opinion, the book is a must read for anyone directly involved with victims of child sexual abuse.

Disclosure of child sexual abuse: For better or for worse. Sauzier, Maria; Psychiatric Clinics of North America, Vol 12(2), Jun 1989. pp. 455-469.

Abstract

Evaluated 156 sexually abused children (mean age 10.1 yrs). Ss received crisis intervention and were administered a standardized test battery. 55% of Ss disclosed their abuse most frequently to their mothers. Ss' ability to tell of the abuse was influenced by characteristics of the experience. The dynamics of the disclosure process are presented as important variables in the victim-to-patient process. 115 Ss were reevaluated at 18-mo follow-up. Most Ss showed a significant decrease in psychopathology and an increase in self-esteem. Most Ss also showed improvement on standardized tests, but some regretted their disclosure.

Delay in disclosure of childhood rape: Results from a national survey. Smith, Daniel W.; Letourneau, Elizabeth J.; Saunders, Benjamin E.; Child Abuse & Neglect, Vol 24(2), Feb 2000. pp. 273-287.

Abstract

Gathered representative data regarding the length of time women who were raped before age 18 delayed prior to disclosing such rapes, whom they disclosed to, and variables that predicted disclosure within 1 mo. Data were gathered from 3,220 Wave II respondents from the National Women's Study (H. S. Resnick et al, see record 1994-25706-001), a nationally representative telephone survey of women's experiences with trauma and mental health. Of these, 288 retrospectively reported at least 1 rape prior to their 18th birthday. Details of rape experiences were analyzed to identify predictors of disclosure within 1 mo. Fully 28% of child rape victims reported that they had never told anyone about their child rape prior to the research interview; 47% did not disclose for over 5 yrs post-rape. Close friends were the most common confidants. Younger age at the time of rape, family relationship with the perpetrator, and experiencing a series of rapes were associated with disclosure latencies longer than 1 mo; shorter delays were associated with stranger rapes. Logistic regression revealed that age at rape and knowing the perpetrator were independently predictive of delayed disclosure.

How children tell: The process of disclosure in child sexual abuse. Sorensen, Teena; Snow, Barbara; Child Welfare Journal, Vol 70(1), Jan-Feb 1991. pp. 3-15.

Abstract

Examined the disclosure process in 116 sexually abused children (aged 3-17 yrs) to show that the process typically proceeds from denial to tentative and active disclosure and that Ss often recant but later reaffirm. Most protocols for investigating child sexual abuse are geared for Ss in active disclosure, but a retrospective analysis of the Ss' records showed only 11% to be in active disclosure at the time of the initial interview. This suggests that a child's initial denial, failure to provide immediate detail, or recantation may result in the dismissal of a valid complaint. 79% of the Ss initially denied the abuse or were tentative in disclosing it. 74% of Ss disclosed accidentally, which may be age- and developmentally related in the case of Ss' sexualized behavior and inappropriate statements. Peers and educational programs often motivated disclosure.

Abuse of the Child Sexual Abuse Accommodation Syndrome. Summit, Roland C.; Journal of Child Sexual Abuse, Vol 1(4), 1992. pp. 153-163.

Abstract

Discusses the origins of the concept of the Child Sexual Abuse Accommodation Syndrome ([CSAAS] R. C. Summit; see record 1984-15274-001) and the subsequent distortions that court misuse has imposed. The CSAAS is a clinical observation that has become both elevated as gospel and denounced as dangerous pseudoscience. It is hoped that such a contextual review can serve as a guide toward a more accurate understanding among clinicians, judges, and advocate attorneys.

The child sexual abuse accommodation syndrome. Summit, Roland C.; Child Abuse & Neglect, Vol 7(2), 1983. pp. 177-193.

Abstract

Classifies the most typical reactions of children to sexual abuse into a child abuse accommodation syndrome. The syndrome is composed of 2 categories that define basic childhood vulnerability and 3 categories that are sequentially contingent on sexual assault: (1) secrecy; (2) helplessness; (3) entrapment and accommodation; (4) delayed, unconvincing disclosure; and (5) retraction. The accommodation syndrome is proposed as a simple and logical model for use by clinicians to improve understanding and acceptance of the child's position in the complex and controversial dynamics of sexual victimization. Application of the syndrome tends to challenge entrenched myths and prejudice, providing credibility and advocacy for the child within the home and the courts and throughout the treatment process. The child's coping strategies as analogs for subsequent behavioral and psychological problems, including implications for specific modalities of treatment, are discussed.

For a more complete understanding on this topic see Dr. Simpson's seminar handout for the State Bar of Arizona CLE training – *Child Abuse Allegations: What Every Attorney Should Know*. You can access this at http://www.drpaulsimpson.com/seminars/ .

Pedophilia vs Hebephilia

"*Pedophilia*" refers to sexual attraction to pre-pubescent children. "*Hebephilia*" refers to sexual attraction to post-pubescent minors age 11-14 . "*Ephebephilia*" is sexual interest to those in later adolescence, approximately 15–19 years old. There are strong and consistent findings in the research literature that reveal:

1. Attraction to post-pubescent adolescents is normal for healthy adult males. It is a matter of biology. The "primitive brain" (mesolimbic system) in a healthy male identifies primary and secondary body characteristics in a pubescent female that signal she is capable of bearing children. The primitive brain has no sense of morality – it is pure primitive instinct. It is the job of the "*thinking brain*" (neocortex) to interrupt primitive impulse. Everyone experiences "inhibitory struggle" on a regular basis – whether to eat the extra donut, sleep past the alarm clock, drink too much at the bar after work, etc. This contrasting tension between our "two brains" is the basis for civilized behavior in civilized society.
2. The distinction of *pedophilia* vs *hebephilia* has important implications for recovery and future risk. Pedophilia is a biologically abnormal impulse that can involve significant defect in personality and psychological health. In contrast, hebephilic actions involve "*normal*" impulse that are not successfully inhibited by the neocortex. These actions do not require defect in personality or psychological functioning. Notice that the DSM-5 has a diagnostic category for pedophilia but does <u>not</u> identify hebephilia as a mental disorder.
3. Research reveals someone struggling with hebephilia is more responsive to treatment as compared to a pedophile. With proper treatment, someone with hebephilia also has a better prognosis against future relapse.
4. Research suggests 3% upper limit for pedophilia and hebephilia, and 1% for strictly pedophilia. (Santilla, et al., 2010)

Hebephilia is approximate in its age range because the onset and completion of puberty vary. Partly because of this, some definitions of chronophilias (sexual preference for a specific physiological appearance related to age) show overlap between pedophilia, hebephilia and ephebophilia; for example, the DSM-5 extends the prepubescent age to 13, the ICD-10 includes early pubertal age in its definition of pedophilia, and some definitions of ephebophilia include adolescents aged 14 to late adolescents. On average, girls begin the process of puberty at age 10 or 11; boys at age 11 or 12, and it is argued that separating sexual attraction to prepubescent children from sexual attraction to early-to-mid or late pubescents is clinically relevant.

According to research by Ray Blanchard et al. (2009), sex offenders could be separated into groups by victim age preference on the basis of penile plethysmograph response patterns. Based on their results, Blanchard suggested that the DSM-5 could account for these data by subdividing the existing diagnosis of pedophilia into hebephilia and a narrower definition of pedophilia. Psychologist Bruce Rind and sociologist Richard Yuill have published criticism of the classification of hebephilia as a mental disorder, though their view is that Blanchard et al. successfully established hebephilia as a "genuine sexual preference"; they suggested that if hebephilia were listed in the DSM-5, that it be coded as a condition that results in significant social problems today. Blanchard's proposal to add hebephilia to the DSM-5 proved controversial, and was not adopted. (text from Wikipedia, 2015)

Dr. Michael Seto defines *hebephilia* and *ephebophilia* as;
Clinically and scientifically defined as a sexual attraction to pubescent children— that is, children who are showing some signs of pubertal development such as breast budding, genital changes, and the development of axillary hair, but who are clearly not physically mature. Can be distinguished from pedophilia, a sexual attraction to prepubescent children (i.e., children who are not showing any signs of pubertal development). Hebephilia does not refer to sexual attraction to older adolescents who appear to be physically mature and who could be mistaken by naive observers to be 18 or older.

Seto, Michael C. (2013-06-30). Internet Sex Offenders. American Psychological Asso.

Evidence of construct validity in the assessment of hebephilia.

Stephens, Skye., Seto, Michael C., Goodwill, Alasdair M., Cantor, James M..
Archives of Sexual Behavior, Nov 29, 2016.

Abstract:
Hebephilia refers to a persistent intense sexual interest in pubescent children. Although not as widely studied as pedophilia, studies of hebephilia have indicated convergence in self-report and sexual arousal. The present study expanded on previous work by examining convergent and divergent validity across indicators of hebephilia that included self-report, sexual behavior, and sexual arousal in a sample of 2238 men who had sexually offended. We included men who denied such interest and specifically examined the overlap between hebephilia and pedophilia and examined pedohebephilia (i.e., sexual interests in both prepubescent and pubescent children). Results indicated that there was considerable convergence across indicators of hebephilia. The results suggested poor divergent validity between hebephilia and pedophilia, as there was substantial overlap between the two constructs across analyses. Finally, a distinct pattern of sexual arousal was found in offenders with pedohebephilia. The results of the present study were discussed with a focus on implications for the assessment of sexual interest in children and the conceptualization of pedohebephilia.

Attraction to Younger Images in the United States and in the World

Ogas & Gaddam, (2011) used meta-analytic data to reveal what people search for in pornography and relate these data to sexual preferences. These two authors looked at over 400 million individual searches submitted to the Web Browser "*DogPile*" between July 2009 and July 2010 and found that over 55 million of these searches were sexual. Of over 55 million searches the most common search was "*youth*", accounting for 13.54% of all sexual searches.

More recently, with reference to sexual preferences in the United States, arguably the best source of information on what pornographic images people search for are the yearly statistical reports produced by one of the larger pornography distribution sites – PornHub. In 2014 in the United States "teen" was the third most popular pornographic search term. For the United States in 2015 "teen" was the fourth most popular pornographic search term, and in 2016 "*teen*" was the third most common category of pornography searched for. The United States accounts for approximately 40% of the PornHub traffic across these three years. It should be noted that this is not exclusively a North American phenomenon with the pornographic search term "*teen*" being the most common search term worldwide in 2014, second most common in 2015, and the fourth most common is 2016. These data clearly reveal that interest in young images is very common not only in the United States but worldwide.

As is evident from the Internet search data of both Ogas and Saddam (2011), the PornHub yearly summary data, and a study of sexual fantasy in the general population (Joyal, Cossette, & Lapierre, 2014), a great deal of the adult population has fantasies involving teens, youth, and young people.

Sexual Fantasy Involving Young People in the General Population

Within the general population, fantasies of having sexual encounters with "*someone much younger*" than themselves are quite common (Reynaud & Byers, 1999). A study by Joyal, Cossette, & Lapierre (2014) surveyed 1,516 people from the general population and found that 57% of men and 18.1% of women admitted to having sexual fantasies about *"having sex with someone much younger (legally) than me"*. Further, 1.8% of men and 0.8% of women admitted to fantasizing about *"having sex with a child under the age of 12 years"*. When the data were reduced to themes, 3.3% of men admitted to fantasizing about having sex that "*involves a teenager – between the ages of 13 and 17*".

For a more complete understanding on this topic see Dr. Simpson's seminar handout for the State Bar of Arizona CLE training – *Online Sex Offense: What Every Attorney Should Know*. You can access this at http://www.drpaulsimpson.com/seminars/ .

Age Estimation from Photography[1]

In 1998, Dr. James Tanner [The Creator of the Tanner Scale] and Dr. Rosenbloom wrote a letter to the editor of the publication Pediatrics warning against the misuse of the Tanner Scale in attempts to judge the age of photographic subjects for forensic purposes. They stated that the scale was intended to identify "*early and late maturers*" for medical, educational, and sports purposes, not determining chronological age. The doctors warned that using the Tanner scale for determining chronological age is "*wholly illegitimate*". Further, they cautioned "*pediatricians and other physicians to refrain from providing "expert" advice as to chronological age based on Tanner Staging*" (Rosenbloom & Tanner, 1998, p. 1494).

A 2012 study by Rosenbloom, Rohrs, Haller, and Malasanos had four board-certified pediatric endocrinologists review 547 pictures of adult women taken from a men's magazine where all models had been certified as over the age of 18 at the time the images were taken. All four physicians agreed that the breasts in question were in Tanner stage IV for only 17 of these images, 3.1% agreement. On a further 36 images, there was agreement from three examiners, resulting in 6.6% agreement; an additional 39 images were agreed on by two examiners, 7.1% agreement; and a further 53 images were designated as Tanner Stage IV by only one examiner, 9.7% agreement; resulting in an overall error rate of 26.5% among four highly experienced board-certified pediatric endocrinologists. Rosenblum and colleagues point out that assessments of pornographic images are carried out almost totally by evaluation of breast development because in most pornographic representations the female subjects, for artistic, erotic, or other considerations, have partially or completely shaved pubic hair. These authors conclude, that "failure to appreciate the frequent persistence of TS 4 [Tanner Stage 4] breast development into adulthood and difficulty in distinguishing TS4 from TS5 [Tanner Stage 5] breast development, especially in nonclinical still or video images, has resulted in testimony that has no scientific basis" (p. 3).

We have known since 1998 (Rosenbloom & Tanner) that:

> *This is a wholly illegitimate use of Tanner staging: no equations exist estimating age from stage, and even if they did, the degree of unreliability in the staging* [of] *the independent variable would introduce large errors into the estimation of age, the dependent variable. Furthermore, the unreliability of the stage rating is increased to an unknown degree by improperly performed staging, that is, not the clinical examination but through non-standardized [sic] and, thus, unsuitable photographs* (p. 1494).
>
> *Therefore, we wish to caution pediatricians and other physicians to refrain from providing "expert" testimony as to chronological age based on Tanner staging, which was designed for estimating development or physiologic age for medical, educational, and sports purposes, in other words, identifying early and late maturers. The method is appropriate for this, provided chronological age is known. It is not designed for estimating chronologic age and, therefore, not properly used for this purpose* (p. 1494).

A study by Rosenbloom (2012) showed images of adult women taken from known, legal, pornographic sites to 16 pediatric endocrinologists who had expertise in evaluating maturation. These doctors were charged with attempting to determine whether the individuals represented in the images were under the age of 18 years. The women in the images were all documented as being over the age of 18 years at the time the images were taken. 69% of the 160 estimates produced by these experts stated that the images represented females under the age of 18. Of the 16 evaluators, 13 were female. The results of this study are as follows,

> *Sixty nine percent of the 160 estimates were that the images represented females <18 years of age. One individual found three of the 10 images to be of females <18 years, but Sixty*

[1] Special acknowledgements to Harris for the development of this section. Produced from personal communications between Dr. Simpson and Dr. Harris.

> *nine percent of the 160 estimates were that the images represented females <18 years of age. One individual found three of the 10 images to be of females <18 years, but all others found at least six of the images to be of females <18 years of age. This included four examiners rating six images as underage, two examiners thus rating seven images, three examiners considering eight images under age, and five examiners thusly interpreting all but one image. There were no images interpreted by all examiners to be either under or over 18 years of age.* (Rosenbloom, 2012, p. 469).

This study also showed that 16 pediatric endocrinologists relied most commonly on breast development for making their evaluations. Rosenbloom's study shows that *"medical testimony even by experts in adolescent development, can deem images of adult women selected for their youthful appearance to be under age 18 two thirds of the time*" (p. 470). Rosenbloom concludes that "*justice requires the avoidance of testimony that is not scientifically based*" (p. 470). Again, Rosenbloom quotes Tanner, saying that "*the Tanner scales were not designed to be used for estimating chronological age, forensically or otherwise*".

A further study by Cattaneo et al., (2009) used 15 Italian expert evaluators, five forensic pathologists, five pediatricians, five gynecologists, and 13 laypersons to review photographs of 11 nude adult females. A second group of German experts of the same basic composition (total = 23) reviewed the same images with the same instructions; to determine which of these photographic subjects were females less than 18 years old and which were 18 years or older. All females in the photographs were over the age of 18 when the photographs were taken. All professional and lay groups underestimated the age of the models in the photographs.

> *The best results were obtained by forensic pathologists who correctly identified the women as being over 18 years of age in 60% and 50% of cases (for Italy and Germany respectively): Laymen (50% and 23% respectively) performed second best. Pediatricians incorrectly classed the girls as under 18 in 73% and 95% of cases respectively and gynecologists in 69% and 91% of cases.* (p. e23)

It is telling that German and Italian laypeople performed this task better than Pediatricians and Gynecologists, clearly bringing into question whether any expertise at all is evident in these judgements. The authors conclude that "*forensic and medical experts should avoid such unscientific behavior which may have drastic consequences in a court of law*" (p. e23).

It must be pointed out that there are no published or available studies, in any language that support the use of the Tanner Stages for reliably assessing the age of photographic subjects. Rosenbloom (2012) gives a reason for this, stating that "*there are no studies because of the wide variation in the age of pubertal onset of approximately six years, and of progression, such that the duration from the start to completion of maturation can vary from 3 to 7 years*." {Findings from Brooke, C. G. D., Stanhope, R. (1989)}

Application in the Courts

A further example of the un-reliability of making judgments as to chronological age using the Tanner Stages based upon unsuitable representations such as digitized films and photographs was seen in the case U.S. v. Simon-Timmerman No. 09-296 (FAB). Mr. Simon-Timmerman was returning to the United States mainland from Puerto Rico. In his possession were three DVDs of a well-known Puerto Rico porn star "*Little Lupe*". In this proceeding an Immigration and Customs Enforcement (ICE) special agent Alek Pacheco testified that the actor in the DVD's was a minor child. The agent estimated that "*Little Lupe's*" age was between 13 and 14 years old. Also testifying was a licensed pediatrician Dr. Pedro R. Juanarena, who testified "*to a medical certainty*" that the actor depicted in the DVDs was a minor child. The adult actress shown in the films, Lupe Fuentes, was required by the prosecutor, Jenifer Yois Hernandez-Vega to fly to the mainland United States and to show proof of age at the time of filming after which the case was

dismissed. However, by this time Mr. Simon-Timmerman had spent three months in pretrial detention.

In 2006, Kelly Hoose (Worcester Superior Court, Massachusetts; Judge John S. McCann; December 19, 2006) was charged with four counts of possessing child pornography after prosecutors alleged that images on his computer represented underage females. Mr. Hoose was found not guilty after the images were seen to be the property of a legitimate commercial website and one of the models appeared in court to testify that she was 20 years old when the images were taken (Murry, December 28, 2006)

Rosenbloom (2012) also refers to a recent court-martial (Court-Martial, SSgt Swearington, 2012) where "*Tanner rating, in addition to the body habitus, body hair patents, musculature, dentition, head to body ratio, overall size, maturity of facial features, ...*" Was rejected by the court and the plaintiff acquitted (p. 5).

The general unreliability and inadmissibility of visual age identification from photographs has been well known within the legal community since an influential Pepperdine Law Review article was published in 2004 that clearly reviews problems with the use of Tanner Stages, (Fradella, O'Neill, & Fogarty, 2004).

Example of Language for Challenge

> Documents obtained from the Government's ROI include a sexual maturity rating from the (expert). This report is dated. . . and was written by . . . RN-PPCNP-BC and gives an opinion that 10 images all appeared to be females less than 15 years old. No methodology for coming to these conclusions was included in this report nor provided for the defense to review.
>
> The Daubert standard generally states that a witness who is qualified as an expert by knowledge, skill, expertise, training, or education may testify in the form of an opinion or otherwise if:
>
> a) The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
> b) The testimony is based on sufficient facts or data;
> c) The testimony is the product of reliable principles and methods; and
> d) The expert has reliably applied the principles and methods to the facts of the case.
>
> In a Supplemental Report – government hand dated . . . and signed by reports on a . . . Sexual Maturity Rating completed on six images taken from residence. Child Help personnel . . . (RN-PPCNP-BC) found two of these six images to depict children less than 15 years of age. Again, nothing in this report informs us as to the methodology used to come to these conclusions.
>
> Referring again to the Daubert criteria stated above, the lack of any statement of methodology, the lack of any evidence of reliability or validity in the methods used, and the lack of any evidence of any knowledge, skill, expertise, training, or education qualifying . . . or Nurse . . . is quite troubling.
>
> As clearly shown above, both by experimental study of experts in the field with specialized scientific knowledge (pediatricians, endocrinologists, forensic pathologists, & gynecologists) and in practical court applications and findings that the principles and methods of chronological age determination from photographs and digital representations are not reliable. Indeed, when laypersons perform better than both gynecologists and pediatricians it begs the question if there is any expertise, knowledge, skill, training, or education involved.

Child Pornography Offenders' Low Rates of Recidivism

Scientific research concludes that <u>*non-contact*</u> child pornography offenders are significantly less of a risk for future sex crimes as compared to traditional <u>*contact*</u> sex offenders. The *Association for the Treatment of Sexual Abusers* is the world's leading organization for professionals who study, assess and treat sex offenders. They note:

> *"Several overlapping, follow-up studies of child pornography offenders suggest these individuals present less risk for future hands-on offenses, on average, than undifferentiated samples of contact sex offenders. . . Child pornography offenders also presented a relatively low risk to commit another child pornography offense. . . Studies that have compared Internet-facilitated sex offenders to contact sex offenders have found consistent differences. These studies suggest Internet-facilitated sex offenders are less antisocial and are; therefore, less of a risk to commit a new offense or a probation violation than contact sex offenders. These studies also suggest Internet-facilitated sex offenders are similar to or score lower than contact sex offenders on measures of clinical needs including offense-supportive attitudes and beliefs, intimacy deficits, and emotional problems. At the same time, child pornography offenders are more likely to show pedophilic sexual arousal on penile plethysmograph assessment than are contact sex offenders.*
>
> *Although researchers have suggested several typologies of Internet-facilitated offenders, we currently know very little about the treatment and supervision needs of Internet-related sex offenders. These typologies include individuals who are sexually interested in children, those who are more sexually indiscriminate, those who are curious, and those who opportunistically engage in Internet-facilitated offending (e.g., an adult male who uses the Internet to gain sexual access to adolescents). Effective intervention will need to be tailored to the type of offender and the risk they present. For example, an individual who viewed child pornography out of curiosity and is a low risk to offend in the future might require little (or no) treatment and minimal supervision while a pedophilic individual who opportunistically used the Internet to gain access to victims and who is a higher risk to offend in the future would require more intensive treatment and supervision. Regulation of access to the Internet would be expected to be a central consideration in treatment or supervision. Methodologically sound evaluation research is needed to develop effective treatment programs for Internet-facilitated sex offenders."*
>
> ATSA Policy Statement on Internet-Facilitated Sex Offending, September 7, 2010
> http://www.atsa.com/internet-facilitated-sexual-offending

<u>Criminal Recidivism Risk in Child Pornography Offenders</u>

Harris and Hanson (2004) created one of the definitive reviews regarding recidivism for "*contact*" sex offenders (those who had committed hands-on offenses). They summarized the recidivism estimates for three distinct time periods, five years, ten years, and fifteen years, for each of the subgroups examined. The overall recidivism rates (14% after 5 years, 20% after 10 years and 24% after 15 years) were similar for rapists (14%, 21% and 24%) and the combined group of child molesters (13%, 18%, and 23%). There were, however, significant differences between the child molesters, with the highest rates observed among the extrafamilial boy-victim child molesters (35% after 15 years) and the lowest observed rates for the incest offenders (13% after 15 years).

Offenders with a prior sexual offence conviction had recidivism rates about double the rate observed for first-time sexual offenders (19% versus 37% after 15 years). Age also had a substantial association with recidivism, with offenders older than age 50 at release reoffending at half the rate of the younger (less than 50) offenders (12% versus 26%, respectively, after 15 years). As expected, those who have remained offence free in the community were at reduced risk for subsequent sexual recidivism. Whereas the average 10-year recidivism rate from time of release was 20%, the 10-year recidivism declined to 12% after five years offence-free and to 9% after 10

years offence-free. The five-year recidivism rate for those who had been offence-free for 15 years was 4%. Offence-free was defined as no new sexual or violent non-sexual offence, and no non-violent offences serious enough that they are incarcerated at the end of the follow-up period.

Recidivism risk for non-contact child pornography offenders is in sharp contrast to contact offenders. Seto and Eke (2005) in a sample of 541 male adult child pornography offenders found that 4% committed new contact sexual offenses and 7% committed new child pornography offenses. However, it should be noted that this sample was of significantly greater recidivism risk than is evident in Mr. (ln) (ln)'s case with 56% having a prior criminal record, 24% having prior contact sexual offenses, and 15% having prior child pornography offenses.

Seto, Hanson, and Babchishin (2011) conducted two meta-analyses looking at the sexual offense history of online offenders and the second looking at recidivism rates in the online offenders. Again, interpretation of the data from these two meta-analyses requires extrapolation as the samples used were of considerably higher recidivism risk than is evident in this individual case. This is demonstrated by study samples containing significant percentages of offenders with known contact sexual offenses. In the first meta-analysis (N = 4,697) 17.3% of online offenders were known to have committed a contact sexual offense, most of them against a child. It should be noted that self-report studies included in this meta-analysis showed much higher levels of sexual contact with children (Seto et al., 2011). In the second meta-analysis (N = 2,630; follow-up 1.5 to 6 years) 4.6% recidivated with another sexual offense. For a subsample of these (N = 1,247) the type of re-offense was known and it was found that 2% of online offenders recidivated with a contact sexual offense and 3.4% recidivated with a child pornography offense.

In the Scoring Guide for the Child Pornography Offender Risk Tool (CPORT-V2, 6/15/18), Eke, Helmus and Seto note;

> *"A meta-analysis of 9 recidivism studies found that approximately 5% of online (mostly child pornography) offenders were known to have committed a new sexual offence of some kind during a follow-up period ranging from 1.5 to 6 years; 2% committed a contact sexual offense and 3% committed a new child pornography offense (Seto, Hanson, & Babchishin, 2011). Recidivism studies published since the meta-analysis continue to report similar rates of sexual reoffending."* (p.4)
>
> Some of these study results are listed here:
>
> - 3.4% new CP viewing, 2% contact (Seto, 2011)
> - 1.6% new CP viewing, 3% contact (Faust, 2015)
> - 7% new CP viewing, 3% contact (Seto & Eke, 2015)
> - 2.9% new CP viewing, .5% contact (Schuhmann)
> - 2.3% new CP viewing, 3.6% contact offense (from the US Sentencing Commission, Saris, 2012)

To put Seto's work and the recidivism percentages he and his team found into context, Harris and Hanson (2012; See also Hanson, Harris, Helmus, & Thornton, 2014, and Hanson, Harris, Letourneau, Helmus, & Thornton, 2017) reviewed data showing that when non-sexual criminals are followed for protracted periods that about 2% of these offenders (median value) will spontaneously commit their first sexual offence in follow-up.

Seto (2011) and his group found that "*online offenders who had no history of contact offenses almost never committed contact sexual offenses*" (p. 137) and conclude that there may be "*a distinct subgroup of online only offenders who pose relatively low risk of committing contact sexual offenses in the future*" (p. 124). Mr. (ln) falls clearly within this group.

Finally, Henshaw, Ogloff, and Clough, (2017) findings note that "*the available evidence does not*

appear to support the idea of a direct causal relationship between child pornography and contact sexual offending" given what is presently known from the follow-up periods available in the literature (p. 432). They provide a compelling rational, "*if child pornography directly promoted contact sexual offending, one would reasonably expect rates of contact sexual offending to have similarly increased over the last two decades*" (p. 432). During the past two decades the Internet has increased availability and ease of access to child pornography. In contrast, during this period there has been a marked decline in the incidence of contact sexual offending in the United States (Planty et al., (2013) U. S. Department of Justice Special Report – Female Victims of Sexual Violence 1994 – 2010 (2013) – Figures 1, and 2).

Research Regarding Child Pornography Offenders and Re-offense Risk

Online child pornography offenders are different: a meta-analysis of the characteristics of online and offline sex offenders against children.

Babchishin Kelly M., Hanson, R. Karl, VanZuylen, Heather. (3/2014). Archives of Sexual Behavior, 03/2014.

Abstract:

The current meta-analysis compared the characteristics of online child pornography-only offenders, typical (off-line) sex offenders against children, and offenders with both child pornography and contact sex offenses against children (mixed). Based on 30 unique samples (comparisons ranging from 98 to 2,702), the meta-analysis found key differences between groups. Offenders who committed contact sex offenses were more likely to have access to children than those with only child pornography offenses. In contrast, offenders who used the internet to commit sexual offenses had greater access to the internet than those with contact sex offenders. Differences between the groups, however, were not limited to differential opportunities. Sex offenders against children and mixed offenders were found to score higher on indicators of antisociality than online child pornography offenders (CPOs). CPOs were also more likely to have psychological barriers to sexual offending than sex offenders against children and mixed offenders (e.g., greater victim empathy). Mixed offenders were found to be the most pedophilic, even more than CPOs. The findings suggest that offenders who restricted their offending behavior to online child pornography offenses were different from mixed offenders and offline sex offenders against children, and that mixed offenders were a particularly high risk group.

Examining the criminal history and future offending of child pornography offenders: An extended prospective follow-up study.

Eke, Angela W.. Seto, Michael C., Williams, Jennette.

Law and Human Behavior, Vol 35(6), Dec, 2011. pp. 466-478.

Abstract:

We examined police occurrence and criminal records data for a sample of 201 registered male child pornography offenders originally reported by **Seto** and **Eke** (Sex Abus J Res Treat 17:201–210, 2005), extending the average follow-up time for this sample to 5.9 years. In addition, we obtained the same data for another 340 offenders, increasing our full sample to 541 men, with a total average follow-up of 4.1 years. In the extended follow- up of the original sample, 34% of offenders had new charges for any type of reoffense, with 6% charged with a contact sexual offense against a child and an additional 3% charged with historical contact sex offenses (i.e., previously undetected offenses). For the full sample, there was a 32% any recidivism rate; 4% of offenders were charged with new contact sex offenses, an additional 2% of offenders were charged with historical contact sex offenses and 7% of offenders were charged with a new child pornography offense. Predictors of new violent (including sexual contact) offending were prior offense history, including violent history, and younger offender age. Approximately a quarter of the sample was sanctioned for a failure on conditional release; in half of these failures, the offenders were in contact with children or used the internet, often to access pornography again.

Regarding recidivism, this study found:

For CP, but non-violent (non-contact) (n=108)

- Any re-offense = 40.2%
- Release failure = 30.8%
- Violent/sex = 5.6%
- Contact sex = 1.9%
- Noncontact sex/CP = 10.3%
- CP = 8.4%

In contrast, for CP that includes contact (n=163)

- Any re-offense = 50.5%
- Release failure = 35.4%
- Violent/sex = 12.1%
- Contact sex = 8.7%
- Noncontact sex / CP = 11.2%
- CP = 8.7%

The consumption of Internet child pornography and violent and sex offending.

Endrass, Jérôme, et. al. (2009, July 14). BMC Psychiatry, Vol 9, *ArtID* 43.

Abstract:

Background: There is an ongoing debate on whether consumers of child pornography pose a risk for hands-on sex offenses. Up until now, there have been very few studies which have analyzed the association between the consumption of child pornography and the subsequent perpetration of hands-on sex offenses. The aim of this study was to examine the recidivism rates for hands-on and hands-off sex offenses in a sample of child pornography users using a 6 year follow-up design. Methods: The current study population consisted of 231 men, who were subsequently charged with consumption of illegal pornographic material after being detected by a special operation against Internet child pornography, conducted by the Swiss police in 2002. Criminal history, as well as recidivism, was assessed using the criminal records from 2008. Results: 4.8% (n = 11) of the study sample had a prior conviction for a sexual and/or violent offense, 1% (n = 2) for a hands-on sex offense, involving child sexual abuse, 3.3% (n = 8) for a hands-off sex offense and one for a nonsexual violent offense. When applying a broad definition of recidivism, which included ongoing investigations, charges and convictions, 3% (n = 7) of the study sample recidivated with a violent and/or sex offense, 3.9% (n = 9) with a hands-off sex offense and 0.8% (n = 2) with a hands-on sex offense. Conclusion: Consuming child pornography alone is not a risk factor for committing hands-on sex offenses—at least not for those subjects who had never committed a hands-on sex offense. The majority of the investigated consumers had no previous convictions for hands-on sex offenses. For those offenders, the prognosis for hands-on sex offenses, as well as for recidivism with child pornography, is favorable.

Child pornography possessors and child contact sex offenders: A multilevel comparison of demographic characteristics and rates of recidivism.

Faust, Bickart, Renaud.

Sexual Abuse: Journal of Research and Treatment, Vol 27(5), Oct, 2015. pp. 460-478.

Abstract:

Considerable debate surrounds the topic of whether possessing or distributing online images of child pornography (CP) represents a new type of crime perpetrated by conventional sex offenders (e.g., childcontact [CC] sex offenders), or whether individuals who commit these crimes differ from contact sex offenders in meaningful ways. The current study compares groups of Internet (CP) and CC sexual offenders, with each group's sexual offending history exclusively confined to its offense category. T tests were used to conduct bivariate comparisons of group demographics and criminal histories. Rates of recidivism were examined using survival curves and Cox proportional hazard regression models. Results showed significant differences on demographic and criminal history variables, with CP offenders demonstrating a lower frequency of prior criminal offending and substance abuse, and higher rates of pre-incarceration employment and level of education. Rates of

recidivism were significantly different between the two groups, with CP offenders showing lower rates of re-offense for most measures of recidivism. When controlling for background characteristics and the timing of the event, CC offenders were at much greater risk for having an arrest for a new crime or a non-sexual violent crime than CP offenders. Treatment and policy implications are discussed, along with suggestions for future research.

Specifics included:

For Non-contact CP (n=428)

- 19.2% had probation violations
- 1.6% had noncontact sex offense / CP
- 3.0% had contact offense

For contact offenders (n=210)

- 38% had probation violations
- 14.3% hand nonsexual/violence
- 5.7% had contact sex offense

The use of actuarial risk assessment measures with UK internet child pornography offenders.

Osborn, Jody; Elliott, Ian A.; Middleton, David.; Beech, Anthony R..

Journal of Aggression, Conflict and Peace Research, Vol 2(3), Jul, 2010. pp. 16-24.

Abstract:

The present study investigates the use of two actuarial assessment measures—Risk Matrix 2000 and Static 99—with individuals convicted of downloading child pornography on the internet. A UK community-based sample of convicted internet sex offenders was assessed using both a standard and a revised version of RM2000 and Static 99 and assessed for rates of reconviction. None of the offenders in the sample were convicted of a further sexual crime between a one-and-a-half and four-year follow-up. These results suggest reconviction rates for internet sex offenders are lower than for contact child sex offenders. It was found that both the standard version of RM2000 and Static-99 overestimate the risk levels posed by internet offenders and that an adapted version of RM2000 may be a more realistic measure of risk level in this population. In addition, it was noted that a higher frequency of low-risk offenders appeared to be accessing images of younger children and images depicting more serious victimization than high-risk offenders.

2012 Report to the Congress: Federal Child Pornography Offenses

Saris, et al. (2012) United States Sentencing Commission

http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/sex-offense-topics/201212-federal-child-pornography-offenses/Chapter_11.pdf

"…the general recidivism rate was 30.0 percent (183 of 610 offenders). . . failures were almost evenly split between arrests or convictions for new crimes and arrests or revocations for others violations of the conditions of their supervision:

- *15.9 percent (97 of 610 offenders) were arrested for (and in some cases convicted of) a new criminal offense; and*
- *14.1 percent (86 of 610 offenders) violated the conditions of their supervision or failed to register or report as sex offenders without an arrest for any other new criminal offense.*
- *The sexual recidivism rate for all offenders was 7.4 percent (45 of the 610 cases). Of those 45 offenders:*
- *22 offenders (or **3.6%** of all 610 cases) **were arrested for or convicted of sexual "contact" offenses** (e.g., rape or sexual assault of a child or adult);*
- *14 offenders (**2.3%** of the 610 cases) **were arrested for or convicted of a subsequent child pornography offense;** and*

- *the remaining nine offenders (**1.5%** of the 610 offenders) **were arrested for or convicted of a non-contact sex offense involving obscenity or commercial sex**.*

Of the 97 offenders who were arrested for any type of new offense during the eight-and- one-half-year follow-up period, the vast majority (77, or 79.4%) were arrested once during the period. Twenty offenders (20.6%) were arrested more than once during the follow-up period. Similarly, of those 86 offenders whose recidivism was limited to violating the conditions of their supervised release or probation, 67 (77.9%) did so once, while the remaining 19 offenders (22.1%) violated their conditions more than once. Furthermore, of the 97 offenders who committed new criminal offenses, 41 (42.3%) were both arrested for a new criminal offense and also had at least one other violation of the conditions of their supervision.

The period of time between reentry into the community and the recidivism event is measured as the "street time" that the offender was at risk until the first arrest, conviction, or revocation time in six month increments. As shown, recidivism increased at a relatively steady rate for approximately the first three years following release and then grew at a much slower rate thereafter. The statutory maximum period of supervised release for the vast majority of this thirds of offenders recidivated during their terms of supervision, and one-third recidivated after their supervision ended. A small number of offenders recidivated for the first time after being in the community for more than five years." (pp. 300-301)

The criminal histories and later offending of child pornography offenders.
Seto, Michael C., et.al., (April 2005). Sexual Abuse: Journal of Research and Treatment, Vol 17(2), pp. 201-210.

Abstract:

The likelihood that child pornography offenders will later commit a contact sexual offense is unknown. In the present study, we identified a sample of 201 adult male child pornography offenders using police databases and examined their charges or convictions after the index child pornography offense(s). We also examined their criminal records to identify potential predictors of later offenses: 56% of the sample had a prior criminal record, 24% had prior contact sexual offenses, and 15% had prior child pornography offenses. One-third were concurrently charged with other crimes at the time they were charged for child pornography offenses. The average time at risk was 2.5 years; 17% of the sample offended again in some way during this time, and 4% committed a new contact sexual offense. Child pornography offenders with prior criminal records were significantly more likely to offend again in any way during the follow-up period. Child pornography offenders who had committed a prior or concurrent contact sexual offense were the most likely to offend again, either generally or sexually.

Contact sexual offending by men with online sexual offenses.
Seto, M., et.al., (2011, March). Sexual Abuse: Journal of Research and Treatment, Vol 23(1), pp. 124-145.

Abstract:

There is much concern about the likelihood that online sexual offenders (particularly online child pornography offenders) have either committed or will commit offline sexual offenses involving contact with a victim. This study addresses this question in two meta analyses: the first examined the contact sexual offense histories of online offenders, whereas the second examined the recidivism rates from follow-up studies of online offenders. The first meta-analysis found that approximately 1 in 8 online offenders (12%) have an officially known contact sexual offense history at the time of their index offense (k = 21, N = 4,464). Approximately one in two (55%) online offenders admitted to a contact sexual offense in the six studies that had self-report data (N = 523). The second meta-analysis revealed that 4.6% of online offenders committed a new sexual offense of some kind during a 1.5- to 6-year follow-up (k = 9, N = 2,630); 2.0% committed a contact sexual offense and 3.4% committed a new child pornography offense. The results of these two

quantitative reviews suggest that there may be a distinct subgroup of online-only offenders who pose relatively low risk of committing contact sexual offenses in the future.

Predicting Recidivism Among Adult Male Child Pornography Offenders: Development of the Child Pornography Offender Risk Tool (CPORT-V2)

Seto, M. C., & Eke, A. W. (2015, April 6). Law and Human Behavior. Advance online publication. http://dx.doi.org/10.1037/lhb0000128

Abstract

In this study, we developed a structured risk checklist, the Child Pornography Offender Risk Tool (CPORT-V2), to predict any sexual recidivism among adult male offenders with a conviction for child pornography offenses. We identified predictors of sexual recidivism using a 5-year fixed follow-up analysis from a police case file sample of 266 adult male child pornography offenders in the community after their index offense. In our 5-year follow-up, 29% committed a new offense, and **11% committed a new sexual offense, with 3% committing a new contact sexual offense against a child and 9% committing a new child pornography offense.** The CPORT-V2 items comprised younger offender age, any prior criminal history, any contact sexual offending, any failure on conditional release, indication of sexual interest in child pornography material or prepubescent or pubescent children, more boy than girl content in child pornography, and more boy than girl content in other child depictions. The CPORT-V2 was significantly associated with any sexual recidivism, with moderate predictive accuracy, and thus has promise in the risk assessment of adult male child pornography offenders with further cross-validation.

Specifics included:

For CP only offenders (n=135)

- Any re-offense = 24%
- Release failure = 14%
- Violent (including sex) = 4%
- Contact sex = 3%
- CP = 7%

But: for CP & non-violent and/or violent (n=90)

- Any re-offense = 49%
- Release failure = 40%
- Violent/sex = 10%
- Contact sex = 3%
- CP = 12%

Correlates of Admitted Sexual Interest in Children Among Individuals Convicted of Child Pornography Offenses.

Seto, Michael C., Eke, Angela W.

Law and Human Behavior, Apr 06, 2017.

Abstract:

Recent research on a risk assessment tool for child pornography offending suggests that admission of sexual interest in children is a risk factor for any sexual recidivism. Admission is easily vulnerable to lying, however, or to refusals to respond when asked about sexual interests. This may become a particular issue when individuals are concerned about the potential impact of admission of sexual interest on sentencing and other risk-related decisions. In this study, we identified the following behavioral correlates (coded yes/no) of admission of sexual interest in children in the risk tool development sample of 286 men convicted of child pornography offenses: (a) never married (54% of sample), (b) child pornography content included child sexual abuse videos (64%), (c) child pornography content included sex stories involving children (31%), (d) evidence of interest in child pornography spanned 2 or more years (55%), (e) volunteered in a role with high

access to children (7%), and (f) engaged in online sexual communication with a minor or officer posing as a minor (10%). When summed, the average score on this Correlates of Admission of Sexual Interest in Children (CASIC) measure was 2.21 (SD = 1.22, range 0–6) out of a possible 6, and the CASIC score was significantly associated with admission of sexual interest in children, area under the curve (AUC) = .71, 95% CI [.65, .77]. The CASIC had a stronger relationship with admission in a small cross-validation sample of 60 child pornography offenders, AUC = .81, 95% CI [.68, .95]. CASIC scores may substitute for admission of sexual interest in risk assessment involving those with child pornography offenses.

Multiple Indicators of Sexual Interest in Prepubescent or Pubescent Children as Predictors of Sexual Recidivism.

Stephens, Skye. Cantor, James M., Goodwill, Alasdair M., **Seto**, **Michael** C.

Journal of Consulting and Clinical Psychology, Mar 13, 2017.

Abstract (English):

Objective: Sexual interest in children is a well-known risk factor for sexual reoffending (recidivism). The present study examined the relationship between sexual interest in prepubescent children (pedophilia) or pubescent children (hebephilia) and sexual recidivism. It extended previous work by using multiple indicators of sexual interest, using a more sensitive phallometric procedure that measures change in penile blood volume, and examining both hebephilia alongside pedophilia, as well as noncontact sexual recidivism. Method: Six hundred fifty-six men who had committed a sexual offense underwent a comprehensive sexological assessment that included multiple sexual interest measures: volumetric phallometry, self-report, and sexual behavior. Criminal record data were acquired to examine recidivism. Offenders were followed for an average of 10 years of opportunity. Results: Indicators of hebephilia and pedophilia were significantly associated with noncontact sexual recidivism, but inconsistently associated with contact recidivism. The relationship with phallometrically assessed pedophilia and contact sexual recidivism was significant after controlling for offender age statistically. Phallometrically assessed sexual arousal to children did not add to risk appraised by an actuarial measure. Conclusion: Both hebephilia and pedophilia were predictive of noncontact sexual recidivism. The results for contact sexual recidivism are discussed, including a potential confound in previous work on the assessment of sexual interest in children.

For a more complete understanding on this topic see Dr. Simpson's seminar handout for the State Bar of Arizona CLE training – *Online Sex Offense: What Every Attorney Should Know*. You can access this at http://www.drpaulsimpson.com/seminars/ .

Butner Study Redux

The 'Butner Study' redux: A report of the incidence of hands-on child victimization by child pornography offenders.

Bourke, Michael L.., Hernandez, Andres E.

Journal of Family Violence, Vol 24(3), Apr, 2009. pp. 183-191.

Abstract

This study compared two groups of child pornography offenders participating in a voluntary treatment program: men whose known sexual offense history at the time of judicial sentencing involved the possession, receipt, or distribution of child abuse images, but did not include any 'hands-on' sexual abuse; and men convicted of similar offenses who had documented histories of hands-on sexual offending against at least one child victim. The goal was to determine whether the former group of offenders were 'merely' collectors of child pornography at little risk for engaging in hands-on sexual offenses, or if they were contact sex offenders whose criminal sexual behavior involving children, with the exception of Internet crimes, went undetected. Our findings show that the Internet offenders in our sample were significantly more likely than not to have sexually abused a child via a hands-on act. They also indicate that the offenders who abused children were likely to have offended against multiple victims, and that the incidence of 'crossover' by gender and age is high.

There has been much controversy regarding the "Butner Study Redux" (2009). Criticism in the professional community has included:

- The study had no preapproval or oversight from a Human Studies Ethics board. Some researchers say this may have led to the abuse of the prisoners involved in the study, who were subjected to demand characteristics to continuously produce more names of fictional victims every six months in order to advance in the treatment program, avoid penalties, and to earn earlier release. This is denied by the authors.
- The study had no objective verification of the expansive lists of victims – they were taken at face value.
- There were no recurrent polygraphs to determine whether the added victim count was authentic or simply a product of demand characteristics. Some prisoners had an initial screening polygraph on admission to Butner. Others had an exit polygraph just prior to being released into the community. But none were done during the actual study period to provide authentication.
- At best, the study was retrospective regarding unconfirmed previous victims (called "pseudo-recidivism") and does not contribute to understanding future rates of offending.
- The results of the Bourke study were an extreme outlier that were not reflected in any other research (Seto, 2011).
- The results of the Bourke study have never been replicated.

Importantly, Dr. Hernandez himself noted the same year this study was published,

> *"CP offenders are distributed along a wide spectrum with multiple dimensions (e.g., criminogenic, sexual deviance, demographic). For example, there are CP possessors who are highly criminalized, behaviorally dysregulated, and sexually deviant. These individuals obviously represent a risk to public safety. On the other side of the spectrum, there are CP possessors who are not generally antisocial or sexually deviant, and have relatively intact self-regulatory mechanisms. Although both offenders commit the same crime (i.e., possession of child pornography), they are vastly different in terms of their risk to public safety. Understanding CP offenders requires comprehensive study of the individual offenders, the crimes, and the contextual variables in which the crimes occur. Focusing on only the extremes of a subject matter obscures the truth, inhibits rational dialogue and scientific inquiry, and sometimes results in uninformed public and criminal justice policy decisions. . . Some individuals have misused the results of Hernandez (2000) and Bourke and Hernandez (2009) to fuel the argument that the majority of CP offenders are indeed*

contact sexual offenders and, therefore, dangerous predators. This simply is not supported by the scientific evidence." (pp. 3-4)

Psychological and Behavioral Characteristics of Child Pornography Offenders in Treatment
Andres E. Hernandez, Psy.D. Global Symposium: Examining the relationship between online and offline offenses and preventing the sexual exploitation of children. The Injury Prevention Research Center. The University of North Carolina, Chapel Hill. April 5-7, 2009

In 2013, The New Yorker published an article critiquing Dr. Hernandez, the Butner Program, and the validity of his study's claims.

"Former patients at Butner say that they did not realize they were research subjects. Federal civil-commitment hearings have offered a window into the conditions that gave rise to the study's sensational results. Several inmates said that the program's emphasis on confession led them to "remember" crimes that never happened. They disavowed disclosures that were later used as evidence against them.

The program required that its hundred and twelve patients accept responsibility for a life of deviant behavior and thoughts—a philosophy common to most treatment programs. Since sex crimes are vastly underreported, it is reasonable to expect that inmates have committed more crimes than their records reveal. At a professional workshop, Hernández explained that he created a climate of "systematic pressure," so that inmates would "put all the cards on the table," abandoning a "life style of manipulation." Patients were required to compose lists of people they had sexually harmed, which they updated every few months. At daily community meetings, when offenders insisted that they had nothing left to disclose, other prisoners accused them of being in denial or "resistant to change." If they failed to accept responsibility, they were expelled from the program.

For sex offenders, who occupy the bottom of the prison power hierarchy, the Butner unit was a safe haven in the federal prison system. One child-pornography convict, Markis Revland, told the judge at his civil-commitment hearing that when prisoners discover a sex offender among them "they'll go to great lengths to stab that person." He requested treatment at Butner after being raped at knifepoint in a Kansas penitentiary. He was encouraged by the psychology staff at Butner to "get it all out," and came up with a hundred and forty-nine victims. Like other patients, he kept a "cheat sheet" in his cell so that he could remember his victims' ages and the dates that he'd abused them. There was no evidence for the crimes, thirty-four of which would have occurred during a time when Revland was incarcerated. At his hearing, the judge concluded that his crimes were the "product of his imagination, not actual events." After having been held in prison nearly five years beyond the expiration of his criminal sentence, Revland was allowed to go home.

The government has lost roughly half of the more than sixty Adam Walsh cases that have gone to trial so far. Confirming the facts of sexual abuse, the most intimate sort of crime, has always been difficult, with far too many victims keeping quiet about their abuse or not having their stories believed. For offenders, too, the heightened emotional stakes may complicate attempts to get at the truth. Another former patient, Sean Francis, testified that, in order to stay in the "safe confines of Butner," he "fabricated" fifty-four victims and invented and embellished rape fantasies. "Every single human being, if we were to open their head up, has some form or fashion of a deviant sexual fantasy," he said at his hearing. "I don't deny that." But Francis said that he turned himself into a caricature of a sex offender in order to please the "psychological gods that they have working at Butner." Patients would sit in groups and offer one another tips for sprucing up their criminal histories. "We shared victim lists," he testified. "So I would go and I would say, 'Jim, show me what you have. Oh, that—that's really good.'"

The Science of Sex Abuse: Is it right to imprison people for crimes they have not yet committed?
Rachel Aviv. The New Yorker, (January 14, 2013).

Child Pornography Offender Characteristics and Risk to Reoffend
Michael C. Seto, Ph.D., C.Psych. Royal Ottawa Health Care Group
Prepared for the United States Sentencing Commission Draft dated February 6, 2012

> "Seto et al. (2011) identified 21 studies, representing a total of 4,464 online offenders, that reported on contact sexual offending history. Approximately 1 in 8 (12%) of the online offenders (most in trouble for child pornography offenses) had an official record for sexual offending, but approximately 1 in 2 (55%) admitted having committed a contact sexual offense in the subset of six studies that had self-report data (totaling 523 online offenders). The self-report result is more tentative because of the smaller number of studies and smaller sample size, but it does contradict the idea that most online offenders have already committed contact sexual offenses, even if some of those who denied any prior sexual contacts were lying.
>
> A study by Bourke and Hernandez (2009) examining the sexual offense histories of a sample of federally incarcerated child pornography offenders at the Butner Correctional Institution is frequently cited. This study was a statistical outlier in our meta-analysis. Bourke and Hernandez found that approximately a quarter (24%) of their sample of 155 child pornography offenders had an official record of contact sexual offending, but most (85%) of their sample had a history of contact offending after participating in treatment and, in about half of the cases, undergoing polygraph examinations. Different explanations have been proposed for this unusual finding, including the composition of the sample and allegations that there was an incentive for treatment participants to disclose previously undetected offenses. Nonetheless, the key point – that some child pornography offenders have committed officially undetected contact offenses – is not controversial.
>
> In the same systematic review, Seto et al. (2011) reported on the results of nine samples of online (mostly child pornography) offenders, followed for an average of three and a half years. The recidivism rates were relatively low compared to the average recidivism rates found for contact sexual offenders (e.g., Hanson & Morton-Bourgon, 2005): Approximately 5% of the child pornography offenders were caught for a new sexual offense of any kind, with 3.4% being rearrested, recharged or reconvicted for a new CP offense and 2.1% for a new contact sexual offense. Not all new offenses are detected and the observed recidivism will increase with time. Nevertheless, these data belie the idea that online child pornography offenders are very high risk to reoffend. There is heterogeneity, as in other offender populations, and risk assessment is necessary to identify those who are of greatest concern.
>
> **Child Pornography Offender Characteristics and Risk to Reoffend**
> Michael C. Seto, Ph.D., C.Psych. Royal Ottawa Health Care Group
> Prepared for the United States Sentencing Commission Draft dated February 6, 2012

For a more complete understanding on this topic see Dr. Simpson's seminar handout for the State Bar of Arizona CLE training – *Online Sex Offense: What Every Attorney Should Know*. You can access this at http://www.drpaulsimpson.com/seminars/ .

False Confessions

The Psychology of Confession Evidence by Saul Kassin

"Gone are the days when the police would shine bright lights on the suspects, grill them for 24 hours at a time, or beaten with rubber hose, but observational studies shown that the use of physical force is given way to more psychologically oriented techniques, such as feigned sympathy and friendship, appeals to God and religion, the use of informants, the presentation faults evidence, and other forms of trickery and deception." (Confessions in the Courtroom, 1993)

The Reid Technique is a nine step procedure designed to overcome resistance of reluctant suspects.

1. The interrogator begins by confronting the subject with his or her guilt.
2. Develop psychological themes that justify or excuse the crime.
3. Interrupts all statements of denial.
4. Overcomes the subjects factual, moral, and emotional objections to the charges.
5. Ensures that the increasingly passive suspect does not tune out.
6. Shows sympathy and understanding and urges the suspect to tell the truth.
7. Offers the suspect a face-saving alternative explanation for his or her guilty action.
8. Gets the suspect recount the details of the crime.
9. Converts the statement into a full written confession.

"While the Reid Manual describes this part of the Technique as a nine-step process, it actually resolves itself into three major components: (1) tell the suspect you already know for sure he committed the crime, and cut off any attempts on his part to deny it; (2) offer the suspect more than one scenario for how he committed the crime, and suggest that his conduct was likely the least culpable, perhaps even morally justifiable (minimization);60 (3) overstate the strength of the evidence the police have inculpating the suspect—by inventing non-existent physical evidence or witness statements, for example—and assuring him he'll get convicted regardless of whether he talks.61 The driving idea is to persuade the suspect that it's in his best interest to give a confession that paints him in a positive light.62 There is usually the implicit, and sometimes explicit, suggestion that the interrogator will intercede with the prosecutor or the judge on the suspect's behalf so that he'll get away with a light sentence or perhaps no sentence at all.63 In fact, of course, the suspect derives no benefit from speaking to the police; the only thing the confession accomplishes is to incriminate the defendant, who is promptly arrested and convicted based on his confession, even though there may be strong evidence exonerating him."

Wyatt Kozinski, The Reid Interrogation Technique and false confessions:
A time for change. (2018). Seattle Journal for Social Justice, Vol 16, 2, pp. 311-312.

Maximization and Minimization Techniques

1. **Scare tactics** are designed to intimidate a suspect believed to be guilty. This intimidation is achieved by overstating the seriousness of offense and the magnitude of the charges and even by making false or exaggerated claims about the evidence.
2. **Minimization** is a soft sell technique in which the detective tries to lull the suspect into a false sense of security by offering sympathy, tolerance, face-saving excuses, and moral justification; by blaming the victim or an accomplice; and by underplaying the seriousness or magnitude of the charges.
3. A detective will use an average of 5.62 tactics per interrogation, and these tactics involve using both **negative incentives** (confronting the suspect with true or false incriminating evidence, refusing to accept denials, or noting contradictions in the suspect story) and **positive incentives** (appealing to the suspect self-interest or conscience, praising the suspect, minimizing the moral seriousness of the offense).
4. Typically promises and threats are made by **pragmatic implication** and **not** directly.

Types of False Confessions

1. **Voluntary False Confessions**. This is a self-incriminating statement that is offered without external pressure from the police (200 people confessed to the Charles Lindbergh baby kidnapping). Sometimes this is to protect a friend or relative. You can also address a pathological need for feigning, acceptance, recognition, or self punishment.
2. **Coerced – Compliant False Confessions**. Suspects confess after intense interrogation pressures. Within this category there are two forms of social influence: **compliance** and **internalization**. **Compliance** refers to a change in one's public behaviors for instrumental purposes. Research on obedience to authority is a classic example of this. In contrast, **internalization** refers to a private acceptance of the beliefs expressed by others.
3. **Coerced – compliant confessions** occur when a suspect confesses in order to escape or avoid an adverse interrogation or to gain the promised reward. In these cases, the confession is merely an active compliance, and the suspect privately knows that he or she is truly innocent. From a psychological point of view, of course – compliant false confessions are the easiest to understand, as they arise when a suspect comes to believe that the short-term benefits of confessing outweigh the long-term costs. "Individuals who are characteristically predisposed to exhibit compliance in social influence situations may be particularly vulnerable in this regard." Remember the Phoenix case in which six Thai Buddhist monks were murdered. Three young men were falsely arrested and put under intense late-night pressure. One was interrogated nonstop for 21 hours; another was told that his brothers would be arrested. All of the men eventually confessed and spent 70 days in jail – until the real murderers were discovered.
4. **Coerced – Internalized False Confessions**. These occur when an innocent person – anxious, tired, confused, and subjected highly suggestive methods of interrogation – actually comes believe that he or she committed the crime. This type of false confessions particular frightening because of suspects memory of his or her own actions may be altered, rendering the original contents potentially your retrievable. Research is shown that individuals with high scores on interrogated suggestibility also tend to exhibit poor memories, high levels of anxiety, low self-esteem, and a lack of assertiveness. Interrogated suggestibility scores increases function of prolonged sleep deprivation.

Gudjonsson Suggestibility Scales

Gisli Gudjonsson developed the GSS in order to measure, subtly yet objectively, the construct of interrogative suggestibility. Interrogative suggestibility is the extent to which an individual comes to accept messages or information communicated during formal questioning, essentially coming to believe the information presented as true. As measured by the Yield and Shift scores, information is obtained about the degree to which an individual yields to leading or misleading questions and gives in to negative feedback or pressure.

In addition to use for research, the GSS was developed for clinical use, such as assessing the psychological vulnerability of a defendant or witness to yielding to leading questions and to shifting from one response, right or wrong, to a different response, under pressure. This use has applications in providing data to the court regarding an individual's susceptibility to providing false information during police questioning, which is highly relevant when the trier of fact is assessing the validity of a confession or witness statements. The measure also has applications when a court is determining the voluntariness of a confession or Miranda rights waiver.

Research Related to False Confessions

One hundred alleged false confession cases: Some normative data.
Gudjonsson, Gisli, British Journal of Clinical Psychology, Vol 29(2), May, 1990. pp. 249-250.
Abstract:

Examined the psychological characteristics of individuals who retract self-incriminating admissions made during police interviewing by comparing 100 alleged false confessors with 104 other forensic referrals on 4 psychological variables. Measures used included the Wechsler Adult Intelligence Scale (WAIS) and the Gudjonsson Suggestibility Scale. The 2 groups differed significantly on tests of intelligence, suggestibility, compliance, and acquiescence. Normative data are provided.

The psychology of confession evidence.

Kassin, Saul M., American Psychologist, Vol 52(3), Mar, 1997. pp. 221-233.

Abstract:

Basic questions are raised concerning police interrogations, the risk of false confessions, and the impact that such evidence has on a jury. On the basis of available research, it was concluded that the criminal justice system currently does not afford adequate protection to innocent people branded as suspects and that there are serious dangers associated with confession evidence. The specific problems are threefold: (a) The police routinely use deception, trickery, and psychologically coercive methods of interrogation; (b) these methods may, at times, cause innocent people to confess to crimes they did not commit; and (c) when coerced self-incriminating statements are presented in the courtroom, juries do not sufficiently discount the evidence in reaching a verdict. It is argued that the topic of confession evidence has largely been overlooked by the scientific community and that further research is needed to build a useful empirical foundation.

Individual differences and false confessions: A conceptual replication of Kassin and Kiechel.

Horselenberg, Robert, Merckelbach, Harald, Josephs, Sarah, Psychology, Crime & Law, Vol 9(1), Mar, 2003. pp. 1-8.

Abstract:

In their study, S. M. Kassin and K. L. Kiechel (1996) falsely accused students of causing a computer crash and found that 69% of them were willing to sign a false confession, 28% internalized guilt, and 9% confabulated details to support their false beliefs. The authors interpreted these results to mean that false confessions can be easily elicited. However, in their study, false confessions were explicitly not associated with negative consequences. This study examined whether false incriminating evidence may elicit false confessions in 34 female undergraduates (aged 18-22 yrs) when such confessions are explicitly associated with financial loss. The authors also explored whether individual differences in compliance, suggestibility, fantasy-proneness, dissociation, and cognitive failures are related to false confessions**.** Methods were largely replicated from Kassin and Kiechel's study. Data indicate that the large majority of participants (82%) were willing to sign a false confession. In about half of the participants, false confessions were accompanied by internalization and confabulation. There was no evidence that individual differences modulate participants' susceptibility to false confessions. Taken together, this study replicates previous findings of Kassin and Kiechel.

The Psychology of Confessions: A Review of the Literature and Issues.

Kassin, Saul M., Gudjonsson, Gisli H., Psychological Science in the Public Interest, Vol 5(2), Nov, 2004. Special issue: The Psychology of Confessions: A Review of the Literature and Issues. pp. 33-67.

Abstract:

Recently, in a number of high-profile cases, defendants who were prosecuted, convicted, and sentenced on the basis of false confessions have been exonerated through DNA evidence. As a historical matter, confession has played a prominent role in religion, in psychotherapy, and in criminal law-where it is a prosecutor's most potent weapon. In recent years, psychologists from the clinical, personality, developmental, cognitive, and social areas have brought their theories and research methods to bear on an analysis of confession evidence, how it is obtained, and what impact it has on judges, juries, and other people. Drawing on individual case studies, archival reports, correlational studies, and laboratory and field experiments, this monograph scrutinizes a sequence of events during which confessions may be obtained from criminal suspects and used as evidence.

First, we examine the preinterrogation interview, a process by which police target potential suspects for interrogation by making demeanor-based judgments of whether they are being truthful. Second, we examine the Miranda warning and waiver, a process by which police apprise suspects of their constitutional rights to silence and to counsel. Third, we examine the modern police interrogation, a guilt-presumptive process of social influence during which trained police use strong, psychologically oriented techniques involving isolation, confrontation, and minimization of blame to elicit confessions. Fourth, we examine the confession itself, discussing theoretical perspectives and research on why people confess during interrogation. Fifth, we examine the consequences of confession evidence as evaluated by police and prosecutors, followed by judges and juries in court. Finally, we address the role of psychologists as expert witnesses and suggest a number of possible safeguards. In particular, we argue that there is a need to reform interrogation practices that increase the risk of false confessions and recommend a policy of mandatory videotaping of all interviews and interrogations.

On the Psychology of Confessions: Does Innocence Put Innocents at Risk?
Kassin, Saul M., American Psychologist, Vol 60(3), Apr, 2005. pp. 215-228.

Abstract:

The Central Park jogger case and other recent exonerations highlight the problem of wrongful convictions, 15% to 25% of which have contained confessions in evidence. Recent research suggests that actual innocence does not protect people across a sequence of pivotal decisions: (a) In preinterrogation interviews, investigators commit false-positive errors, presuming innocent suspects guilty; (b) naively believing in the transparency of their innocence, innocent suspects waive their rights; (c) despite or because of their denials, innocent suspects elicit highly confrontational interrogations; (d) certain commonly used techniques lead suspects to confess to crimes they did not commit; and (e) police and others cannot distinguish between uncorroborated true and false confessions. It appears that innocence puts innocents at risk, that consideration should be given to reforming current practices, and that a policy of videotaping interrogations is a necessary means of protection.

Interrogations and Disputed Confessions: A Manual for Forensic Psychological Practice
Gregory DeClue (2005). Professional Resource Press, Sarasota, Forida.

Research and Expert Testimony on Interrogations and Confessions.
Costanzo, Mark, Leo, Richard A., Expert psychological testimony for the courts. Costanzo, Mark (Ed.); Krauss, Daniel (Ed.); Pezdek, Kathy (Ed.); pp. 69-98. Mahwah, NJ, US: Lawrence Erlbaum Associates Publishers, 2007. vi, 321 pp.

Abstract:

Scholars have long pointed out the importance of interrogation and the potential for false confessions, but there have been at least two significant obstacles to empirical research in this important area. First, it is often difficult to know for certain whether a contested confession is truly false. Consequently, the development of DNA identification technology in the 1990s, and the resulting exoneration of innocent prisoners, provided a major boost to research on this topic by helping scholars identify scores of proven false confessions to serious crimes. A second obstacle has been the difficulty of studying false confessions in the psychological laboratory. A realistic, convincing laboratory simulation of a police interrogation would require that the experimenter induce levels of stress in research participants that would violate ethical standards. Moreover, the crushing potential consequences of a false confession--a trial and possible prison sentence--cannot be fully simulated in the laboratory. We do not know--and it may be impossible to know--how many false confessions occur each year or what percentage of confessions are false. However, based on aggregated case studies by the Innocence Project and others, we do know that approximately 14% to 25% of known wrongful convictions appear to involve false confessions--that is, a false confession was the primary or sole evidence against the defendant. We also know that a confession has a powerful impact on the outcome of a case. In sum, all the available evidence indicates that a confession is extremely difficult for jurors to discount or ignore, even if that confession is false, even if it is coerced, and even when there is little corroborating evidence.

The roles of interrogation, perception, and individual differences in producing compliant false confessions.

Blair, J. P., Psychology, Crime & Law, Vol 13(2), Apr, 2007. pp. 173-186.

Abstract:

This study utilized an experimental design to examine the amount of variance in false confessions that was explained by three types of variables. These variable sets were interrogation tactics, perceptions, and individual differences. The results indicated that interrogation tactics alone explained only a trivial amount of variance; whereas perceptions and individual differences each explained significant amounts of the variance in false confessions. The individual difference measure called interrogative compliance was found to be particularly important in explaining false confessions. Implications for theory are discussed.

Effects of personality, interrogation techniques and plausibility in an experimental false confession paradigm.

Klaver, Jessica R., Lee, Zina, Rose, V. Gordon, Legal and Criminological Psychology, Vol 13(1), Feb, 2008. pp. 71-88.

Abstract:

Purpose: The goal of the present study was to investigate the effects of personality variables, interrogation techniques and the plausibility level of an alleged transgression on the experimental elicitation of false confessions. Methods: Two hundred and nineteen undergraduate students assessed on measures of compliance, self-esteem, locus of control and interrogative suggestibility participated in the Kassin and Kiechel (1996) paradigm. Experimental manipulations included minimization and maximization interrogation techniques and high and low plausibility of the alleged typing mistake to examine rates of false confession and internalization. Results: The overall false confession and internalization rates across all conditions were 43 and 10%, respectively. An increased likelihood of false confession behaviour was associated with higher Shift scores on the Gudjonsson Suggestibility Scale, the use of minimization interrogation techniques and an increase in the plausibility of the allegation. Females were more likely to falsely confess than males in the high plausibility condition, whereas Caucasian and Asian participants were equally likely to falsely confess. Personality variables, such as compliance, most influenced the behaviour of males and Asians. Conclusions: The results of this study offer insight into false confession behaviour, suggesting that individuals who have a tendency to change their responses in the face of negative feedback may be more prone to false confession behaviour. The findings also serve to highlight the dangers of using minimization interrogation techniques and elucidate the limited generalizability of the paradigm to situations in which the alleged transgression is less plausible.

False confessions: **Causes, consequences, and implications for reform.**

Kassin, Saul M., Current Directions in Psychological Science, Vol 17(4), Aug, 2008. pp. 249-253.

Abstract:

Despite the commonsense belief that people do not confess to crimes they did not commit, 20 to 25% of all DNA exonerations involve innocent prisoners who confessed. After distinguishing between voluntary, compliant, and internalized false confessions, this article suggests that a sequence of three processes is responsible for false confessions and their adverse consequences. First, police sometimes target innocent people for interrogation because of erroneous judgments of truth and deception. Second, innocent people sometimes confess as a function of certain interrogation tactics, dispositional suspect vulnerabilities, and the phenomenology of innocence. Third, jurors fail to discount even those confessions they see as coerced. At present, researchers are seeking ways to improve the accuracy of confession evidence and its evaluation in the courtroom.

Confession evidence: Commonsense myths and misconceptions.

Kassin, Saul M., Criminal Justice and Behavior, Vol 35(10), Oct, 2008. pp. 1309-1322.

Abstract:

Confession evidence is powerful but flawed, often in nonintuitive ways. Contradicting widely held beliefs, research reviewed in this article suggests the following: Despite special training in how to conduct interviews, police cannot distinguish better than the layperson whether suspects are lying or telling the truth. Suspects in custody routinely waive their self-protective rights to silence and to counsel--especially if they are innocent. Certain legal but deceptive interrogation tactics increase the risk that innocents will confess to crimes they did not commit. Judges and juries are easily fooled, unable to distinguish between true and false confessions. Appellate courts cannot be expected to reasonably determine whether the error of admitting a coerced confession at trial was harmless or prejudicial.

Police-induced confessions: **Risk factors and recommendations**.
Kassin, Saul M., Drizin, Steven A., Grisso, Thomas, Gudjonsson, Gisli H., Leo, Richard A., Redlich, Allison D., Law and Human Behavior, Vol 34(1), Feb, 2010. pp. 3-38.

Abstract:

Recent DNA exonerations have shed light on the problem that people sometimes confess to crimes they did not commit. Drawing on police practices, laws concerning the admissibility of confession evidence, core principles of psychology, and forensic studies involving multiple methodologies, this White Paper summarizes what is known about police-induced confessions. In this review, we identify suspect characteristics (e.g., adolescence; intellectual disability; mental illness; and certain personality traits), interrogation tactics (e.g., excessive interrogation time; presentations of false evidence; and minimization), and the phenomenology of innocence (e.g., the tendency to waive Miranda rights) that influence confessions as well as their effects on judges and juries. This article concludes with a strong recommendation for the mandatory electronic recording of interrogations and considers other possibilities for the reform of interrogation practices and the protection of vulnerable suspect populations.

Interrogative suggestibility: Life adversity, neuroticism, and compliance.
Drake, Kim E., Personality and Individual Differences, Vol 48(4), Mar, 2010. pp. 493-498.

Abstract:

This study investigates the relationship between the number and intensity of negative life events experienced (nNLE and iNLE respectively), neuroticism (N), compliance (C), and interrogative suggestibility on the Gudjonsson Suggestibility Scale 1 (GSS 1). Participants (N = 127) completed the GSS1, the Life Events Questionnaire, and the NEO Personality Inventory-Revised. Results show that nNLE correlates significantly with both Yield 1 and Yield 2. Blended models including iNLE and N as independent variables, C as the mediator, and GSS scores as dependent variables provide the most acceptable accounts of GSS scores. The models demonstrate that: (i) the effects of iNLE, N and C on Yield 1 are not statistically significant, (ii) iNLE (but not N or C) exerts a significant and positive direct effect on Yield 2, and (iii) iNLE, N and C exert significant and positive direct effects on shift scores. Findings suggest that answer-shifting on the GSS may result from a negative mindset within interviewees, a desire to alleviate distress, and from compliant tendencies in response to feelings of uncertainty and expectations of success. They further imply that false confessions, in interviewees reporting iNLEs, could also result from compliance with interviewer-pressure or negative feedback during questioning.

Police Interrogations and False Confessions: Current Research, Practice, and Policy **Recommendations (Decade of Behavior) [Book] G. Daniel Lassiter (Editor), Christian A. Meissner (Editor)** Series: Decade of Behavior | Publication Date: March 2010

Book Description

Although it is generally believed that wrongful convictions based on false confessions are relatively rare the 1989 Central Park jogger wilding case being the most notorious example recent exonerations of the innocent through DNA testing are increasing at a rate that few in the criminal justice system might have speculated. Because of the growing realization of the false confession phenomenon, psychologists, sociologists, and legal/law-enforcement scholars and practitioners have begun to examine the factors embedded in American criminal investigations and interrogations that may lead innocent people to implicate themselves in crimes they did not commit.

Police Interrogations and False Confessions brings together a group of renowned scholars and practitioners in the fields of social psychology, cognitive psychology, developmental psychology, criminology, clinical-forensic psychology, and law to examine three salient dimensions of false confessions: interrogation tactics and the problem of false confessions; review of Supreme Court decisions regarding Miranda warnings and custodial interrogations; and new research on juvenile confessions and deception in interrogative interviews. Chapters include well-recognized programs of research on the topics of interrogative interviewing, false confessions, the detection of deception in forensic interviews, individual differences, and clinical-forensic evaluations. The book concludes with policy recommendations to attenuate the institutional and social psychological persistence (and pervasiveness) of the various inducements and impediments that have informed law enforcement s interrogation techniques and the types of false confessions they encourage.

Selling confession: Setting the stage with the "sympathetic detective with a time-limited offer".

Davis, Deborah, Leo, Richard A., Follette, William C., Journal of Contemporary Criminal Justice, Vol 26(4), Nov, 2010. pp. 441-457.

Abstract:

The effectiveness of an interrogation tactic dubbed the "sympathetic detective with a time limited offer" was tested. Participants read two versions of an interrogation transcript, with and without the tactic. Those who read the sympathetic detective version believed the detective had greater authority to determine whether and with what to charge the suspect, more beneficent intentions toward the suspect, and viewed confession as more wise. However, regression analyses indicated that for innocent suspects, only perceptions of the strength of evidence against the suspect and the detective's beneficence and authority predicted the perceived wisdom of false confession**.** Interrogation tactics were generally effective, as indicated by participant recommendations of confession (vs. invoking Miranda, denial, or continuing to talk without admitting guilt) for both innocent (16.7%) and guilty (74.4%) suspects, and reasons offered for participants' recommendations for confession versus other choices generally conformed to those reported by real-life confessors and interrogation scholars.

Inside interrogation: The lie, the bluff, and false confessions.

Perillo, Jennifer T., Kassin, Saul M., Law and Human Behavior, Vol 35(4), Aug, 2011. pp. 327-337.

Abstract:

Using a less deceptive variant of the false evidence ploy, interrogators often use the bluff tactic, whereby they pretend to have evidence to be tested without further claiming that it necessarily implicates the suspect. Three experiments were conducted to assess the impact of the bluff on confession rates. Using the Kassin and Kiechel (Psychol Sci 7:125–128, 1996) computer crash paradigm, Experiment 1 indicated that bluffing increases false confessions comparable to the effect produced by the presentation of false evidence. Experiment 2 replicated the bluff effect and provided self-reports indicating that innocent participants saw the bluff as a promise of future exoneration which, paradoxically, made it easier to confess. Using a variant of the Russano et al. (Psychol Sci 16:481–486, 2005) cheating paradigm, Experiment 3 replicated the bluff effect on innocent suspects once again, though a ceiling effect was obtained in the guilty condition. Results suggest that the phenomenology of innocence can lead innocents to confess even in response to relatively benign interrogation tactics.

Conviction of the innocent: **Lessons from psychological research**.

Cutler, Brian L., (Ed.), Washington, DC, US: American Psychological Association, 2012. xiv,

Abstract:

(from the publicity materials) Over the last several decades over 250 citizens convicted of major felonies were found innocent and were exonerated. Today, thanks to the work of psychologists and other criminal justice researchers, the psychological foundations that underlie conviction of the innocent are becoming clear. There is real hope that these findings can lead to positive reforms, reduce the risk of miscarriages of justice, and avoid the consequences of wrongful convictions to

victims and society. In this book, editor Brian Cutler presents a state-of-the-field review of current psychological research on conviction of the innocent. Chapter authors investigate how the roles played by suspects, investigators, eyewitnesses, and trial witnesses and how pervasive systemic issues contribute to conspire to increase the risk of conviction of the innocent. The chapters skillfully examine psychological perspectives on such topics as police interrogations, confessions, eyewitness identification, trial procedures, juries, and forensic science, as well as broader issues such as racism and tunnel vision within the justice system. This comprehensive volume represents an important milestone for research on miscarriages of justice. By bringing psychological theories and research to bear on this social problem, the authors derive compelling recommendations for future research and practical reform in police and legal procedures.

The reid interrogation technique and false confessions: A time for change.
Wyatt Kozinski, (2018). Seattle Journal for Social Justice, Vol 16, 2, pp. 301-345.

Hypnopompic Delusions

Sleep paralysis, 'the ghostly bedroom intruder' and out-of-body experiences: The role of mirror neurons.

Jalal, Baland., Ramachandran, Vilayanur S.

Frontiers in Human Neuroscience, Vol 11, Feb 28, 2017. ArtID: 92

Abstract:

This article discusses role of mirror neurons in sleep paralysis, out-of-body experiences. Sleep paralysis (SP) is triggered by the pons and ventromedial medulla that suppress skeletal muscle tone during Rapid eye movement (REM) sleep—via inhibition of motor neurons in the spinal cord; through neurotransmitters Gamma Aminobutyric Acid (GABA) and glycine. Perceptual activation occurs while under the 'spell' of REM paralysis. The result is a curious condition called sleep paralysis, where the person is left 'trapped'—unable to move or speak upon falling asleep or upon awakening. During SP, the vivid—and sometimes terrifying—dreams of REM sleep can spill over into emerging wakefulness. **Hypnogogic or hypnopompic hallucinations occur in all sensory modalities, and include out-of-body experiences (OBE), and sensing and seeing the presence of menacing intruders in one's bedroom**. The authors further evoke the mirror neuron system (MNS) as crucial in giving rise to this 'intruder' hallucination. The MNS allows one to temporarily detach from once body and 'see' the world from another person's vantage point. The authors suggest that OBEs during SP, likewise result from the massive deafferentation that occurs during REM sleep paralysis.

What is the link between hallucinations, dreams, and hypnagogic – hypnopompic experiences?

Waters, Flavie. Health, Perth, Blom, Jan Dirk., Dang-Vu, Thien Thanh., Cheyne, Allan J.. Alderson-Day, Ben., Woodruff, Peter., Collerton, Daniel.

Schizophrenia Bulletin, Vol 42(5), Sep, 2016. pp. 1098-1109.

Abstract:

By definition, hallucinations occur only in the full waking state. Yet similarities to sleep-related experiences such as hypnagogic and hypnopompic hallucinations, dreams and parasomnias, have been noted since antiquity. These observations have prompted researchers to suggest a common aetiology for these phenomena based on the neurobiology of rapid eye movement (REM) sleep. With our recent understanding of hallucinations in different population groups and at the neurobiological, cognitive and interpersonal levels, it is now possible to draw comparisons between the 2 sets of experiences as never before. In the current article, we make detailed comparisons between sleep-related experiences and hallucinations in Parkinson's disease, schizophrenia and eye disease, at the levels of phenomenology (content, sensory modalities involved, perceptual attributes) and of brain function (brain activations, resting-state networks, neurotransmitter action). **Findings show that sleep-related experiences share considerable overlap with hallucinations at the level of subjective descriptions and underlying brain mechanisms.** Key differences remain however: **(1) Sleep-related perceptions are immersive and largely cut off from reality, whereas hallucinations are discrete and overlaid on veridical perceptions; and (2) Sleep-related perceptions involve only a subset of neural networks implicated in hallucinations, reflecting perceptual signals processed in a functionally and cognitively closed-loop circuit.** In summary, both phenomena are non-veridical perceptions that share some phenomenological and neural similarities, but insufficient evidence exists to fully support the notion that the majority of hallucinations depend on REM processes or REM intrusions into waking consciousness.

How to make the ghosts in my bedroom disappear? Focused-attention meditation combined with muscle relaxation (MR therapy)—A direct treatment intervention for sleep paralysis.

Jalal, Baland.

Frontiers in Psychology, Vol 7, Jan 29, 2016. ArtID: 28

Abstract:

[Correction Notice: An Erratum for this article was reported in Vol 7[1194] of *Frontiers in Psychology* (see record 2016-41711-001). Due to a typesetting error, the references of Sharpless and Barber (2011) and Sharpless and Doghramji (2015) were inadvertently interchanged in the original article. Corrections are provided in the erratum.] Sleep paralysis (SP) is a common state of involuntary immobility occurring at sleep onset or offset. **It can include terrifying hypnogogic or hypnopompic hallucinations of menacing bedroom intruders. Unsurprisingly, the experience is associated with great fear and horror worldwide.** To date, there exist no direct treatment intervention for SP. In this article, I propose for the first time a type of focused inward-attention meditation combined with muscle relaxation as a direct intervention to be applied during the attack, to ameliorate and possibly eliminate it (what could be called, meditation-relaxation or MR therapy for SP). The intervention includes four steps: (1) *reappraisal of the meaning of the attack;* (2) *psychological and emotional distancing;* (3) *inward focused-attention meditation;* (4) *muscle relaxation*. The intervention promotes attentional shift away from unpleasant external and internal stimuli (i.e., terrifying hallucinations and bodily paralysis sensations) unto an emotionally pleasant internal object (e.g., a positive memory). It may facilitate a relaxed meditative state characterized by a shift from sympathetic to parasympathetic dominance, associated with greater levels of alpha activity (which may lead to drowsiness and potentially sleep). The procedure may also reduce the initial panic and arousal that occur when realizing one is paralyzed. In addition, I present a novel Panic-Hallucination (PH) Model of Sleep Paralysis; describing how through escalating cycles of fear and panic-like autonomic arousal, a positive feedback loop is created that worsens the attack (e.g., leading to longer and more fearful episodes), drives content of hallucinations, and causes future episodes of SP. Case examples are presented to illustrate the feasibility of MR therapy for SP.

A web survey of the content, sensory modalities, and interpretation of hypnagogic and hypnopomic experiences.

Sherwood, Simon J..

Journal of Parapsychology, Vol 76(1), Spr 2012. pp. 27-55.

Abstract:

Various anomalous experiences have been reported just as people are falling asleep (hypnagogic state) or awakening from sleep (hypnopompic state). These states might be conducive to the operation of paranormal processes but might also facilitate the misinterpretation of normal experiences. It is therefore important to investigate the range of experiences reported in these states and how they are interpreted. Research into hypnagogic/hypnopompic imagery has focused on hypnagogic (HG) imagery and the visual and auditory modalities in particular. Comparatively little is known about hypnopompic (HP) imagery and other sensory modalities. A web survey, with 492 respondents, investigated the relative frequency of sensory modalities for HG and HP imagery, their content, and how they have been interpreted. **The results suggest that HG is more common than HP imagery; visual, falling and sense of presence sensations are the most common forms, followed by auditory, tactile, bodily, and movement sensations**. Olfactory and gustatory imagery is rare. A qualitative analysis revealed a wide range of themes that apply to both HG/ HP experiences, although some only occur in one particular state. Respondents' interpretations of the imagery included normal aspects of mind/body functioning, possible physical or mental health problems, and paranormal, spiritual, mystical, or supernatural processes.

When words and pictures come alive: Relating the modality of intrusive thoughts to modalities of hypnagogic/hypnopompic hallucinations.

McCarthy-Jones, Simon., Barnes, Laura J., Hill, Georgina E., Marwood, Lindsey., Moseley, Peter, Fernyhough, Charles., McCarthy-Jones, Simon.

Personality and Individual Differences, Vol 51(6), Oct, 2011. pp. 787-790.

Abstract:

Hypnagogic and hypnopompic (H&H) hallucinations are those experienced on the borders of sleep and waking. Intrusive thoughts have been proposed to relate to the occurrence of such experiences. In a sample of students (N =299), the present study investigated the **relation between auditory and felt-presence** H&H experiences, and specific modalities of intrusive thought (auditory and

visual) whilst controlling for age, gender, depression, anxiety and thought suppression. The psychometric properties of the Durham Hypnagogic and Hypnopompic Hallucinations Questionnaire (DHQ) were also examined. Exploratory (N =299) and, in a second sample, confirmatory (N =502) factor analyses showed good internal and test–retest reliability for the auditory and felt-presence subscales of the DHQ, but not for the visual subscale. **Regression analyses indicated that the sole predictor of auditory H&H hallucinations was intrusive auditory imagery, and the sole predictor of felt-presence H&H experiences was intrusive visual imagery**. Explanations for these findings are considered and implications for future research are discussed.

Sleep paralysis in adolescents: The 'a dead body climbed on top of me' phenomenon in Mexico.

Jiménez-Genchi, Alejandro., Ávila-Rodríguez, Víctor M., Sánchez-Rojas, Frida, Nenclares-Portocarrero, Alejandro.

Psychiatry and Clinical Neurosciences, Vol 63(4), Aug, 2009. pp. 546-549.

Abstract:

Aims: The aim of the present study was to evaluate the prevalence and characteristics of sleep paralysis in adolescents using a folk expression. Methods: Three hundred and twenty-two adolescents (mean age, 15.9 ± 0.88 years; 66.8% female) from three high schools in Mexico City completed both a self-reported questionnaire, including a colloquial definition of sleep paralysis and the Epworth Sleepiness Scale. Results: A high proportion of the adolescents (92.5%) had heard about the 'a dead body climbed on top of me' expression and **27.6% of them had experienced the phenomenon**. Sleep paralysis was present in 25.5% while the prevalence rate for hypnagogic/hypnopompic hallucinations was 22%; 61% had experienced ≥2 episodes in their lifetime. The mean age of onset was 12.5 ± 3 years. Sleepiness scores for the subjects who had experienced at least one event were not significantly different from subjects who had not experienced any. **In 72% of cases, the episodes were composed of both sleep paralysis and hallucinations** while 20.2% consisted of only sleep paralysis and 7.8% of only hallucinations. The number and characteristics of events were not significantly different between adolescents with only one episode and those with two or more episodes. Conclusions: **The characteristics of the 'a dead body climbed on top of me' phenomenon suggest that is identical to sleep paralysis and a frequent experience among Mexican adolescents.** During adolescence, sleep paralysis seems to be a recurrent phenomenon frequently accompanied by hallucinatory experiences.

'The devil lay upon her and held her down': Hypnagogic hallucinations and sleep paralysis described by the Dutch physician Isbrand Van Diemerbroeck (1609-1674) in 1664 .

Kompanje, E. J. O..

Journal of Sleep Research, Vol 17(4), Dec, 2008. pp. 464-467.

Abstract:

Hypnagogic and hypnopompic hallucinations are visual, tactile, auditory or other sensory events, usually brief but sometimes prolonged, that occur at the transition from wakefulness to sleep (hypnagogic) or from sleep to wakefulness (hypnopompic). **Hypnagogic and hypnopompic hallucinations are often associated with sleep paralysis. Sleep paralysis occurs immediately prior to falling asleep** (hypnagogic paralysis) or upon waking (hypnopompic paralysis). In 1664, the Dutch physician Isbrand Van Diemerbroeck (1609–1674) published a collection of case histories. One history with the title 'Of the Night-Mare' describes the nightly experiences of the 50-year-old woman. This case report is subject of this article. The experiences in this case could without doubt be diagnosed as sleep paralysis accompanied by hypnagogic hallucinations. This case from 1664 should be cited as the earliest detailed account of sleep paralysis associated with hypnagogic illusions and as the first observation that sleep paralysis and hypnagogic experiences occur more often in supine position of the body.

Sleep Paralysis, Sexual Abuse, and Space Alien Abduction.

McNally, Richard J., Clancy, Susan A.

Transcultural Psychiatry, Vol 42(1), Mar, 2005. pp. 113-122.

Abstract:

Sleep paralysis accompanied by hypnopompic ('upon awakening') hallucinations is an often-frightening manifestation of discordance between the cognitive/perceptual and motor aspects of rapid eye movement (REM) sleep. **Awakening sleepers become aware of an inability to move, and sometimes experience intrusion of dream mentation into waking consciousness (e.g. seeing intruders in the bedroom).** In this article, we summarize two studies. In the first study, we assessed 10 individuals who reported abduction by space aliens and whose claims were linked to apparent episodes of sleep paralysis during which hypnopompic hallucinations were interpreted as alien beings. In the second study, adults reporting repressed, recovered, or continuous memories of childhood sexual abuse more often reported sleep paralysis than did a control group. Among the 31 reporting sleep paralysis, only one person linked it to abuse memories. This person was among the six recovered memory participants who reported sleep paralysis (i.e. 17% rate of interpreting it as abuse-related). People rely on personally plausible cultural narratives to interpret these otherwise baffling sleep paralysis episodes.

Relationship between the hypnagogic/hypnopompic states and reports of anomalous experiences.

Sherwood, Simon J.

Journal of Parapsychology, Vol 66(2), Jun, 2002. pp. 127-150.

Abstract:

A range of anomalous experiences has been reported during the borderline hypnagogic or hypnopompic states that surround periods of sleep. The question is whether these states are conducive to anomalous processes or agencies, whether normal features are being misinterpreted, or both. This article outlines the main physiological and psychological features of these hypnagogic/hypnopompic states and considers some of the evidence to address this question. It is concluded that hypnagogic/hypnopompic features may be both conducive to anomalous experiences and misinterpreted as involving anomalous processes or agencies. The interpretation may depend on the specific hypnagogic/hypnopompic features experienced, on individual knowledge and beliefs, and on the context in which the phenomena occur. What is being proposed then is that, although hypnagogic/hypnopompic imagery and sleep paralysis are relatively normal experiences, occasionally they may be influenced by anomalous processes or may facilitate anomalous experiences. More attention to the stages, features, contents, and physiology of the hypnagogic/hypnopompic states may enable us to identify, perhaps with a greater degree of accuracy, if and when anomalous processes are operating.

The ominous numinous: Sensed presence and 'other' hallucinations.

Cheyne, J. Allan.

Journal of Consciousness Studies, Vol 8(5-7), May-Jul, 2001. Special Issue: Between ourselves. pp. 133-150.

Abstract:

A 'sensed presence' often accompanies hypnagogic and hypnopompic hallucinations associated with sleep paralysis. Qualitative descriptions of the sensed presence during sleep paralysis are consistent with the experience of a monitoring, stalking predator. It is argued that the sensed presence during sleep paralysis arises because of REM-related endogenous activation of a hypervigilant and biased attentive state, the normal function of which is to resolve ambiguities inherent in biologically relevant threat cues. Given the lack of disambiguating environmental cues, however, the feeling of presence persists as a protracted experience that is both numinous and ominous. This experience, in turn, shapes the elaboration and integration of the concurrent hallucinations that often take on supernatural and daemonic qualities. The sense of presence considered here is an 'other' that is radically different from, and hence more than a mere projection of, the self. Such a numinous sense of otherness may constitute a primordial core consciousness of the animate and sentient in the world around us.

The place of confusional arousals in sleep and mental disorders: Findings in a general population sample of 13,057 subjects.

Ohayon, Maurice M., Priest, Robert G., Zulley, Jürgen Smirne, Salvatore
Journal of Nervous and Mental Disease, Vol 188(6), Jun, 2000. pp. 340-348.

Abstract:

Confusional arousals, or sleep drunkenness, occur upon awakening and remain unstudied in the general population. A representative sample of 13,057 Ss aged 15+ yrs from the UK, Germany, and Italy were interviewed. **Confusional arousals were reported by 2.9%** of the sample: 1% of the sample also presented with memory deficits, disorientation in time and/or space, or slow mentation and speech, and confusional arousals without associated features. **Ss younger than 35 yrs and shift or night workers were at higher risk of reporting confusional arousals.** These arousals were strongly associated with the presence of a mental disorder. Bipolar and anxiety disorders were the most frequently associated mental disorders. Furthermore, subjects with Obstructive Sleep Apnea Syndrome (OSAS), hypnagogic or **hypnopompic** hallucinations, violent or injurious behaviors, insomnia, and hypersomnia, are more likely to suffer from confusional arousals. **Confusional arousals appear to occur quite frequently in the general population, affecting mostly younger Ss regardless of their gender**. Physicians should be aware of the frequent associations between confusional arousals, mental disorders, and OSAS.

Prevalence and pathologic associations of sleep paralysis in the general population.

Ohayon, Maurice M., Zulley, Jürgen Guilleminault, Christian Smirne, Salvatore.
Neurology, Vol 52(6), Apr, 1999. pp. 1194-1200.

Abstract:

Estimated the prevalence of sleep paralysis (SP) in the general population and identified the factors associated with this phenomenon. 8,085 Ss (aged ≥ 15 yrs) were surveyed by telephone using the Sleep-EVAL questionnaire and the Sleep Questionnaire of Alertness and Wakefulness (A. B. Douglass et al, 1994). 494 Ss had experienced at least one SP episode in their lifetime. At the time of the interview, severe SP (at least 1 episode per wk) occurred in 0.8% of the sample, moderate SP (at least 1 episode per mo) in 1.4%, and mild SP (less than 1 episode per mo) in 4.0%. Significant predictive variables of SP were anxiolytic medication, automatic behavior, bipolar disorders, physical disease, hypnopompic hallucinations, nonrestorative sleep, and nocturnal leg cramps. This study indicates that the disorder is often associated with a mental disorder. Users of anxiolytic medication were nearly 5 times as likely to report SP, even after the authors controlled for possible effects of mental and sleep disorders.

Sexsomnia

Sexsomnia: A new parasomnia?
Shapiro, Colin M.. U Toronto, Trajanovic, Nikola N., Fedoroff, J. Paul.
Address:
Shapiro, Colin M. The Canadian Journal of Psychiatry / La Revue canadienne de psychiatrie, Vol 48(5), Jun, 2003. pp. 311-317.
Abstract:

Describes a distinct parasomnia involving sexual behaviour, which the authors have named sexsomnia. Eleven patients (aged 16-43 yrs) with distinct behaviours of the sexual nature during sleep are described. The features in common with other nonrapid eye movement arousal parasomnias, such as sleepwalking are documented. Some patients had simply been referred to a tertiary sleep clinic for investigation of unrelated sleep problems. A small number had been involved in medicolegal issues. Sexsomnia has some distinct features that separate it from sleepwalking. The automatic arousal is more prominent, motor activities are relatively restricted and specific, and some form of dream mentation is often present. A significant number of patients with this unusual parasomnic behaviour were identified only after specific questions were asked, suggesting that the behaviour is more common than previously thought.

A phenomenology of problematic sexual behavior occurring in sleep.
Mangan, Michael A. Archives of Sexual Behavior, Vol 33(3), Jun, 2004. pp. 287-293.
Abstract:

First-person reports of individuals' experiences of problematic 'sleep sex' were collected in an Internet-based study. Qualitative analysis of 121 reports yielded 6 distinct themes: (1) fear and a lack of emotional intimacy; (2) guilt and confusion; (3) a sense of repulsion and feelings of sexual abandonment; (4) shame, disappointment, and frustration; (5) annoyance and suspicion; (6) embarrassment and a sense of 'self-incrimination.' Results suggest that sleep sex can elicit negative emotions and cognitions that may become a source of personal and relational distress. Clinician familiarity with problematic sleep sex may foster more effective communication with individuals presenting with such complaints.

Sleep, sex, and the Web: Surveying the difficult-to-reach clinical population suffering from sexsomnia.
Mangan, Michael A. Behavior Research Methods, Vol 39(2), May, 2007. pp. 233-236.
Abstract:

One major advantage of Web-based research lies in its ability to reach and study people who have rare conditions of interest. Another advantage is that, due to the anonymity of the survey situation, the Internet is particularly suited for surveys on sensitive topics. Sexsomnia is a newly identified medical condition whose sufferers engage in sexual behavior during their sleep. Problematic cases are highly distressing and have forensic implications. The consensus among opinion leaders in sleep medicine is that sexsomnia may be quite common but that it often goes unreported because of shame and embarrassment. Thus, little is known about this condition's demographics and clinical features. This article reports findings from a sample analysis of 20 years of research on sexsomnia and discusses the results, strengths, and weaknesses of a recent Web-based survey conducted on the difficult-to-reach clinical population that suffers from sexsomnia.

Sleep and sex: What can go wrong? A review of the literature on sleep related disorders and abnormal sexual behaviors and experiences.
Schenck, Carlos H., Arnulf, Isabelle, Mahowald, Mark W.. Sleep: Journal of Sleep and Sleep Disorders Research, Vol 30(6), Jun, 2007. pp. 683-702.
Abstract:

Study Objectives: To formulate the first classification of sleep related disorders and abnormal sexual behaviors and experiences. Design: A computerized literature search was conducted, and other sources, such as textbooks, were searched. Results: Many categories of sleep related disorders were represented in the classification: parasomnias (confusional arousals/sleepwalking, with or without obstructive sleep apnea; REM sleep behavior disorder); sleep related seizures; Kleine-

Levin syndrome (KLS); severe chronic insomnia; restless legs syndrome; narcolepsy; sleep exacerbation of persistent sexual arousal syndrome; sleep related painful erections; sleep related dissociative disorders; nocturnal psychotic disorders; miscellaneous states. Kleine-Levin syndrome (78 cases) and parasomnias (31 cases) were most frequently reported. Parasomnias and sleep related seizures had overlapping and divergent clinical features. Thirty-one cases of parasomnias (25 males; mean age, 32 years) and 7 cases of sleep related seizures (4 males; mean age, 38 years) were identified. A full range of sleep related sexual behaviors with self and/or bed partners or others were reported, including masturbation, sexual vocalizations, fondling, sexual intercourse with climax, sexual assault/rape, ictal sexual hyperarousal, ictal orgasm, and ictal automatism. Adverse physical and/or psychosocial effects from the sleepsex were present in all parasomnia and sleep related seizure cases, but pleasurable effects were reported by 5 bed partners and by 3 patients with sleep related seizures. Forensic consequences were common, occurring in 35.5% (11/31) of parasomnia cases, with most (9/11) involving minors. All parasomnias cases reported amnesia for the sleepsex, in contrast to 28.6% (2/7) of sleep related seizure cases. Polysomnography (without penile tumescence monitoring), performed in 26 of 31 parasomnia cases, documented sexual moaning from slow wave sleep in 3 cases and sexual intercourse during stage 1 sleep/wakefulness in one case (with sex provoked by the bed partner). Confusional arousals (CAs) were diagnosed as the cause of 'sleepsex' ('sexsomnia') in 26 cases (with obstructive sleep apnea [OSA] comorbidity in 4 cases), and sleepwalking in 2 cases, totaling 90.3% (28/31) of cases being NREM sleep parasomnias. REM behavior disorder was the presumed cause in the other 3 cases. Bedtime clonazepam therapy was effective in 90% (9/10) of treated parasomnia cases; nasal continuous positive airway pressure therapy was effective in controlling comorbid OSA and CAs in both treated cases. All five treated patients with sleep related sexual seizures responded to anticonvulsant therapy. The hypersexuality in KLS, which was twice as common in males compared to females, had no reported effective therapy. Conclusions: A broad range of sleep related disorders associated with abnormal sexual behaviors and experiences exists, with major clinical and forensic consequences.

Sexsomnia: Abnormal sexual behavior during sleep.
Andersen, Monica L., Poyares, Dalva, Alves, Rosana S. C., Skomro, Robert. Tufik, Sergio. Brain Research Reviews, Vol 56(2), Dec, 2007. pp. 271-282.
Abstract:

This review attempts to assemble the characteristics of a distinct variant of sleepwalking called sexsomnia/sleepsex from the seemingly scarce literature into a coherent theoretical framework. Common features of sexsomnia include sexual arousal with autonomic activation (e.g. nocturnal erection, vaginal lubrication, nocturnal emission, dream orgasms). Somnambulistic sexual behavior and its clinical implications, the role of precipitating factors, diagnostic, treatment, and medico-legal issues are also reviewed. The characteristics of several individuals described in literature including their family/personal history of parasomnia as well as the abnormal behaviors occurring during sleep are reported.

Sexual behaviour in sleep: An internet survey.
Trajanovic, Nikola N., Mangan, Michael. Shapiro, Colin M.. Social Psychiatry and Psychiatric Epidemiology, Vol 42(12), Dec, 2007. pp. 1024-1031.
Abstract:

The objective of the study was to provide further information related to newly described parasomnia variant, Sexual Behaviour in Sleep (SBS, sexsomnia). Previous studies dealt with selected population, typically middle-aged males, featuring extensive medico-legal exposure. At the same time, an anecdotal evidence suggested higher involvement of younger population, and skew towards balance between genders comparable to those seen in other non-Rapid Eye Movement (NREM) sleep parasomnias. The epidemiological information regarding this condition is still virtually non-existent. In order to sample this difficult-to-reach population, a 28-item Internet survey was posted on the sexsomnia reference site and the link was also sent to prospective respondents (mostly registered visitors to this site). The respondents were able to complete the survey anonymously, which resulted in a need for the screening of bogus and duplicate results. At the end, a total of 219 validated responses were collected and analysed. The results showed greater

representation of females (31% of the total number), and wider age distribution (mean age of 30.4 years). The respondents typically reported multiple sexsomnia episodes, in most cases precipitated by body contact, stress and fatigue. Relatively small number of respondents reported involvement of legal authorities (8.6% of males and 3% of females) and participation of minors in their sexsomnia (6% of the total sample). In spite of known limitations of such surveys, the study provided much needed insight into this complex nocturnal behaviour. It confirmed the anecdotal evidence about the gender and age distribution, and provided information on some key features, such as precipitating factors, type of behaviour, medication use, personal medical history and medico-legal aspects.

Abnormal sexual behavior during sleep.
Della Marca, Giacomo, et al. Journal of Sexual Medicine, Vol 6(12), Dec, 2009. pp. 3490-3495.
Abstract:

Introduction: Automatic, uncontrolled, and unaware sexual behaviors during sleep have occasionally been described. The clinical and polysomnographic features of nocturnal sexual behavior allow it to be considered a distinct parasomnia named 'sexsomnia'. Recently, abnormal sexual behaviors during sleep have been evaluated in the forensic medical context because violent behaviors can be associated with this parasomnia. Aim: To describe the clinical and polysomnographic findings in three patients who referred to our sleep laboratory for sleep disorders and who reported episodes of sleep-related sexual activation. Main Outcome Measures: We analyzed video-polysomnographic recordings, sleep structure, sleep microstructure, and sleep-related respiratory events. Methods: The patients were three males aged 42, 32, and 46 years. All had unremarkable medical, neurological, and psychiatric histories. All underwent full-night polysomnography. Results: Each patient presented a distinct sleep disorder: one had severe obstructive sleep apnea syndrome (OSAS), one presented clinical and polysomnographic features of non-rapid eye movement (NREM) sleep parasomnia (somnambulism), and the third presented clinical and polysomnographic features of rapid eye movement behavior disorder. Conclusions: In our patients, the clinical and polysomnographic findings suggest that abnormal nocturnal sexual behavior can occur in association with distinct sleep disorders, characterized by different pathophysiologic mechanisms and distinctive treatments. Abnormal sexual behaviors during sleep should be investigated with polysomnography in order to define their pathophysiology and to establish appropriate treatments.

Relationship satisfaction, sexual satisfaction, and sexual problems in sexsomnia.
Klein, Liesa A.. Houlihan, Daniel. International Journal of Sexual Health, Vol 22(2), Apr, 2010. pp. 84-90.
Abstract:

Relationship and sexual satisfaction, sexual functioning, and sexual desire were examined in an Internet sample of 32 individuals reporting engagement of sexual behavior during sleep (i.e., sexsomnia). Individuals with sexsomnia reported lower levels of sexual satisfaction, lower levels of relationship satisfaction, and similar levels of sexual desire compared with controls. More frequent incidence of sexsomnia resulted in lower sexual satisfaction; however, frequency was not found to impact relationship satisfaction or level of sexual desire. Individuals with sexsomnia reported high instances of sexual problems with 81% reporting at least one problem.

Spectrum of rapid eye movement sleep behavior disorder (overlap between rapid eye movement sleep behavior disorder and other parasomnias).
Schenck, Carlos H.. Howell, Michael J.. Sleep and Biological Rhythms, Vol 11(Suppl 1), Jun, 2013. pp. 27-34.
Abstract:

Parasomnia Overlap Disorder (POD) was described and named in 1997 with a series of 33 cases of rapid eye movement (REM) sleep behavior disorder (RBD) combined with a disorder of arousal from non-rapid eye movement (NREM) sleep (sleepwalking, sleep terrors) that emerged idiopathically or symptomatically with neurological and other disorders. POD is a subtype of RBD in the *International Classification of Sleep Disorders Diagnostic and Coding Manual*, second edition (ICSD-2). An updated classification of POD also includes subclinical RBD-NREM

parasomnia, RBD-sleep-related eating disorder, RBD-sexsomnia, RBD-rhythmic movement disorder, and status dissociatus (SD), which is another subtype of RBD in the ICSD-2. Similar to POD, a core feature of SD is sleep motor-behavioral dyscontrol, with release of dream-related behaviors suggestive of RBD, but with nearly continuous ambiguous polygraphic sleep precluding the identification of NREM/REM sleep states. SD exemplifies extreme state dissociation. SD is always a symptomatic disorder, and is causally associated with a broad range of neurologic disorders, often with thalamic, limbic, striatal, and pontine involvement. The parasomnia behaviors associated with POD and SD—typical RBD behaviors—can often be controlled with bedtime clonazepam therapy, including the abnormal dreaming.

A scale for assessing the severity of arousal disorders.

Arnulf, Isabelle. et al. Sleep: Journal of Sleep and Sleep Disorders Research, Vol 37(1), Jan 1, 2014. pp. 127-136.

Abstract:

Background: Arousal disorders may have serious health consequences. Objective: To develop a scale assessing the severity of arousal disorders (Paris Arousal Disorders Severity Scale, PADSS). Setting: University hospital. Design: Controlled study. Participants: Consecutive patients (older than 15 y), with sleepwalking (SW) and/or sleep terrors (ST), subjects with previous SW/ST, normal controls and patients with rapid eye movement sleep behavior disorder. Intervention: The self-rated scale listed 17 parasomniac behaviors (PADSS-A), assessed their frequency from never to twice or more per night (PADSS-B) and evaluated the consequences (PADSS-C: disturbed sleep, injuries, fatigue, and psychological consequences). The clinimetric properties and face validity of the scale were tested. Results: Half of the 73 patients with SW/ST (more men than women) had injured themselves or others, whereas 15% had concomitant sexsomnia and 23% had amnestic eating behaviors. The total PADSS score (range: 0-50) was 19.4 ± 6.3 (range: 8-36) in this group, 11.7 ± 5.9 in 26 subjects with previous SW/ST, 8.8 ± 3.2 in 26 patients with RBD, and 2.0 ± 3.5 in 53 normal controls ($P < 0.05$). The PADSS demonstrated high sensitivity (83.6%), specificity (87.8%), internal consistency, and test-retest reliability (0.79). The best cutoff for the total score was at 13/14. Exploratory factor analysis revealed two components: wandering and violence/handling. The complexity of behaviors emerging from N3 sleep (scored on videopolysomnography) positively correlated with scores for the PADSS-total, PADSS-A, PADSS-C, and the 'violence/handling' factor. Conclusion: This scale had reasonable psychometric properties and could be used for screening and stratifying patients and for evaluating the effects of treatments.

Medicolegal aspects of complex behaviours arising from the sleep period: A review and guide for the practising sleep physician.

Morrison, Ian. Rumbold, John M. Riha, Renata L.. Sleep Medicine Reviews, Vol 18(3), Jun, 2014. pp. 249-260.

Abstract:

[Correction Notice: An Erratum for this article was reported in Vol 18(6) of *Sleep Medicine Reviews* (see record 2014-54105-011). In the original article, the authors regret that there is an error on page 256. The corrections are present in the erratum.] This review is aimed at summarizing the current state of knowledge regarding parasomnias, which have been implicated in medicolegal cases as well as providing guidance to those working within common-law jurisdictions regarding the technical aspects of the law. Sleepwalking and sexsomnia as a defence are being raised more frequently in criminal cases and there has been public debate on their validity. Unfortunately, expert evidence on forensic sleep disorders continues to be heavily opinion-based with the potential for miscarriages of justice seen in recent highly publicized cases. There is an apparent inertia in research into violent sleep disorders. We review the current state of forensic sleep science in the United Kingdom (UK) and abroad and discuss the need to formulate guidelines based on available evidence. We also highlight the pressing necessity for more research in this area as well as the need to reform the law, which is the subject of a recent Criminal Law Commission report in the United Kingdom. In time, this will facilitate the efficient, proportionate, and just disposal of violence arising from sleep, thus benefitting both society and the individual sufferer.

About Dr. Paul Simpson

- Extensive experience assisting military courts-martial through consultation with legal teams (government and defense), assisting with voir dire of potential members, and expert testimony.
- A course instructor for ASALC at Maxwell since 2016.
- Has provided CLE trainings for the State Bar of Arizona, Air Force, Marine, and Navy JAG regarding:
  - *Child Sexual Abuse Allegations: What Every Attorney Should Know*
  - *Daubert Standard and Psychological Evaluations: What Every Attorney Should Know*
  - *Memory in the Courtroom: What Every Attorney Should Know*
  - *Mental Health Evaluations in Homicides and Crimes of Violence: What Every Attorney Should Know*
  - *Anatomy of a Psychosexual Evaluation: What Every Attorney Should Know*
  - *Online Sex Offense: What Every Attorney Should Know*
- Has conducted over 300 mens rea and competency evaluations.
- Has been an instructor for the Arizona Supreme Court in training and certifying competency evaluators.
- A former case manager with Child Protective Services, Dr. Simpson has extensive experience working with victims and perpetrators of sex crimes, including over 600 psychosexual evaluations of adults and juveniles. He is trained and/or certified in the Abel, Affinity 2.5, Look VTM, MEGA, Static 99R/2002R, Stable/Acute 2007, SVR-20, HCR-20, J-SOAP 2, ERASOR, and Monarch plethysmograph.
- A former Arizona officer for the Association for Treatment of Sexual Abusers (ATSA).
- Since 2003 has provided over 300 full-day trainings in all 50 states for professionals on assessing/treating sexual and Internet compulsions.
- Author of *Second Thoughts*, a book that was instrumental in helping expose the false claims and dangers of '*recovered memory therapy*.' Throughout the 1990's Dr. Simpson was a leading national educator on *False Memory Syndrome* and trained thousands of counseling professionals on standards of practice. He also served as an expert consultant to the *Arizona Board of Psychologist Examiners.*
- Dr. Simpson has been a guest on *The Joan Rivers Show*, the *Leeza Gibbons Show*, *Parent Talk Radio*, *Focus on the Family*, *Frontline*, and *Fox News*. He has been a professional consultant to a number of national media, including *20/20*, *60 minutes*, *NBC News*, *Nightline*, *The Oprah Winfrey Show*, the *Chicago Tribune*, *Dateline*, *The Today Show*, *Focus on the Family*, and *Vanity Fair magazine*.

Dr. Paul Simpson
Arizona Forensic Services, LLC
(520) 355-1000

doc@psy.law
www.ArizonaForensics.com