

PRACTICE Enhancing Children's Resistance to Misleading Questions During Forensic Interviews

—by L. Dennison Reed

In recent years, there has been a growing trend in cases of child sexual abuse to fault those who perform forensic interviews of children for their use of improper interview techniques and questions (Myers, 1992). A major front of this "attack on the interviewer" includes the premise that children are highly suggestible and are therefore easily led or, more accurately, "misled" by the use of improper questions to initiate or affirm false allegations of sexual abuse. More specifically, it is argued that false accusations of sexual abuse are easily elicited from non-abused children when they are asked misleading questions which erroneously imply that they were sexually abused.

Although there is some debate over which types of questions truly qualify as being "leading", it is generally agreed that questions which suggest certain information and tempt or pressure the child to agree with the suggested information are clearly leading. The question "Your daddy touched your pee-pee, didn't he?" is an example of a clearly leading question. When the suggested information is erroneous, such questions are more accurately labeled "misleading" questions.

Some have purported that because children are so suggestible, even "focused" and "direct" questions (i.e., questions which contain information about possible sexual abuse but which do not blatantly tempt or pressure the child to agree), are likely to mislead non-abused children to falsely claim abuse. Thus, focused and direct questions such as, "Did anybody ever touch your pee-pee?" have been targeted for attack as well. Consequently, children's affirmative statements of sexual abuse made in response to clearly leading questions as well as to direct and focused questions are arguably "highly suspect," and interviewers who utilize such questions can anticipate being criticized and challenged for this practice.

What Do We Know About Children's Suggestibility and Their Ability to Resist Misleading Questions?

Research indicates that suggestibility is not a "trait" that remains constant for an individual regardless of the circumstances (Saywitz & Snyder, 1993.) Children as well as adults are sometimes suggestible and susceptible to misleading questions. Suggestibility is an extremely complex, multiply-determined phenomenon. Situational factors relating to the interview context as well as memory factors influence the suggestibility of adults and children alike.

Overall, studies have not converged on a simple or linear relationship between age and suggestibility. Research has consistently shown that, by the time children reach 10 or 11 years of age, they are no more suggestible than adults (Cole & Loftus, 1987). However, studies of non-abused children as young as 4 to 7 years old have demonstrated that children in this

age-range were no more easily misled than older children to make false reports of abuse when asked misleading questions about a staged event such as, "He took your clothes off, didn't he?" (Goodman, et al., 1991). Also, a study of 72 non-abused 5 and 7 year old girls questioned about genital contact occurring during a medical exam revealed that such children were highly resistant to misleading abuse questions (Saywitz, et al., 1991). This study also revealed that "direct" questions focusing on genital touch (e.g., "Did the doctor touch you there?" pointing to the anatomical doll's vagina or anus) elicited few false reports of genital contact, i.e., 2.86% false reports of vaginal touch and 5.56% false reports of anal touch. Moreover, of the three children who erroneously responded "yes" to one of the direct questions concerning genital touch, two were unable to provide any elaboration whatsoever about the alleged genital touching when questioned further. Skilled forensic interviewers recognize that it would be entirely inappropriate to conclude that child sexual abuse had occurred based solely on an unelaborated singular "yes" response of this sort.

Thus, empirical studies which have investigated the effects of various types of abuse-focused questions have found that, while there is the "potential" for leading and direct questions relating to genital contact to elicit false reports from some non-abused children under certain circumstances, the proportion of children actually misled in this fashion was relatively small. Furthermore, the nature of the false reports of genital contact elicited in these studies generally would not lead prudent investigators to conclude that abuse had occurred, in the absence of other supporting evidence.

Although children are not necessarily more suggestible than adults in all situations, there do appear to be some age-related considerations concerning suggestibility. For example, very young children (particularly those under 4 years old) tend to be more vulnerable than older children and adults to "going along" with the interviewer's misleading questions and suggestions—even when such children realize the suggestions contained in the question are incorrect (King & Yuille, 1987; Saywitz, et al., 1991; Zaragoza, 1987). In such cases, the child's agreement with the false information proposed by the questioner is not attributable to the child's lack of memory for the event in question, but rather reflects a tendency on the part of some younger children to acquiesce to the "social demand features" of the interview context (King & Yuille, 1987). That is, a greater "status differential" exists between younger children and adults than exists between individuals who are more similar in regards to age, autonomy, authority, experience, and sophistication. And this "status differential" can contribute to the likelihood of lower status individuals (i.e., children) deferring to the authority and presumably greater wisdom of higher status individuals (i.e., adults). This

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was demonstrated in a recent study investigating the effects of misleading questions on pre-schoolers which revealed that 3-year-olds were more likely to acquiesce to misleading information when it was presented by an adult interviewer than when the same information was presented by a 7-year-old child (Ceci, Ross & Toglia, 1987).

Young children tend to view most adults as authoritative and as the controllers of rewards and punishments (Kohlberg, 1969). Consequently, children may sometimes agree with the erroneous suggestions contained in the adult's misleading question in order to please the adult or to avoid displeasing the adult—even when the child recognizes the adult's information is erroneous. Some children may be too fearful or intimidated to challenge or disagree with an adult, especially if the adult is authoritarian and unfriendly (Goodman, et al., 1991). Many children simply believe they are "not allowed" to challenge or correct an adult. One 7-year-old girl explained in a recent study on children's suggestibility, "I wouldn't tell the principal he's wrong!" (Moan, 1991). Indeed, children learn early in life that adults are smarter, more powerful, and the dispensers of rewards and punishments, and accommodating to the suggestions and authority of adults under normal circumstances is often entirely appropriate and adaptive—even when the adult's suggestions may be erroneous.

Suggestibility is an extremely complex, multiply-determined phenomenon. Situational factors relating to the interview context as well as memory factors influence the suggestibility of adults and children alike.

Furthermore, children who are uncertain of the accuracy of the information contained in the adult's question may acquiesce to the adult's suggestions based on the mistaken belief that adults are inherently more knowledgeable than children. Children may sometimes feel that any question by an adult requires a definitive answer and that an "I don't know" response is not an option (Raskin & Yuille, 1989). Children may also refrain from providing an "I don't know" or an "I don't remember"

response because they consider 'not knowing' to be a sign of failure (Moan, 1991). Consequently, such children may 'guess' the correct answer based on information contained in the question.

General Guidelines for Using Direct, Focused, and Clearly Leading Questions.

While it may be true that some individuals greatly exaggerate the degree to which children are susceptible to agreeing with the suggestions contained in misleading or direct questions regarding sexual abuse, it is entirely proper for critics of interviewing techniques to raise reality-based concerns about the potential for "contamination" (e.g., the elicitation of erroneous information) when such questions are used with children.

The use of clearly leading questions which blatantly coerce children to agree with the suggested information is not justifiable in forensic interviews. Although interviewers are also often cautioned about using "focused" and "direct" questions because of the potential for influencing and distorting children's accounts, banning their use altogether is not realistic or advisable (Saywitz, et al., 1991). Even the most skilled interviewers will sometimes ask direct and focused questions which may be construed as leading or misleading. Moreover, research relating to the disclosure process among sexually abused children as well as among non-abused 5 and 7 year olds questioned about genital contact occurring during a medical exam offers a compelling argument for the judicious use of direct and focused questions.

For years, experienced clinicians have recognized that sexually abused children are frequently quite reluctant to disclose their abuse. In his seminal article published a decade ago, Roland Summit eloquently articulated the plight of many sexually abused children who feel compelled to tolerate their abuse in silence due to their intense fears associated with its disclosure (Summit, 1983). The findings of recent empirical studies support what clinicians have been observing all along. For example, Sorenson and Snow's (1991) study of 116 confirmed cases of child sexual abuse revealed that 72% of the child-victims denied being abused when initially questioned. Although nearly all of the children (most of whom were in therapy) eventually disclosed their abuse, 70% first provided a minimized account of their abuse, and 22% later recanted their valid allegations of abuse. Similarly, Lawson and Chaffin (1993) found that the majority (57%) of a sample of pre-pubertal children diagnosed as having sexually transmitted diseases (which were, at the very least, extremely suggestive of sexual contact) denied any sexual contact when initially interviewed. The willingness of the children's caretakers to consider that sexual contact was a possibility was correlated with the children's willingness to reveal abuse.

Research has also shown that focused and direct questions are often necessary in eliciting accurate accounts of genital touching due to developmental factors as well as the reluctance of most children to spontaneously offer such information. For example, in Saywitz, et al.'s study (1991), only 22% of children who were touched vaginally and 11% of those touched anally as part of a medical exam admitted the genital touching when asked open-ended questions. In marked contrast, when the same children were asked direct, focused questions (i.e., "Did the doctor touch you there?", pointing to the anatomical doll's vagina/anus), 86% admitted vaginal touching and 69% admitted anal touching. Consequently, exclusive reliance on "open-ended" questions is highly likely to result in a gross underreporting of genital contact/sexual abuse. Such a stance is clearly not justified by the existing

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Forensic interviewers should be mindful that children can be misled in either direction — i.e., to make false accusations of abuse or to falsely deny or minimize abuse — and should attempt to structure their questions accordingly.

relevant empirical research and would most likely result in the failure to identify and protect a large proportion of sexually abused children.

APSAC's Guidelines for Psychosocial Evaluation of Suspected Sexual Abuse in Young Children (1991) recommend that initial questioning should be as non-directive as possible to elicit spontaneous responses and, if open-ended questions are not productive, more directive questions should follow. Furthermore, APSAC's "Guidelines" state that highly specific questioning should only be used when other methods of questioning have failed, when previous information warrants substantial concern, or when the child's developmental level precludes more non-directive approaches. However, responses to these questions should be carefully evaluated and weighed accordingly. Thus, although direct and focused questions may be potentially misleading in some situations, their use is often justifiable and necessary.

Although it is conceivable that non-abused children may occasionally be misled to falsely claim abuse, it is probably much more likely that sexually abused children can be misled to minimize, deny, or recant their abuse. Given that sexually abused children are often predisposed to deny and minimize their abuse (Sorenson & Snow, 1991; Lawson & Chaffin, 1993), it is probable that misleading questions which erroneously imply the absence of abuse or a minimized version of abuse may be particularly influential in eliciting false denials, minimizations, and recantations from sexually abused children. Therefore, forensic interviewers should be mindful that children can be misled in either direction — i.e., to make false accusations of abuse, or to falsely deny or minimize abuse — and should attempt to structure their questions accordingly.

Strategies for Enhancing Children's Resistance to Misleading Questions.

For the most part, procedures aimed at reducing children's susceptibility to misleading questions focus on reducing the "status differential" between the child and the adult interviewer and providing the child with a clear understanding of what is expected and desired of the child during the interview task. By making the child as comfortable as possible and encouraging the child to be assertive with the adult interviewer, the child is empowered and is better able to resist misleading by the interviewer. Furthermore, once the child understands that providing reliable testimony is what the interviewer desires, the child's tendency to say things to "please" the interviewer becomes an asset rather than a liability.

For several years, highly skilled and innovative

forensic interviewers, such as Detective Rick Cage of Wheaton, Maryland, have been working on the front lines at developing practical procedures for enhancing the reliability of children's statements in child sexual abuse cases (personal communications, 1991-1993). Several of the strategies pioneered by Detective Cage and others appear to be quite promising and useful in enhancing children's resistance to misleading questions during forensic interviews. Recently, distinguished researchers in the fields of child development and child sexual abuse, (e.g., Karen Saywitz, Gail Goodman) have been empirically studying the effectiveness of various methods aimed at enhancing the reliability of children's statements and reducing their susceptibility to misleading questions.

The strategies that are described below have been utilized experimentally by experienced forensic interviewers and represent those which appear to have practical utility and "face" validity. As a psychologist, I have found these strategies to be useful in enhancing children's resistance to misleading questions during psychosocial evaluations in cases of suspected sexual abuse. One of these strategies in particular (i.e., #7) has also been effective in rehabilitating children's credibility when it has been attacked on the grounds that the child's allegations were a product of leading questions and are, therefore, unreliable. As noted below, several of the suggested strategies have been empirically studied and validated in situations which more or less mimic the forensic interview. The reader should be cautioned, however, that research in this area is extremely complex and is still incomplete in many respects. Therefore, some of the suggested strategies, while appearing useful, will require further empirical study and validation before we can be confident in their efficacy in this regard. In addition, the suggested strategies require varying degrees of interviewing skill and clinical judgement and should be perfected before being attempted in actual forensic interviews. Strategies of this sort are potentially dangerous in the hands of those who are not skilled and knowledgeable in the performance of forensic interviews in cases of suspected child sexual abuse, and they are not intended for individuals who lack expertise in this area.

1. Be friendly rather than authoritarian with the child. Research by Goodman, et al. (1991) has shown that 3 and 4 year-olds who were interviewed by an adult who acted "friendly" (i.e., smiled, complimented the child, gave the child cookies) were more resistant to misleading abuse-related questions than same-aged children who were interviewed by an "unfriendly" adult (i.e., who rarely smiled, did not compliment the child or give the child a snack). When the interviewer develops rapport with the child by being friendly and empathic, the child is less likely to feel too intimidated by the status differential to resist the adult interviewer's misleading questions. Of course, caution should be exercised so that certain responses

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by the child are not being selectively reinforced, i.e., smiling only when the child provides responses affirming abuse.

2. Explain to the child that you are naive, especially regarding the facts of the case. Because children sometimes mistakenly presume that adults inherently know more than children, there is a risk that a child may acquiesce to the adult's misleading questions even though the adult's suggestions directly contradict the child's memory of the event in question. In a series of studies of children's suggestibility, Saywitz and Snyder (1993) found that 7 year olds were more likely to resist misleading questions when they were told to trust their own memories because the interviewer was not knowledgeable about the event in question as he wasn't present when it occurred. Therefore, interviewers can minimize children's resistance to misleading by stating to the child something like:

By making the child as comfortable as possible and encouraging the child to be assertive with the adult interviewer, the child is empowered and is better able to resist misleading by the interviewer.

"I wasn't there, so I don't know what happened. I need your help to learn about what happened."

Detective Cage often uses what he refers to as the "Colombo approach" when interviewing children wherein he portrays himself as being generally uninformed, quite puzzled, and needing the child's help. This approach encourages the child to 'educate' the apparently naive interviewer.

3. Advise the child that if questions are repeated, this does not mean the child's previous response was incorrect. Sometimes forensic interviewers ask children the same question more than once. This may be unintentional, as when the interviewer forgets that the question was previously asked and answered, or it may be deliberate, as when the interviewer is attempting to assess the child's consistency in responding. In either case, children may be misled by repetitive questions, especially when the questions are repeated verbatim.

When questions are repeated, children may infer that their initial response was incorrect or displeasing to the interviewer. As a result, children's confidence in their earlier response may be undermined, and they may then provide an alternate response. Or, some children who remain confident in the accuracy of their earlier response may still feel pressured to alter their subsequent response to avoid displeasing the interviewer — particularly if the interviewer is intimidating.

In order to minimize the likelihood of children being misled by repetitive questions, the interviewer is advised to rephrase questions which are repeated and to explain that questions will not be repeated because the child's initial response was wrong or

undesirable. Empirical research has shown that when children understand that the interviewer is not repeating questions because the child's earlier answers were incorrect, children are less likely to change an answer they know to be correct in order to appease the interviewer. I use instructions similar to the following to reduce the potentially misleading effects of repeated questions:

"Sometimes I might forget what I already asked you. So I might ask you the same question again and again. If I ask you the same question more than one time, it's not because you gave me the wrong answer the first time. It's just because I forget sometimes. So you just keep giving me the answer you know is right even if I ask the same question again and again, okay?"

4. Give the child permission to decline answering questions that are too difficult to discuss at the moment. For a child who has been sexually abused, certain aspects of the abuse may be too embarrassing or frightening for the child to discuss at a particular moment. Consequently, the child may be unwilling to volunteer this information and may take refuge in denying or minimizing the abuse - especially when asked misleading questions which imply the absence of abuse or which minimize the abuse. Thus, when misleading questions of this sort are asked, the embarrassed or frightened child may avoid the topic of abuse and the concomitant distress it provokes by agreeing with the interviewer's suggestion that "nothing" or "nothing else" happened. Therefore, it is important to enable the child to avoid discussing aspects of the abuse that are too frightening, embarrassing, or painful to talk about at the time, while still attempting to elicit as much factual information as possible. Instructions such as the following can be helpful in this regard:

"If you do not want to answer some of the questions right now, you don't have to. Just tell me 'I don't want to answer that question right now' if it is too hard to talk about at the moment."

It can be counterproductive to overemphasize the point that the child need not tell you everything at the moment because a child may opt to avoid talking about the abuse altogether. As always, the interviewer's sensitivity to the child's predicament and the interviewer's judgement about the child's ability to tolerate a discussion about certain topics related to abuse are the key determinants in how and whether this strategy is used. When a child is given permission "not to talk" about aspects of the abuse that are too distressing this can, paradoxically, result in the child being more willing and able to disclose such abuse. By giving such permission, the interviewer is communicating a sensitivity to the child's predicament and empowering the child with choices about the direction of the interview. Consequently, the child may then feel a sense of control and may feel "safe enough" to

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discuss material that would otherwise be too threatening or embarrassing to discuss.

5. Encourage the child to admit lack of memory or knowledge rather than guessing. Sometimes children presume that any question asked by an adult requires a 'definitive' answer. (Raskin & Yuille, 1989) Children may also have been encouraged to 'guess' answers to questions in certain situations rather than admit ignorance, i.e., games, school, etc. Consequently, when they do not know or remember the correct answer, children will sometimes 'guess' the answer. If a question is leading, the child may answer by affirming the information suggested by the question. When such questions are misleading, the child may answer by affirming the erroneous suggestion contained in the question.

Dr. Karen Saywitz recently described a strategy which has been incorporated into the "modified cognitive interview" which appears to reduce the likelihood that children will guess answers to questions (Saywitz, 1992) I use similar instructions to discourage children from guessing answers to questions, such as the following:

If the child continues to agree with the interviewer's misstated information despite concerted efforts to get the child to correct the interviewer's "mistakes," the interviewer should be concerned about the child's attentiveness and vulnerability to suggestion.

"Nobody knows everything, do they? I'll be asking you lots of questions today. Some will be easy and some will be hard. Sometimes you may not know for sure what the right answer is. Maybe you forgot or you just don't know. If you don't know what the right answer is for sure, please don't guess an answer. Only tell me what you really know for sure and what you really remember. If you don't know the answer or if you forget, just say 'I don't know,' or 'I forget,' because that's the right answer."

Research and clinical experience have shown that mere instructions of this sort have a limited effect unless they are accompanied by practice or role-playing with the child (Saywitz & Snyder, 1993). Therefore, it is critical that this concept is role-played with the child and that the child is praised for admitting "I don't know" at the appropriate times. The child should also be given corrective feedback if she/he 'guesses' answers. The interviewer may role-play this concept by asking the child about things the child has no knowledge or memory of, such as:

"How old am I?"

"What is my wife's name?"

"How many hairs are on your head?"

"What did the doctor say to your mommy the day you were born?"

While it is important to discourage guessing by the child, research and clinical experience have

shown that there is a risk that the child may overgeneralize the "I don't know" response if the interviewer overemphasizes this response set (Saywitz & Snyder, 1993). Therefore, the interviewer should take care to encourage the child to be selective in using the "I don't know" response and to provide definitive answers when the child knows what the correct answer is.

6. Encourage the child to admit confusion rather than guessing. Sometimes children do not understand the interviewer's question and may 'guess' what the question means and respond accordingly. When the confusing question is a misleading question, the child is likely to respond based on the erroneous suggestion that is contained in the question. Studies by Saywitz and Snyder (1993) have shown that sensitizing children to the possibility that the interviewer may ask confusing questions, and role-playing appropriate assertive responses to be used by the child when he/she is confused can reduce the risk of guessing. Instructions similar to the following, when accompanied by role-playing, can discourage guessing when the child is confused:

"Some of the questions I'll be asking you will be tricky and they might get you mixed up because they get lots of people mixed up. I need your help so I don't get you mixed up. If I ask you something that makes you get mixed up, please just say, 'Huh?' or 'I don't know what you mean'. Then I'll say the question with new words to help you understand."

This strategy should be role-played with the child and the child should be praised for appropriately admitting confusion and for not guessing. Also, corrective feedback should be given to the child if the child guesses or fails to admit confusion. Questions such as the following can be used to assess and facilitate the child's willingness to admit confusion:

"If in is around, what is out?"

"When Mickey Mouse was little and Donald Duck was big, what did the Ninja Turtles see in the swimming pool on top of the car?"

"How many gazintas are there in a babalooza?"

7. Encourage the child to disagree with you and to correct you when you misstate the facts. Disagreement and correction demonstrate that the child has a clear grasp of the facts, is not responding unthinkingly, and is willing to be assertive with the interviewer when the interviewer makes mistakes (Myers, 1992 pp.49-50). Of the various strategies described in this article, encouraging children to disagree with the interviewer's incorrect statements requires the highest level of clinical judgement and sophistication. Therefore, this strategy in particular is not recommended for interviewers lacking in experience or training. The following instructions and role-playing exercises should occur prior to and separate from abuse-specific questioning:

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"Sometimes I get mixed up and say the wrong thing. I need your help so I don't say the wrong thing. If I do say the wrong thing, will you please tell me? Just say 'That's not right,' or, 'You made a mistake'. Okay?"

Again, research has shown that mere instructions of this sort have a limited effect unless they are accompanied by practice or role-playing with the child. Therefore, prior to abuse-specific questioning, the interviewer should deliberately misstate information which the child knows for certain to be incorrect. Such deliberately misleading questions should be relatively innocuous and should not be specific to the alleged abuse as this may contaminate

the child's statements. For example, the interviewer might ask the deliberately misleading question, "Is your sister's name Mary?" to a child who has no sister and has already told the interviewer of this. Or, the interviewer may point to a picture of Mickey Mouse and say to a child who has already correctly identified Mickey Mouse, "No, that's Donald Duck, isn't it?" Several deliberately misleading questions of this sort should be asked and the child should be praised for "catching" the interviewer's mistakes and for "correcting" the interviewer.

If the child initially "goes along" with the erroneous information contained in the interviewer's deliberately misleading questions, it may be helpful to bring this to the child's attention and to further encourage the child to "listen very carefully" for the interviewer's mistakes and to correct the interviewer when such mistakes are made. If, in fact, the child continues to agree with the interviewer's misstated information despite concerted efforts to get the child to correct the interviewer's "mistakes," the interviewer should be concerned about the child's attentiveness and vulnerability to suggestion. The interviewer should then take steps to heighten the child's attention and should be extremely cautious about using potentially misleading questions with such a child.

Since the defense often argues that children are inherently highly suggestible, it can be invaluable to demonstrate that the child whose testimony is in question was able to resist non-abuse-related misleading questions during the same forensic interview in which abuse was alleged. While the child's demonstrated resistance to non-abuse-related misleading questions does not "prove" that the child was also resistant to abuse-related misleading questions, it can go a long way in countering the argument that the child in question yielded to the interviewer's questions suggesting abuse because "children as a class" are so easily misled by interviewers. Such evidence

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can also be quite helpful in establishing indicia of reliability in the context of exceptions for hearsay statements.

Conclusion

There is little empirical support for the notion that children are easily misled to falsely claim sexual abuse. Nevertheless, forensic interviewers are strongly encouraged to take reasonable steps to minimize the risk of misleading children either to falsely claim abuse, or to minimize, falsely deny, or recant their abuse. The strategies for enhancing children's resistance to misleading questions discussed in this article have been used in forensic practice and appear to be promising. Although empirical study of the suggested strategies is not complete, findings thus far are encouraging. Significantly, such strategies may serve not only to enhance children's resistance to misleading questions, but to enhance the perception of children's credibility by the triers of fact. When the interview is attacked on the grounds that the child was misled by the interviewer to falsely claim abuse, the use of these strategies may make the forensic interview more defensible.

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