

AT LARGE

COPING WITH A HOSTILE MEDIA

—by Lucy Berliner, Jo Bulkeley, Linda Meyer Williams, John E. B. Myers

The stresses of working on behalf of abused children and their families have been outlined elsewhere in this edition of *The Advisor*. The purpose of this article is to provide guidelines for dealing with hostile media coverage of our work. After a long day responding to the effects of abuse, none of us needs to come home to a newspaper or magazine article angrily alleging that we've manufactured the whole problem.

Yet such articles appear relatively frequently. A recent example is the article entitled, "From the Mouths of Babes to a Jail Cell. Child Abuse and the Abuse of Justice: A Case Study," written by Dorothy Rabinowitz and published in *Harper's Magazine* in May, 1990. The occasion for Ms. Rabinowitz's article is a 1988 New Jersey case in which a 26-year-old preschool teacher, Kelly Michaels, was found guilty of 115 counts of child sexual abuse and sentenced to 47 years in prison for abusing children under her care in a church-housed preschool. Fervently believing Ms. Michaels's claim to innocence, Ms. Rabinowitz lashes out at the entire field of child protection. Asserting that "the hunt for child abusers has become a national pathology," Ms. Rabinowitz repeatedly compares child abuse trials to the Salem witch trials, and writes that "*Believe the children* is the battle cry of the child-abuse militants, who hold as an article of faith that a pederast lurks behind every door and blackboard."

Articles like Ms. Rabinowitz's are likely to make us and our colleagues apoplectic. Not only are they full of direct insults to professionals in the field of child protection, they influence thousands of readers to regard us with suspicion as dangerous fanatics, rather than as dedicated professionals doing extremely difficult work. What can we do besides rave? We can be prepared with evidence and arguments to counter the exaggerated claims made by agents of the backlash like Ms. Rabinowitz. What follows are the most common of Ms. Rabinowitz's inaccurate statements, and the facts with which to counter them.

"We live in an age of trial by accusation. Our society, at the moment, is quick to condemn anybody and everybody charged, on the flimsiest of evidence, with the crimes of abusing or molesting children."

Nursery Crimes: Sexual Abuse in Day Care (Sage, 1988), by David Finkelhor and Linda Meyer Williams, of the University of New Hampshire's Family Research Laboratory, reports on a federally-funded national study of sexual abuse in day care. This book provides detailed data on 270 substantiated cases of sexual abuse in day care, the best data we have on the dynamics of such cases.

According to this study, less than one-quarter (21%), of all allegations of sexual abuse in day care are substantiated. Furthermore, less than one-third (30%) of these substantiated day care cases are prosecuted.

Unfortunately, few jurisdictions maintain actual case statistics on child sexual abuse prosecutions. In a 1987 study by the American Bar Association's Criminal Justice Section that collected such data from three jurisdictions (ABA, 1987), almost half of the cases that had been substantiated by child protective services never resulted in an arrest. Moreover, fewer than two-thirds of those arrested were prosecuted.

The American Bar Association is presently conducting the first national study of outcomes of child abuse prosecutions. Ample evidence already exists, however, to contradict Rabinowitz's claim that sexual abuse prosecutions are casually initiated.

"No one examining the scores of such child sexual-abuse cases can fail to be struck by the way in which, in almost every instance, an initial accusation leads to others and still others—and on and on, until the charges number in the hundreds. . . . In nearly all such cases, the allegations and the numbers of suspects begin to mount only after the entry of investigators and of representatives of child-abuse agencies. It is these experts who convince parents and children alike that the number of abuses and abusers is virtually limitless—beyond their imagination."

In fact, according to Finkelhor and Williams (1988), approximately one-half of cases of sexual abuse in day care (let alone all sexual abuse cases, as Ms. Rabinowitz charges) involved an allegation of only one child about sexual molestation by a lone adult. While other children were often questioned, in most cases no other allegations were made. And, in some early cases when the investigators, in a misguided effort to protect children, told other parents all the details of the allegations made by one child, there was alarm, but no evidence of contagion and in many instances no reports of sexual abuse by other children. Contrary to what Ms. Rabinowitz suggests, other children are not highly suggestible and parents are not easily convinced that their children have been sexually abused.

"The prosecution maintained that [Kelly Michaels] had been able to [molest the children] unnoticed by her fellow teachers, by school administrators, by parents and other visitors to the school, and unnoticed as well by anyone working for the church [in which the day care center was housed] or attending services at the church—that is to say, unnoticed for nearly 150 school days by any adult. . . . For 150 school days, not a single child ever said so much as a single word about any of these crimes because—again according to the prosecution—Kelly Michaels had forced them to keep at least 115 terrible secrets."

Ms. Rabinowitz implies that the

children's claims are implausible, first because no adults witnessed the abuse, and second because the children themselves were silent about it for 150 days. But Finkelhor and Williams's study reveals that not one of the 270 substantiated cases of sexual abuse in day care, involving over 1600 children, was uncovered or reported to authorities by the day care providers. Abuse goes unreported because of ignorance of the signs of abuse, inattention to the activities of employees, secrecy on the part of the offending employee, reluctance to report because of uncertainty or fear of reprisal, and, in some cases, collusion.

Most cases are uncovered only when children's behaviors cause parents to question them or (in one-third of the cases) when children spontaneously tell about what has been done to them. Unfortunately but predictably, children do not tell what happened to them immediately: children in these cases were more threatened and terrorized than in any other type of sexual abuse studied by Finkelhor and Williams.

Because child molesters never commit their crimes before an audience, are able to terrorize their victims into silence, and often take as victims children too young to express themselves in ways that our criminal justice system finds credible, child abuse is in many ways the perfect crime.

"The cases almost always rely on only the testimony of small children. . . . People everywhere in the country have believed. Believed almost anything and everything told to them by witnesses under the age of six. Believed tales as fantastic as any fairy story ever told by the Brothers Grimm."

First, in some cases the wheels of justice grind so slowly that the victims have grown from small children to articulate and credible young men and women by the time they take the witness stand. But Ms. Rabinowitz would simply counter with the claim that the intervening years had been spent in careful "preparation and training" for giving damning testimony. The issue here is children's suggestibility and their credibility as witnesses.

Taken as a whole, research and theory in the field of child development suggest that children, like adults, bring both strengths and weaknesses to the interview room and the witness stand. Under certain conditions, about certain kinds of information, children of different ages may be as reliable as adults. Sometimes children are less reliable than adults, and sometimes they are more reliable, remembering details that adults overlook.

Is children's memory reliable? Once toddlerhood is achieved, at about age one, children can retain information for longer durations and can verbalize at least parts of their memories. Familiar, repeated events, as well as novel, one-time events, can be retained in the memories of young children (Nelson, 1986). Traumatic and other negative events, such as sexual assault, that chil-

dren witness or experience in early childhood, can also be retained, even by two-year-olds. In several studies, some including children as young as three years of age, researchers found that memory for stressful events is more enduring than memory for nonstressful events in children (Goodman, Rudy, Bottoms and Aman, in press; Ochsner and Zaragoza, 1988).

One of the most stable findings in memory research is that when young children are asked open-ended questions (e.g., "What happened?"), they spontaneously recall less information than older children and adults. If their memories are prompted with more focused questions, research reveals that children who have no reason to lie tend to recall real-life events they have experienced quite accurately—as accurately as do older children or adults.

Are children highly suggestible? Modern research discloses that young children are more resistant to suggestive questioning than many adults believe. Researchers consistently find that children ten to eleven years old are no more suggestible than adults. Four to nine-year-olds are sometimes more suggestible than older children and adults. Even three-year-olds are not always more suggestible, although there appears to be a greater risk of suggestibility in very young children (Ceci, Ross, and Toglia, 1987; Goodman and Reed, 1986; Zaragoza, 1987; Zaragoza and Wilson, 1989).

Resistance to suggestion appears to be highest concerning the core aspects of events. Some evidence suggests that young children's labels for peripheral details and ambiguous events may be manipulated through strongly worded interrogation. But children's answers to specific questions about the event remain accurate (Clark-Steward, Thompson, and Lepone, 1989). Moreover, participation in an event, as opposed to mere observation, appears to lower children's suggestibility (Goodman, Rudy, Bottoms, and Aman, in press).

Could a young child fabricate a report of sexual abuse? Young children have little accurate knowledge of adult sexual activities and reproduction (Goldman and Goldman, 1982, 1988). Moreover, several studies have demonstrated that even under conditions of leading questioning, young children are not prone to sexual fantasy (Goodman and Aman, in press; Goodman, Rudy, Bottoms and Aman, in press). Although young children (e.g., three-year-olds) may at times indicate an affirmative answer to a leading question (e.g., nod their heads or say "yes"), most children have not been found to elaborate on their simple "yes" answers, or to fabricate detailed accounts of sexual abuse in response to such questions.

Even young children are capable of intentionally lying and misstating reality. However, intentional lying generally occurs in young children in order to avoid punishment. Moreover, unlike older children, young children tend to be unconvincing liars, and

adults can often detect young children's falsehoods (DePaulo, Stone, and Lassiter, 1985). Unless young children have been personally or vicariously exposed to adult sexual activity, they do not possess the knowledge to fabricate descriptions of such activity.

"Nor were the children required to testify in open court. They testified in the judge's chambers, and their testimony was shown to the jury on closed-circuit TV—a not uncommon arrangement at such child-abuse trials. . . . The defendant's constitutional right to face her accusers [was] denied in this trial, as in many of the other trials involving children's hearsay testimony."

Constitutional rights are not absolute, and may give way to competing interests. In its June 27, 1990 decision in *Maryland vs. Craig*, the U.S. Supreme Court, the final arbiter of constitutional issues, upheld the constitutionality of allowing selected children to testify via closed circuit television so that traumatized children do not have to face the defendant. The judge may not dispense with face-to-face confrontation on the generalized assumption that testifying is traumatic for all children. The judge must find solid evidence that a particular child would be traumatized, and that face-to-face confrontation would undermine the child's ability to communicate effectively in court.

Contrary to Ms. Rabinowitz's assertion, until now, videotaped testimony has rarely been used, for a variety of reasons: because most prosecutors prefer a live child witness in court, because most children are able to testify if sensitively dealt with prior to and during the trial, and because attorneys have been reluctant to request special procedures.

Conclusion.

Over and over again, Ms. Rabinowitz declares her utter disbelief in the allegations made by the children in this case. Repeatedly calling the children's allegations "fantastical," she asks at one point, "Who would have believed any of this? Surely no reasonable adult, no jury."

We know how she feels. In an article in V.3, n.1 of *The Advisor*, Jean Goodwin describes the problems even a highly experienced clinician may have believing the terrible stories victims hesitantly, fragmentedly tell. We may be able to help non-professionals give up their hostile incredulity by understanding that its source may be their desire to believe in a safe and orderly world. As other articles in this issue discuss, losing this belief is one of the most difficult results of working in this field. No one gives it up easily. If we acknowledge that believing the children—really believing them—may be deeply traumatizing, we may help others to acknowledge at least the possibility of belief.

We may also defuse the backlash by conceding that we don't know everything, that practice is not always perfect, that clinicians make mistakes and innocent people

are sometimes falsely accused. People always calm down and listen better when we admit that they have part of the truth. We may be able to impress our opponents further with our reasonableness by telling them that we belong to APSAC, a professional society dedicated to improving practice in the field.

But we don't have to roll over and play dead when our field and practice are attacked. We have a lot of right on our side. We hope this article helps make articulating and defending that right easier.

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