

# *Allegations of Child Sexual Abuse*

## Accurate and Truthful Disclosures, False Allegations, and False Denials

KAY BUSSEY\*

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Child sexual abuse is not new. However, interest in determining the veracity of child sexual abuse allegations, particularly by legal professionals, academic researchers and the media, is new. It is a controversial issue that has sparked considerable debate both within academia and by the general public. The depth of feeling is illustrated by special issues of academic journals being devoted to the topic<sup>1</sup> and by media accounts that highlight the plight of innocent victims who are not believed as well as those who are falsely accused of sexual abuse.

In this article, recent challenges to the reliability of children's testimony are discussed. Increasing concern over possible false allegations of sexual abuse by children has led to a spate of laboratory studies that demonstrate the conditions under which children report false information. These studies show that the accuracy of children's reporting is reduced when they are repeatedly interviewed in misleading ways. A simple solution to increase the reliability of children's testimony is to avoid asking misleading questions. Reasons for this not occurring are examined. For many child sexual abuse victims, disclosing the abuse is traumatic, and therefore interviewers resort to suggestive questioning procedures to elicit information about the abuse. Two models that have been proposed to describe the difficult process of disclosing sexual abuse are presented. Although they provide valuable information about the difficulties children encounter with such disclosures, the models offer little guidance as to how to facilitate disclosure. To redress this limitation, a recent model of disclosure proposed by Bussey and Grimbeek<sup>2</sup> is extended here. Unlike the other models, this model is concerned with developing and evaluating the efficacy of interview techniques for facilitating accurate and truthful disclosures. Particular attention is also paid to issues of suggestibility. This model further departs from the other two models of the disclosure process in that it is concerned both with children's false allegations of sexual abuse as well as their false denials of it. False allegations, in this article, refer to allegations of sexual abuse which did not occur and false denials refer to denials of abuse which did occur. Finally, children's secret keeping is examined to understand *why* children withhold information.

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\* Senior Lecturer, School of Behavioural Sciences, Macquarie University.

1 See, for example, (1995) 1 *Psychology, Public Policy, and Law* at 2 and (1993) 17 *Child Abuse and Neglect* at 1.

2 Bussey, K and Grimbeek, E J, "Disclosure processes: Issues for child sexual abuse victims" in Rotenberg, K J (ed), *Disclosure processes in children and adolescents* (1995) at 166–203.

## Children's evidence

Legal professionals and social scientists have engaged in much dialogue about the veracity of the rising number of allegations of sexual abuse. Children most often allege sexual abuse against an adult who usually denies the allegation. There are also increasing allegations being made against other children who are typically some years older than the alleged victim. Therefore, children who allege sexual abuse are required to challenge the statements of someone who is usually more knowledgeable, believable, and of higher status than themselves, about an experience that many adults do not want to believe happens to children.<sup>3</sup> Because of the lack of physical evidence in most cases of sexual abuse there is rarely corroborating evidence to support the allegation. Therefore, it is the word of a child against an older person, usually an adult.

The venue for hearing sexual abuse allegations made by children in Australia, and most other Western countries is the criminal rather than the children's court. Although it has always been possible for children to testify in criminal courts, it is mainly as a result of the increasing numbers of children alleging sexual abuse since the 1980s that significant numbers of children began testifying in criminal courts. Once children took the witness stand, however, defence lawyers challenged their competence to provide reliable and truthful testimony and many cases resulted in the acquittal of the alleged perpetrator on this basis. These challenges, however, drew on research that was unrelated to children's memory for events they had personally experienced. They also relied on methodologically questionable research of children's ability to differentiate lies from truths conducted by Piaget many decades ago.<sup>4</sup>

As a result of these challenges to the testimonial competence of young children, research was conducted that departed from the earlier research on children's memory by using more ecologically valid testing procedures. These studies showed that children could accurately report their experiences, particularly quite stressful ones.<sup>5</sup> The research also showed that children as young as four years of age did have the capacity to differentiate lies from truths.<sup>6</sup> Such research findings contributed to beliefs about the ability of children to testify in courts, yet problems remained with them serving as child witnesses in these venues. The courtroom was a foreign environment for young children, and they encountered difficulties in presenting their testimony in this environment that catered mainly for the reception of adults' evidence.

To accommodate these young witnesses, changes were made to the courtroom environment as well as to the rules of evidence. For example, in New South Wales, one major change was the abolition of the need to take the oath to be eligible to testify.<sup>7</sup> Prior to

3 Masson, J M, *The assault on truth: Freud's suppression of the seduction theory* (1984).

4 Piaget, J, *The moral judgment of the child* (1965) (original work published in 1932).

5 Goodman, G S, Aman, C J and Hirschman, J, "Child sexual and physical abuse: Children's testimony" in Ceci, S J, Toglia, M P and Ross, D F (eds), *Children's eyewitness memory* (1987) at 1-23; Goodman, G S, Bottoms, B L, Schwartz-Kenney, B M and Rudy, L, "Children's testimony about a stressful event: Improving children's reports" (1991) 1 *Journal of Narrative and Life History* at 69; Goodman, G S and Reed, R S, "Age differences in eyewitness testimony" (1986) 10 *Law and Human Behavior* at 317; Goodman, G S, Rudy, L, Bottoms, B L and Aman, C, "Children's concerns and memory: Issues of ecological validity in the study of children's eyewitness testimony" in Fivush, R and Hudson, J A (eds), *Knowing and remembering in young children* (1990) at 249-84.

6 Bussey, K, "Lying and truthfulness: Children's definitions, standards and evaluative reactions" (1992) 63 *Child Development* at 129.

7 *Oaths (Children) Amendment Act 1990* (NSW).

1991 it was virtually impossible for a child below the age of 12 years to testify in a criminal court, since she or he had to understand the oath and swear by it to be eligible to testify. Modifications to the law mean that children who understand the difference between a lie and a truth can provide an unsworn statement to the court and have their allegations heard in that venue. For the most part, laws requiring the corroboration of children's statements have been dropped, hearsay exceptions have become more liberal, and innovations such as closed-circuit video and screens to shield the victim from the alleged perpetrator have been put in place. These changes, aiming to make it easier for children to testify in criminal courts, have not, however, gone unchallenged.

At about the same time these modifications were being implemented in courtrooms in many Western countries, concern was being voiced about these changes increasing the possibility of false allegations of sexual abuse. Concern about false allegations also arose from two other sources: the so-called "false memory syndrome" and the number of high profile cases that cast doubt on the testimonial competence of young children. For example, the McMartin and Kelly Michaels cases in the United States of America and the Mr Bubbles case in Australia. Because the major concern in this paper is with children's evidence, only passing mention is made of the false memory syndrome, which involves allegations of sexual abuse by adults who "recover" repressed childhood memories of such abuse. The name "false memory syndrome" rather than "recovered memory syndrome" emerged mainly as a result of the efforts of a group of parents who alleged that they were falsely accused of sexual abuse by their adult children. These parents subsequently established the False Memory Syndrome Foundation. They claimed that their adult children accusers were led to make such allegations as a result of suggestive therapy sessions and/or suggestive information provided in various self-help books.<sup>8</sup>

There is controversy over whether memories can be repressed and, if repressed, whether they can be recovered. The concept of repression with its Freudian heritage has had a chequered history in psychology. Whether people feel less inhibited to report sexual abuse as a result of media discussion of its prevalence, or whether repressed memories of abuse are recovered, or whether people are led to make false accusations of sexual abuse as a result of suggestive therapy sessions, is impossible to establish.<sup>9</sup> Because the abuse occurred so long ago it is as difficult, if not more so, to substantiate and corroborate the veracity of these allegations, as it is to substantiate the allegations made by children at, or around the time of their alleged abuse. In both cases, the lack of physical evidence contributes to the difficulty in resolving the veracity of sexual abuse allegations. An extensive discussion of this syndrome, however, is beyond the scope of this article. What is of importance here is that the media focus on the false memory syndrome has led to further questioning of the veracity of sexual abuse allegations made by children and has influenced professional and lay opinions of such allegations.<sup>10</sup>

The other impetus to the backlash against believing the testimony of child sexual abuse victims derives from the controversy over the high profile cases involving preschool children. There has been close media scrutiny of cases such as the McMartin and Margaret Kelly Michaels cases in the United States, and these commentaries have been relayed to most other Western countries. Recently, a tele-movie about the McMartin case was shown

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8 False Memory Syndrome Foundation, *Fact sheet* (June 1992) at 10.

9 See Loftus, E F, "The reality of repressed memories" (1993) 48 *American Psychologist* at 518.

10 See Sinclair, K, "Responding to Abuse: A Matter of Perspective" in this volume at 153.

on prime-time television in the US. Additionally, these cases have generated considerable debate in academic journals and books.

Much of the controversy associated with these cases has centred around the contaminated evidence of child witnesses resulting from highly suggestive interviewing techniques used to elicit their allegations. Illustrative examples of the interviewing practices used in the Kelly Michaels case are provided below

Interviewer: All the other friends I talked to told me everything that happened. 29C told me. 32C told me ... And now it's your turn to tell. You don't want to be left out, do you?

Interviewer: Boy, I'd hate having to tell your friends that you didn't want to help them.

Interviewer: Now some of the kids were saying that maybe this stuff [silverware] was used and somebody was hurting them with it.

Interviewer: I will get you the badge if you help us get this information ... like all your other friends did.

To substantiate the inadequacy of such interviewing practices, many laboratory-based studies have been undertaken to demonstrate that when young children are asked suggestive and leading questions they are more likely than older children and adults to succumb to such suggestions.<sup>11</sup> The title of a recent paper, "Tell me about ... Don't you remember ...? Isn't it time that ...? Developmental patterns of eyewitness responses to increasingly suggestive questions",<sup>12</sup> illustrates this point. Such research has served to further cast doubt on the reliability of the testimony provided by child witnesses in sexual abuse cases and on the veracity of their allegations. In fact, this corpus of research was part of the evidence used in the successful appeal against the conviction of Margaret Kelly Michaels on 115 counts of sexual abuse against children at the Wee Care Day Care Centre.<sup>13</sup> The basis of this appeal centred on the suggestive interviewing procedures used in the case, which cast doubt on the reliability of the testimony of children who testified.

As a result of the poor interviewing methods used in such cases, researchers have become increasingly interested in children's vulnerability to suggestion and the extent to which they falsely allege events that have not occurred. As well as empirical interest in children's suggestibility there is a great deal of theoretical interest in the issue, as demonstrated in a recent review article by Ceci and Bruck entitled, "Suggestibility of the child witness".<sup>14</sup> This article has had an impact on both academic and legal circles and served as the basis of the *amicus* brief filed by Bruck and Ceci in support of Margaret Kelly Michaels' appeal against her conviction.<sup>15</sup>

11 Bruck, M, Ceci, S J, Francoeur, E and Barr, R, "I hardly cried when I got my shot! Influencing children's reports about a visit to their pediatrician" (1995) 66 *Child Development* at 193; Goodman, G S and Clarke-Stewart, A, "Suggestibility in children's testimony: Implications for child sexual abuse investigations" in Doris, J L (ed), *The suggestibility of children's recollections* (1991) at 92-105; Poole, D and White, L, "Effects of question repetition on the eyewitness testimony of children and adults" (1991) 27 *Developmental Psychology* at 975; Tobey, A and Goodman, G S, "Children's eyewitness memory: Effects of participation and forensic context" (1992) 16 *Child Abuse and Neglect* at 779.

12 Cassel, W S and Bjorklund, D F, *Tell me about ... Don't you remember ...? Isn't it true that ...? Development patterns of eyewitness responses to increasingly suggestive questions* (1995, forthcoming).

13 Bruck, M and Ceci, S J, "Amicus brief for the case of *State of New Jersey v Michaels* presented by Committee of Concerned Social Scientists" (1995) 1 *Psychology, Public Policy, and Law* at 272.

14 Ceci, S J and Bruck, M, "Suggestibility of the child witness: A historical review and synthesis" (1993) 113 *Psychological Bulletin* at 403.

15 Above n13.

The major purpose of the 1993 review paper was to answer the question, "Are younger children more suggestible than older children?"<sup>16</sup> Ceci and Bruck concluded that overall, younger children, particularly preschoolers, are more suggestible than older children.<sup>17</sup> They noted, however, that controversy remains over the pervasiveness of children's suggestibility. In particular, it was concluded that children may only be vulnerable to suggestibility for some types of misleading questions, as has been argued by Fivush:

Experiments in which children are given misleading information about personally experienced events, as opposed to misinformation about stories, tend to find less of an effect of misleading information. ... Events which are extremely personally important are probably less prone to suggestion than are less important events. ... Finally, misleading information is more likely to influence future recall when it is about peripheral details of an event rather than more central aspects.<sup>18</sup>

Other researchers have also argued that children are unlikely to make false allegations of abuse, regardless of how they are interviewed:

If these results can be generalised to investigations of abuse, they suggest that normal children are unlikely to make up details of sexual acts when nothing abusive happened. They suggest that children will not easily yield to an interviewer's suggestion that something sexual occurred when in fact it did not, especially if nonintimidating interviewers ask questions children can comprehend.<sup>19</sup>

Ceci and Bruck, however, concluded that "[o]ur review of the literature indicates that children can indeed be led to make false or inaccurate reports about very crucial, personally experienced, central events".<sup>20</sup>

In view of this conclusion by Ceci and Bruck, it is curious that so many recent studies have been conducted to demonstrate that when poor interviewing practices are used that rely on suggestion and coercion, as in many of the high profile court cases, younger children succumb to the suggestions of the interviewers and provide inaccurate information. Surprisingly, little recent research has addressed the more crucial question of how to improve the interviewing practices of adults who interview children in sexual abuse cases without asking leading questions.

It has become critically important for researchers to discover more effective ways to interview child witnesses that will not contaminate their evidence, since in some jurisdictions, the introduction of taint hearings prior to the trial to assess the reliability of children's evidence have been proposed. Evidence that could have been contaminated by suggestive interviewing practices would be deemed inadmissible at trial because of its potential unreliability.<sup>21</sup> This departs from previous views on children's testimony where it has been argued that it is the jury's responsibility to determine the credibility of their statements. Rather, because of the potential for suggestive questioning to alter children's memory for the event, not just their reporting of it, it would be necessary for the taint

16 Above n14 at 403.

17 Above n14.

18 Fivush, R, "Developmental perspectives on autobiographical recall" in Goodman, G S and Bottoms, B L (eds), *Child victims, child witnesses: Understanding and improving testimony* (1993) at 20.

19 Goodman, G S and Clarke-Stewart, A, "Suggestibility in children's testimony: Implications for child sexual abuse investigations" in Doris, J L (ed), *The suggestibility of children's recollections* (1991) at 102-3.

20 Above n14 at 432.

21 Rosenthal, R, "State of New Jersey v. Margaret Kelly Michaels: An overview" (1995) 1 *Psychology, Public Policy, and Law* at 246.

hearing to first establish the reliability of the children's evidence. Establishing the reliability of evidence is a legal decision. Once this is established the jurors would decide on its credibility. However, in view of the research findings on suggestive interviewing, the reliability of the evidence would be in doubt if suggestive questioning had been used in any of the pre-trial interviews. Consequently, in such circumstances children's evidence is likely to be deemed inadmissible. Therefore, it is crucial that improved methods are used to interview children to facilitate the disclosure of secretive and embarrassing information without being suggestive. Before addressing the topic of improving interview techniques for child witnesses, two factors that may have led to the widespread adoption of suggestive interviewing practices in forensic settings are examined.

### Laboratory-based studies on children's suggestibility

The first factor which often leads to suggestive interviewing is the age of the child. When young children are questioned in an open-ended format the accuracy of the information they provide is the same as that provided by older children and adults. Young children differ from older age groups, however, in that they spontaneously provide less information.<sup>22</sup> One of the greatest difficulties confronting an interviewer of young children is therefore trying to obtain information from them. They frequently respond to adults' questions by looking vague, commenting about something else in the immediate environment, or saying "I don't know." To engage their attention and direct them to the content of the interview, interviewers often resort to asking leading and direct questions to obtain information. It is under these conditions that the inaccuracy of the younger children's reports increases. They acquiesce to the interviewer's suggestions which are more salient at the time than the past event they are being questioned about. In court cases, the pre-court interviewer often resorts to asking leading or suggestive questions based on his or her knowledge of the case, and this casts doubt on the reliability of these children's reports. Did the child really experience the abuse, or does she or he only think they experienced it because the interviewer has suggested that she or he did?

The second factor that promotes the use of leading questions by adults concerns the content of the memory. Specifically, embarrassment about reporting sexual abuse can inhibit children's disclosure of sexual information. This is clearly demonstrated by five- and seven-year-old children's reporting of two types of routine medical examination: one involving genital touch and the other for scoliosis, not involving genital touch.<sup>23</sup> Seven-year-old children who underwent the scoliosis examination recalled significantly more accurate information than all the five-year-olds or the seven-year-olds who experienced the genital examination. The seven-year-olds who underwent the genital examination, however, spontaneously reported the same amount of information as the five-year-olds. They revealed that their lack of reporting was not a memory problem, because when asked specific questions about the genital examination they provided as much information as their peers who underwent the scoliosis examination. This study shows that seven-year-olds were reluctant to disclose embarrassing information. It also shows that while it is true that most studies find that older children report significantly more information than

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22 Goodman and Reed, above n5

23 Saywitz, K J, Goodman, G S, Nicholas, E and Moan, S F, "Children's memories of a physical examination involving genital touch: Implications for reports of child sexual abuse" (1991) 59 *Journal of Consulting and Clinical Psychology* at 682.

younger children, these results derive from contexts where children report on emotionally neutral, albeit sometimes stressful, events. When children are required to report on embarrassing events which more closely approximate the sexually abusive episode, the results change. Clearly, children's reporting of witnessed events is not only dependent on their *competence* to report information, but also on their *willingness* to report it.

In sum, for younger children, less information is spontaneously reported when asked under conditions of free recall, and for many older children who have been abused the nature of the material they are reporting will serve to inhibit disclosure. Because of these difficulties, children need to be asked specific questions in order to disclose abuse, and interviewers, particularly in forensic settings, find it difficult not to frame these as leading questions. When they do so, it can be argued that children succumb to the suggestive questioning of the interviewer and may report abuse when it did not happen. In contrast, as indicated earlier, others have vehemently argued that children are highly resistant to suggestion, particularly about matters that are personally relevant and related to abuse, and that leading questions do not reduce the reliability of children's evidence. This latter position, however, is becoming increasingly more difficult to defend. What is certain is that the disclosure process is problematic for child sexual abuse victims. This is echoed by the findings of some recent field studies which also underscore that disclosure of such personal experiences can be difficult for both younger and older children.

### **Evidence for disclosure difficulties: field studies**

Lawson and Chaffin highlighted the difficulties that children, from three years through to adolescence, experienced in disclosing sexual abuse.<sup>24</sup> Over half the sample (57 per cent) who were diagnosed with a sexually transmitted disease did not disclose their suspected abuse. In another study in which factors associated with the disclosure of sexual abuse were investigated, 156 children who had been referred to a program for sexually abused children were evaluated.<sup>25</sup> This study showed that while just over 50 per cent of children disclosed their abuse, almost 50 per cent did not do so. Rather, the abuse was suspected by others. Why were so many children unable or reluctant to disclose their abuse? Two major factors associated with children's disclosure difficulty emerged from Sauzier's study. The first involved the impact of the offender's methods for gaining the child's involvement in the abusive episode. Aggression was equally likely to lead to non-disclosure as to reporting the incident immediately, whereas both threats and manipulation had the effect of inhibiting immediate disclosure. Second, the relationship of the offender to the child had an impact on disclosure. Children were much less likely to disclose the abuse when the offender was their natural father, whereas they were much more likely to disclose the abuse immediately when the offender was a non-family member. The fact that so many children in this and other studies have been found to be abused by somebody they know suggests that disclosure will often be difficult and that many children will not voluntarily disclose their abuse.

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24 Lawson, L and Chaffin, M, "False negatives in sexual abuse disclosure interviews: Incidence and influence of caretaker's belief in abuse cases of accidental abuse discovery by diagnosis of STD" (1992) 7 *Journal of Interpersonal Violence* at 532.

25 Sauzier, M, "Disclosure of child sexual abuse: For better or for worse" (1989) 12 *Psychiatric Clinics of North America* at 455.

Although it might be easier for children to disclose abuse involving a non-family rather than family member, other studies indicate that young children are also reluctant to disclose abuse by non-family members, for example, in day care centres.<sup>26</sup>

One of the most perplexing questions about day-care sexual abuse has been, "How could it go undetected for so long?" Why don't the children involved tell?<sup>27</sup>

In their study of the disclosure of sexual abuse involving children under seven in day care contexts, Burns et al showed that while 19 per cent of all cases were disclosed on the same day the abuse took place, 32 per cent of the children took more than six months to disclose the abuse.<sup>28</sup> The majority of the disclosures were made to parents or relatives (86 per cent) and the remaining reports were made to day care staff or other professionals. Many disclosures either happened spontaneously or were triggered by other events. For example, some children disclosed when they realised that they were about to return to the day care facility, or when they felt safe (for example, on vacation) and were away from the perpetrator.

Given that approximately 50% of the victims reported that they had been threatened with harm to themselves or their families if they told, it is not surprising that many children were afraid and waited until they felt secure that [the perpetrator] could not retaliate.<sup>29</sup>

These field studies reveal that disclosure of sexual abuse is problematic. Children are embarrassed to talk about the abuse, blame themselves, and feel they have done something wrong. In addition the majority of victims have been sworn to secrecy or severely threatened by the perpetrator not to disclose. Consequently, children are reluctant to disclose abuse. As a result, it is not surprising that some interviewers resort to leading questions to facilitate the child's disclosure of an alleged abusive experience. Yet, courts regard such questioning as suggestive and grounds for dismissal of the case. To facilitate disclosure in the least traumatic manner without using suggestive interviewing techniques, it is necessary to understand the disclosure process so that children do not have to remain silent about abuse and keep it secret.

## Models of the disclosure process

Recently, two models have been advanced that describe the often difficult route of disclosure for sexual abuse victims. These descriptive models highlight the difficult *process* of disclosure. The first model, the child abuse accommodation syndrome, was proposed by Summit.<sup>30</sup> It consists of five categories: (1) secrecy, (2) helplessness, (3) entrapment and accommodation, (4) delayed, conflicted and unconvincing disclosure, and (5) retraction. These categories were drawn from clinical accounts of the secondary trauma associated with reporting abuse, where children's allegations were typically disbelieved. It highlights both the secretive nature of abuse (because so many children are sworn to secrecy), and the fact that disclosure is rarely a one-off event. As well, many children take a long time to disclose sexual abuse and often retract their initial allegations.

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26 Finkelhor, D and Williams, L M (eds), *Nursery crimes: Sexual abuse in day care* (1988).

27 Burns, N, Finkelhor, D and Williams, L M, "Disclosure and detection" in Finkelhor and Williams, id at 99.

28 Ibid.

29 Id at 104.

30 Summit, R C, "The child sexual abuse accommodation syndrome" (1983) 7 *Child Abuse and Neglect* at 177.



More recently, Sorensen and Snow proposed a typical disclosure pattern for children who had been sexually abused.<sup>31</sup> They retrospectively analysed 116 cases, drawn from 630 cases of confirmed sexual abuse, and indeed found support for some of the stages in Summit's model. (The cases had been confirmed either by a confession or guilty plea from the offender, a conviction in a criminal court, or medical evidence consistent with sexual abuse.) As a result of qualitative analysis of the clinical reports associated with these cases a four stage progressive disclosure process was identified: *denial*, *disclosure* (first tentative and then active disclosure), *recant*, and *reaffirm*. In Sorensen and Snow's sample almost 75 per cent of the children denied being sexually abused when questioned about it after the initial allegation.<sup>32</sup> Most of their sample (78 per cent) then moved to the middle ground of first tentatively, then actively, disclosing the abuse. Fully 22 per cent of children then recanted their initial allegations of sexual abuse. Finally, 92 per cent of these children reaffirmed their initial allegations.

These two models of the disclosure process are extremely valuable in drawing attention to the difficulty that children experience in disclosing sexual abuse and in highlighting the frequency of retractions. Disclosure of sexual abuse is a difficult process. Although these models are important for understanding the difficulties involved in such disclosure, they do little to show how to increase the disclosure of sexual abuse without simultaneously increasing potential false allegations.

More recently, an alternative model of the disclosure process, based on social cognitive theory, has been proposed by Bussey and Grimbeek.<sup>33</sup> In that model a distinction is made between children's ability to remember the events that took place and their willingness to report those events. Factors that are postulated to influence accurate and truthful reporting of experienced sexual abuse include four main processes. First, *attentional processes* refer to the attention paid to the original event (both central and peripheral aspects). Second, *retention processes* refer to the mental representation of the event (as children increase in age, visual encoding will be replaced by verbal-conceptual encoding) and the amount of rehearsal of the experienced event. Third, *production processes* refer to the assessment techniques used to establish children's memory for the events (for example, children are asked to demonstrate what happened, asked to describe what happened, and asked specific questions). Finally, *motivational processes* involve three sub-processes: *outcome expectations* which are anticipated punishments or rewards for accurate and truthful disclosures, false allegations or false denials; *internal evaluative reactions* which include anticipated embarrassment, self-blame, and pride for accurate and truthful disclosures, false allegations or false denials; and *self-efficacy expectations* which are beliefs about one's ability to disclose sexual abuse in the face of disbelief or negative reactions from others to the disclosure, and to resist leading questions, et cetera. It is proposed that there is a developmental progression in the extent to which these motivational factors influence children's reporting of events. Initially, only highly salient factors would serve as a motivational basis for inhibiting children's disclosure of witnessed events, for example, the presence of the alleged perpetrator.<sup>34</sup> Between four and five years of age, the mere anticipation of

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31 Sorensen, T and Snow, B, "How children tell: the process of disclosure in child sexual abuse" (1991) LXXX *Child Welfare* at 3.

32 *Id.*

33 Above n2.

34 Bussey, K, Lee, K and Grimbeek, E J, "Lies and secrets: Implications for children's reporting of sexual abuse" in Goodman, G S and Bottoms, B L (eds), *Child victims, child witnesses* (1993) at 147-68.

punishment or other negative reaction by others could inhibit children's disclosure and conversely, strong social pressures could promote false allegations. With increasing age, all three motivational factors would be expected to influence children's reporting of abuse that happened, as well as their reporting of an event that did not happen.

From this viewpoint, reporting is dependent on both children's memory for the event and motivational factors. It is also clear from the model proposed by Bussey and Grimbeek that children's reporting of the event is dependent on the way memory is assessed. Whether it is assessed through direct or open-ended questions, for example, will influence the amount and accuracy of information obtained. Also, the manner in which the interview is conducted will influence motivational factors that could affect the truthfulness of the information reported. This model departs from the other two models in stressing the importance of interview procedures to obtain the most accurate and truthful information about children's experiences of past events, and to reduce suggestive questioning procedures that may lead to false allegations. Issues of suggestibility are accorded great importance, although they were not elaborated in the initial model proposed by Bussey and Grimbeek.<sup>35</sup> The conceptualisation of suggestibility advanced here departs considerably from other researchers' conceptualisations of it.

Most research and theoretical accounts of suggestibility make children the central focus. Can they resist suggestive questioning and provide accurate and truthful evidence? In this paper, drawing on the social cognitive model,<sup>36</sup> a different approach is proposed. Rather than making children the focus of attention, interviewing strategies and other factors that can influence the accuracy and truthfulness of the information that children report are accorded equal importance in this model. From this theoretical perspective it is argued that children's suggestibility is related not only to the cognitive competence of the child, but more importantly, to the social factors and interviewing strategies used in these contexts.

The traditional definition of suggestibility has been that information provided after the event influences the recollections of the actual event.<sup>37</sup> This definition is memory-based and implies "[t]hat suggestibility can only be unconscious (i.e., interfering information is unwittingly incorporated into memory); suggestibility results from the provision of information following an event as opposed to preceding it; and suggestibility is a memory-based, as opposed to a social, phenomenon".<sup>38</sup> In contrast, a broader definition of suggestibility has been proposed by Ceci and Bruck in which, "suggestibility concerns the degree to which children's encoding, storage, retrieval, and reporting of events can be influenced by a range of social and psychological factors."<sup>39</sup> This definition differs from earlier definitions in three important ways. First, it implies that "it is possible to accept information and yet be fully aware of its divergence from some originally perceived event, as in the case of 'confabulation' ... acquiescence to social demands, or lying ... thus, these forms of suggestibility do not involve alteration of memory". Second, "suggestibility can result from the provision of information preceding or following an event." And finally, it "can result from social as well as cognitive factors".<sup>40</sup>

35 Ibid.

36 Bandura, A, *Social foundations of thought and action: A social cognitive theory* (1986).

37 Loftus, E F, *Eyewitness testimony* (1979).

38 Above n14 at 405.

39 Above n14.

40 Ibid 405.

From the Ceci and Bruck position, suggestibility occurs when information is wittingly accepted even though it is known to be false.<sup>41</sup> This contrasts with earlier definitions that regarded suggestibility as occurring unwittingly. The position adopted here lies between these two positions. The distinction here is not whether the introduced information is accepted either wittingly or unwittingly, rather, the issue is whether the suggested information is *believed* to be true and accurate or not. It is possible to believe that false information is true and accurate, either wittingly or unwittingly, because of mnemonic factors, or a combination of mnemonic and motivational factors. For example, the suggested information can be accepted as a result of mnemonic processes when the original information is unavailable, not accessible, or the source is confused. Further, the memory for the event may be faded, inaccessible, confused, or the suggested information may be believed, even though the memory for the event can be accessed because of the status and perceived knowledge of the person providing it. Under such conditions, one's own memory for the event is wittingly discounted in favour of the suggested information. Thus mnemonic and/or motivational influences can lead to belief in the accuracy and truth of the suggested information and this can occur either wittingly or unwittingly. Furthermore, suggestible influences can be either external (for example, suggestive interviewing practices) or internal (for example, an imagined event). However, in this article the focus is on external influences because only these can be regulated and monitored in a forensic setting.

Regardless of the processes involved, suggestibility as defined here occurs when the person *believes* the suggestions as being an accurate and truthful account of their own recollections, despite their inaccuracy. Because such recollections are inaccurate, yet truthful, they are unintentional falsehoods and not lies. In other instances, however, where the information can be remembered but the interviewee acquiesces to the suggestions of the interviewer, lying has occurred. That is, when an interviewee reports the interviewer's suggestions as being a true and accurate account of their experience despite not believing the account, this constitutes an intentional falsehood or lie. Over time, individuals may forget the true and accurate information so that technically, lies are transformed into unintentional falsehoods, or truthful but inaccurate recollections of events.

Therefore, this perspective differs from that of Ceci and Bruck in that a distinction is made between the reporting of false information as a result of suggestive interviewing based on whether the suggestive information is *believed or not*.<sup>42</sup> If it is believed, suggestibility has occurred, if it is not believed, lying has occurred. Suggestibility can occur wittingly or unwittingly, and can involve either or both mnemonic and motivational processes in accepting the false information. In contrast, lying is always witting and involves only motivational, not mnemonic processes, since children can still access their recollections of the events accurately. Both types of false statements, that is, suggestible falsehoods (truthful but inaccurate reports as a result of suggestibility) and lies can occur, for both false denials and false allegations.

The important question then is how to reduce the possibility of both false allegations and false denials, either of which can be made intentionally or unintentionally. There is no foolproof way to determine if a child is falsely alleging or denying abuse or accurately and truthfully reporting it. It is possible, however, to ensure that both suggestibility and lying are minimised through the use of interviewing procedures that do not either wit-

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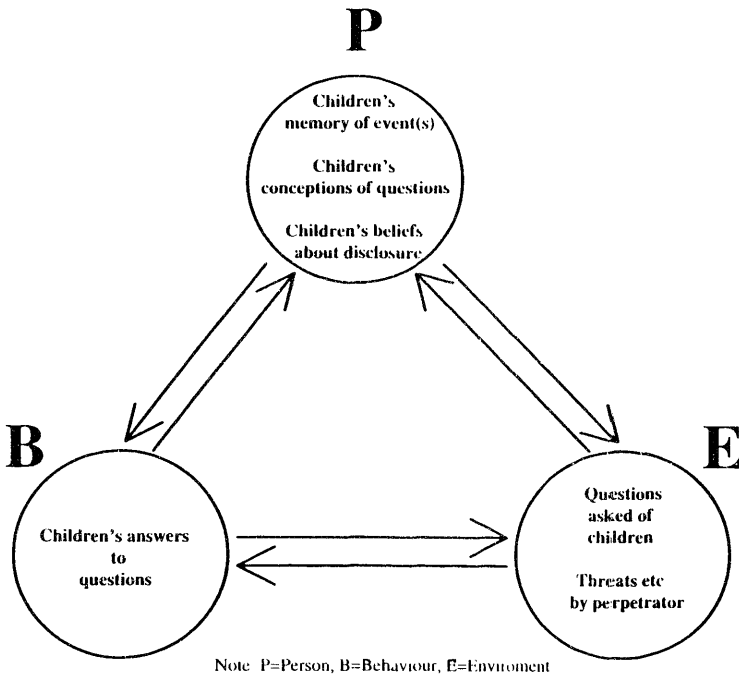
41 Ibid.

42 Ibid.

tingly or unwittingly encourage children to report false information, and by providing a context that allows and requires children to report truthful information. Only from laboratory-based studies in which the event that the child needs to disclose, is it known (for example, where they were touched in a medical examination) that the efficacy of non-suggestive interviewing strategies can be assessed. Only in such studies is it possible to assess those interview techniques that promote truth-telling and accurate disclosures and reduce false allegations and false denials. Once their efficacy has been established in such controlled settings, they can then be used in forensic settings.

As noted above, in most of the recent accounts of children's suggestibility, it is conceptualised as intrinsic to the child. The child's lack of cognitive competence and social dependence in relation to adults renders them more vulnerable to adults' suggestive questioning. However, from the social cognitive theory model, human behaviour is explained in terms of a model of triadic reciprocity in which behaviour, personal factors, and environmental events all operate as interacting determinants of each other (see Figure 1). From this perspective human behaviour is neither totally shaped by environmental forces, nor totally guided by internal dispositions.

Figure 1



Although the child's memory for a witnessed event is cognitive representation internal to the child, for the interviewer to become aware of that memory, communication must occur. There are different factors that influence children's memory for an event versus their reporting of it. The personal contribution includes cognitive skills, appraisal of the event, stress level, attention to the event, subsequent thought about the event, ability to communicate about the event, and the ability to understand the interviewer's questions.

The behavioural contribution refers to actions, verbal and non-verbal processes (for example, gestures). The environmental contribution includes both events occurring at the time of the event (for example, threatened by the perpetrator, relationship to the perpetrator, and the nature of the abuse) and events occurring at the time of reporting of the event (for example, quality of the interview, appraisal of the purpose of the interview, and the number of interviews). Therefore, the accuracy and truthfulness of children's reports of experienced events will depend not only on internal factors (their memory for the event), but also on events that are external to the child (the type of questions asked by the interviewer).

From this theoretical perspective, suggestibility is not totally an internal factor that resides in the child, but rather, suggestibility only comes into play when the memory is to be elicited from the child by an interviewer. That is, suggestibility is an interaction between the child's memory of the event, their appraisal of the event, and how they interpret the interview situation. When children tell something spontaneously it is unlikely that they will succumb to suggestion. However, the more input there is from the interviewer, particularly erroneous material, the greater the possibility that children will comply with that suggestion and incorporate it into their reporting of the event on later occasions either intentionally or unintentionally. A major issue then, is not the suggestibility that resides in the child, but rather the misleading interviewing practices of interviewers that reduces the reliability of children's evidence.

From a forensic viewpoint, information can be forgotten and inaccessible, so that sometimes it may be impossible for children to retrieve their recollections of abusive events. There are a number of methods that can be used to facilitate the retrieval of information, but it is essential that these procedures do not include the provision of suggestive information. Geiselman's cognitive interview and various contextual reinstatement methods can be used successfully.<sup>43</sup> The crucial point is that remembrance should not be hurried by using props or verbal suggestions. The other issue that is particularly important from a forensic viewpoint, is that apart from not using props or words that will interfere with the memorial representation of the abuse, it is essential that there is no motivational incentive for children to lie about abuse by either falsely alleging or denying it. Interviewers need to make it clear to the children that they do not know what happened to them, and make sure that their biases are not apparent to the children who will be placed in an invidious situation if they need to contradict the adult interviewer.

A recent study that represents the new wave of research on child witnesses is provided as an example of how interview practices can promote false allegations rather than accurate and truthful disclosures by children.<sup>44</sup> Preschool children were instructed to think about four events that actually happened to them and four events that did not happen to them, although in the latter instances they were led to believe that the events had happened to them. They were read the following instructions:

I am going to read some things that happened to you when you were little, and I want you to think real hard about each one of them. Try to make a picture of it in your head. What do you think you would have been wearing when it happened? Who would have been with you? How do you think you would have felt? We made this list up by talking to your

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43 See Geiselman, R E, Saywitz, K J and Bornstein, G K, "Effects of cognitive questioning techniques on children's recall performance" in Goodman, G S and Bottoms, B L (eds), *Child victims, child witnesses: Understanding and improving testimony* (1993) at 71-93.

44 Ceci, S J, Loftus, E F, Leichtman, M D and Bruck, M, *The role of source misattributions in the creation of false beliefs among preschoolers* (1995, unpublished manuscript).

mother to get her to tell us about some things that happened to you when you were younger. So, after you make a picture of it in your head, and think real hard about each thing for a minute, I want you to tell me if you can remember it or not, OK? Don't worry if you cannot remember it though.<sup>45</sup>

Children were required to visualise the eight events and then try to recollect them, on 12 separate occasions, spaced approximately one week apart. Although initially children indicated that they could recall the real events but not the fictional ones, after 12 weeks of visualising and talking about the events, children began to believe that the fictional events did happen to them and provided increasing details across this time period about these events to the interviewer. Whether children were lying about these events or were suggestible (truthful but inaccurate reporting) is not possible to determine. However, children were interviewed by a different interviewer at the end of all the sessions and when she stated that the first interviewer had made mistakes about things that happened to the child, the number of children who alleged that the fictional events occurred decreased. Not surprisingly, over the time period some children had started to believe that the "events" were true. Initially children may have lied about an event and generated information about it to please the interviewer. Through repeated interviewing, however, it is apparent that many of the children had come to believe the veracity of their own reports. The important message from this study is that providing false information to children is likely to lead to them providing false information to the interviewer. This is particularly likely when interviewers insist that "fictional events" did occur and this is confirmed by the child's mother. In such circumstances, it is not surprising that children are more likely to trust their mother's memory than their own, particularly if they have no recollection of an event which did not occur. This study is silent about what would happen if a child believes an event has occurred and the interviewer states that the mother said it did not occur. Would the child be so readily swayed in this situation? If interviewers lie to children, it is more difficult for them to provide truthful and accurate information. Interviewers undermine the reliability of children's evidence by falsely asserting they have knowledge about events children have experienced.

Rather than conducting more studies to show the myriad of ways that false allegations can occur, more studies are needed to understand why children withhold information from interviewers. Earlier in this article, it was shown that children do not readily disclose their abusive experience. However, there is little information, from the child's perspective, to explain this lack of disclosure. An understanding of *why* children withhold information is necessary to facilitate accurate and truthful reporting of their experiences. The section below discusses recent studies that have examined children's secret keeping.

## Children's secrets

In many cases of child sexual abuse, as noted earlier, children have been instructed by the abuser not to disclose the incident. Therefore, children's propensity to report the transgression of an adult male who asked them to keep the transgression secret was investigated.<sup>46</sup> Three- and five-year-old children witnessed the adult breaking a "prized" glass

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45 Id at 10.

46 Bussey, K, "Adult influence on children's eyewitness reporting" in Ceci, S, (chair) *Do children lie? Narrowing the uncertainties* (August 1990) Symposium conducted at the American Psychology and Law Society Biennial Meeting, Williamsburg, VA.

and hiding the broken pieces to conceal his misdeed. The adult asked the children not to tell the female interviewer about what had happened. The results revealed that when children three and five years of age were simply asked not to tell on the adult, more of the three-year-olds (86 per cent) than the five-year-olds (57 per cent) disclosed the transgression. It is instructive to note that some of the three-year-olds (14 per cent) and quite a large percentage of the five-year-olds (43 per cent) did not disclose the event.

Overall, however, one of the most reliable findings to emerge from these studies was that three-year-olds were more likely to disclose negative events than five-year-olds.<sup>47</sup> These findings are consistent with the false belief data.<sup>48</sup> A great deal of research supports the view that three-year-olds are not very good at solving false belief tasks. That is, three-year-olds have difficulty attributing a false belief to others and instead believe that others perceive the world as they perceive it, that is, as it really is. For example, when presented with a box of Smarties and asked what is inside, both three- and five-year-old children say, "Smarties". After looking in the box, and discovering that it contains pencils, not Smarties, children are asked what another child who has not opened the box would say it contained. The five-year-olds typically say "Smarties", while the three-year-olds say "pencils". Based on the results of these studies, children would not be expected to keep secrets, since they lack the understanding of either themselves or others having a false belief. If three-year-olds believe that the interviewer is privy to all information known to themselves, there is no reason to try and withhold it.

Clearly, the more *capable* children are of understanding concealment and deception, the more they are *capable* of keeping secrets and behaving in a deceptive way, and the more they are capable of intentionally withholding disclosure of abuse. Younger children, however, who have a more limited understanding of false belief, are less able to intentionally withhold information. They are unlikely to realise and anticipate that they might get into trouble for reporting negative information. They are therefore unlikely to withhold the information and induce a false belief in others who may suspect abuse. Yet, if the negative sanctions for disclosing the secret are more salient and immediate, even three-year-olds' secret keeping is affected. This is illustrated in a study by Bottoms, Goodman, Schwartz-Kenney, Sachsenmaier and Thomas who found that disclosure of information by five- and six-year-olds varied as a function of instruction by their mothers.<sup>49</sup> Specifically, when mothers engaged their children in play with a prohibited set of toys and asked their children to keep this a secret, fewer children spontaneously reported the activities than did children who were permitted to play with the toys and whose mothers did not ask their children to keep this a secret. The younger children, three- and four-year-olds in that study, were unaffected by the request to keep the information secret. However, for a very salient event, such as the mother accidentally breaking and hiding a Barbie doll, only one out of the 49 children in the study (that is, across all age groups) spontaneously reported what had happened. Apparently, little pressure is needed to silence children when adults attempt to cover up their mistakes or transgressions. In this case, the distress of the mothers

47 Bussey, K, Lee, K and Grimbeek, E J, "Lies and secrets: Implications for children's reporting of sexual abuse" in Goodman, G S and Bottoms, B L (eds), *Child victims, child witnesses* (1993) at 147-68.

48 Gopnik, A and Astington, J W, "Children's understanding of representational change and its relation to the understanding of false belief and the appearance-reality distinction" (1988) 59 *Child Development* at 26.

49 Bottoms, B, Goodman, G S, Schwartz-Kenney, B, Sachsenmaier, T and Thomas, S, *Keeping secrets: Implications for children's testimony* (March 1990) Paper presented at the Biennial Meeting of the American Psychology and Law Society, Williamsburg, VA.

and hiding the broken Barbie doll may have signalled to the children that the breakage needed to be kept secret. Therefore, for children who are sexually abused, it is possible that the more concern they feel for the alleged transgressor, the more serious the transgression, and the greater the threat for reporting the abuse, the more likely even three year-olds would be to comply with the transgressor's request or demand not to report the event.<sup>50</sup> Moreover, the conditions under which they are questioned might also affect their propensity to report it.

The implications of these issues for the interviewing of young children are critically important. For the very young child who may not have the capability for mentally representing the negative consequences for disclosure, it may only be in the perpetrator's presence or when interviewed by a stern interviewer that they will intentionally withhold the reporting of abuse. Hence, it is essential that the interviewing is conducted in a highly supportive environment. But there are some cautions here; the interviewer must not rely on leading questions that require "Yes/No" answers. Because children will be highly attuned to the positive affective reactions of adults, the entire interview must be conducted in a positive environment with neutral intonation, and the child must know that they can report any kind of information without negative consequences resulting.

The important point to be stressed is that interviewers have a significant role to play in helping to facilitate children's disclosure of secretive material, especially when it is another adult who has sworn them to secrecy. Supportive interviewing conditions are essential for children to report sensitive information, free of suggestive questions so that children do not need to contradict adults.

From the social cognitive theory perspective, with cognitive maturity children are more able to regulate their secret keeping. Once they have this capacity, other issues are important in the facilitation of children's disclosure of secrets.

In a recent study in which children of five, seven, nine and 12 years were asked about whether or not they would keep a good, bad or embarrassing secret, different factors affected their secret keeping and telling.<sup>51</sup> The most important result to emerge from this study was that five-year-old children's secret keeping was solely determined by external factors, that is, whether or not they anticipated getting into trouble for keeping or telling secrets. Older children's secret keeping was, however, regulated not only by external factors, but also by how they expected to feel about such disclosure.

A striking finding in this study concerned embarrassing secrets. These secrets are important because they are similar to secrets about sexual abuse. Most notably, the three older age groups of children anticipated strong negative self-reactions for the disclosure of embarrassing secrets but did not anticipate self-disapproval for keeping such secrets. These results indicate that from seven years of age onwards, from the child's perspective, it may be less traumatic not to disclose than to disclose embarrassing information. In contrast, for the five-year-olds, fear of punishment was likely to prevent disclosure of all types of secrets. Consequently, procedures that reduce the embarrassment of reporting sexual abuse for children beyond seven years, and reduce the fear of punishment for younger children, are necessary to facilitate accurate and truthful reporting.

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50 Bussey, K, Ross, C and Lee, K, *Factors influencing children's lying and truthfulness* (April 1991) Paper presented at the Meeting of the Society for Research in Child Development, Seattle, WA.

51 Bussey, K and Stirling, C, *Cognitive and motivational determinants of children keeping secrets* (1995) Paper presented at the Society for Research in Child Development, Indianapolis, Indiana.



In sum, the urgent goal of future research is to develop better interviewing strategies that do not influence children's memory of their experiences either wittingly or unwittingly. These strategies need to allow and encourage secret disclosure without increasing false allegations. Lack of suggestive interviewing is essential for the courts to accept children's evidence at trial, and not dismiss it as unreliable if it is subjected to a taint hearing. It is essential that children are neither unwittingly nor wittingly confused by suggestive interviewing practices about their experiences and thereby rendered vulnerable to either believing interviewers' or even parents' accounts of events rather than their own, or lying about their experiences because of pressures from others.

Consequently, it is argued that children's reporting of accurate and truthful information is as much a function of the type of questions they are asked and the context in which the disclosure occurs as it is of their own memory of the experienced event. The disclosure process is difficult, and by focusing exclusively on children's vulnerabilities, without questioning the adequacy of the methods and procedures used by the those who interview child witnesses, it is unlikely that the reliability of children's evidence will be increased. It is essential that research is conducted to establish more effective ways to interview child witnesses so that true and accurate disclosures are promoted when abuse has occurred, without simultaneously increasing false allegations of abuse when it has not occurred and false denials when it has occurred. Children need to appreciate the gravity of their allegations and the importance of truth telling. Without better interview methods, it is unlikely that justice will be served for either the alleging victims or alleged perpetrators of sexual abuse.