

# Misconceptions about childhood sexual abuse and child witnesses: Implications for psychological experts in the courtroom

Rachel Zajac<sup>1</sup>, Maryanne Garry<sup>2</sup>, Kamala London<sup>3</sup>, Felicity Goodyear-Smith<sup>4</sup>, and Harlene Hayne<sup>1</sup>

<sup>1</sup>Department of Psychology, University of Otago, Dunedin, New Zealand

<sup>2</sup>School of Psychology, Victoria University of Wellington, New Zealand

<sup>3</sup>Department of Psychology, University of Toledo, OH, US

<sup>4</sup>Department of General Practice & Primary Health Care, University of Auckland, New Zealand

Recent changes to the law in New Zealand have led to a marked increase in experts being called to give evidence in cases of alleged child sexual abuse. Here we outline some of the common misconceptions that are held by expert witnesses in these cases and we review research on patterns of abuse disclosure and retraction, symptoms of abuse, external influences on children's reports, and experts' ability to distinguish true from false reports. We also consider what experts *can* say about memory that has relevance for these cases. We conclude that many long-held notions of child sexual abuse and children's testimony that make their way into our courtrooms are not supported by empirical research, raising questions about who is—and who is not—qualified to act as an expert witness.

**Keywords:** Expert witnesses; Children's testimony; Sexual abuse.

Recent changes to the law regarding expert witnesses in New Zealand have led to more and more experts being called in cases of child sexual abuse. As of 7 July 2010, the New Zealand Evidence Act 2006 introduces the idea that, for expert testimony to be allowed, it must pass a new “substantially helpful” test. That is, expert testimony “is admissible if the fact-finder is likely to obtain substantial help from the opinion in understanding other evidence in the proceeding or in ascertaining any fact that is of consequence to the determination of the proceeding.”

The Evidence Act covers experts from a range of different disciplines, but our focus here involves expert opinion proffered by psychologists in cases of suspected sexual abuse involving

children. In New Zealand the opinions expressed by psychological experts often go unchallenged and their views are highly influential. Unfortunately some of these opinions promulgate misconceptions about the way in which children may or may not disclose sexual abuse; they also promulgate misconceptions about the accuracy of children's testimony and the ability of experts to evaluate that accuracy. These misconceptions are not unique to New Zealand but are exacerbated here by the fact that this country is small and a few voices can capture the legal fraternity and judiciary. They are also exacerbated by the assumption, again not unique to New Zealand, that “experts” are people engaged in clinical practice rather than the psychological scientists

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Address correspondence to: Harlene Hayne, Psychology Department, University of Otago, P. O. Box 56, Dunedin, New Zealand.  
E-mail: [hayne@psy.otago.ac.nz](mailto:hayne@psy.otago.ac.nz)

who are conducting the research on which practitioners are taught to rely. But these problems do not stop at the New Zealand border: New Zealand court cases can influence cases in other Commonwealth jurisdictions. In this paper we review some of the common misconceptions that some experts hold—and communicate to police, to judges, and to the jury—in cases of alleged sexual abuse of children.

### **EXPERT OPINION REGARDING CHILD SEXUAL ABUSE ACCOMMODATION SYNDROME (CSAAS)**

Sometimes experts are called to proffer an opinion about a child's disclosure or retraction of an allegation of abuse. Are their opinions substantially helpful? There are widespread assumptions—even among many experts—that sexually abused children are reluctant to report their abuse even when they are questioned directly, and that many abused children undergo a cycle of disclosure and retraction. These assumptions were initially popularised by the publication of psychiatrist Roland Summit's 1983 highly influential paper "Child Sexual Abuse Accommodation Syndrome" (CSAAS; Summit, 1983; see also Summit, 1992). Based on observations of his adult psychiatric patients during the 1970s, Summit argued that responses to child sexual abuse fall into two categories: psychological and behavioural. The psychological responses include fear, self-blame, and accommodating the abuse. The behaviours, driven by the psychological responses, include working to keep the abuse secret, denying that it ever happened when asked about it, and recanting earlier disclosures. The basic principles of CSAAS are that, because the experience of sexual abuse causes children to experience shame, guilt, and fear, sexually abused children will take a long time to tell anyone about their abuse. Even when questioned they may deny they were abused, but with repeated questioning they will slowly divulge the details. An additional tenet of CSAAS is that sexually abused children often recant their earlier disclosures, but with enough support they may reinstate their original disclosure.

CSAAS initially entered the courts in the late 1980s. In many trials the prosecution used the assumptions inherent in CSAAS to introduce "evidence" that specific children had been abused—even in the face of nondisclosure or

recantations. Unfortunately there is no scientific evidence of a syndrome-like cluster of symptoms or patterns of disclosure among abused children. A systematic review of clinical evidence from several thousand children has shown that no cluster of symptoms reliably distinguishes abused from non-abused children, and about a third of abused children are asymptomatic (Kendall-Tackett, Williams, & Finkelhor, 1993). In fact Summit subsequently modified his original conceptualisation, regretting his use of the term "syndrome" in the first place. Because CSAAS was based solely on his clinical opinion and was not research based, Summit said that it should not be used as support that abuse had occurred (Summit, 1992).

Many jurisdictions in the United States have now adopted the view—at least on the face of it—that the principles of CSAAS should not be used in forensic settings. For instance, the Supreme Court of Florida ruled that CSAAS does not pass the Frye standard of admissibility (Supreme Court of Florida, 1997). The court said it would no longer accept testimony from a psychologist who argued that complainants who exhibit symptoms consistent with that syndrome must have been sexually abused. At about the same time, New Zealand Queen's Council John Rowan and clinical psychologist Barry Parsonson published a paper in the *New Zealand Law Journal* in which they argued that CSAAS has not been scientifically proven, and they pointed out that US courts were increasingly ruling it as inadmissible evidence (Rowan & Parsonson, 1997). The authors concluded that law practitioners should guard against the introduction of evidence of delayed or denied disclosure being considered a hallmark of child sexual abuse, and should refer to the scientific literature in rebuttal, should such evidence be allowed.

Despite this cautionary tale CSAAS still winds its way into New Zealand courtrooms. Take, for example, the CSAAS-inspired idea that sexually abused children often delay telling someone about their abuse. As a way of circumventing the proscription against CSAAS testimony, some experts assert that, because most laypersons do not understand that delayed disclosure is common, "counterintuitive" expert testimony is necessary to disabuse jurors of their misconceptions. The notion of counterintuitive evidence was defined by the New Zealand Law Commission (1999, p. 67) as evidence intended to:

...correct erroneous beliefs that juries otherwise hold intuitively. That is why such evidence is sometimes called 'counter-intuitive' evidence: it is offered to show that behaviour a jury may think is inconsistent with claims of sexual abuse is not or may not be so; that children who have been sexually abused have behaved in ways similar to that described of the complainant; and that therefore the complainant's behaviour neither proves or disproves that he or she has been sexually abused.

There are at least two problems with counter-intuitive expert testimony about children's delayed disclosure. First, most laypeople already believe that abused children tend to be reluctant to tell someone about their abuse, and therefore delay doing so (Kovera & Borgida, 1997; Morison & Greene, 1992). In one recent study, Quas, Thompson, and Clarke-Stewart (2005) interviewed 169 undergraduates and 148 (released) jurors in California and found that the overwhelming majority agreed with the statement that children who are sexually abused may not tell right away (84%)—indeed, only 9% disagreed. Put another way, only 9% of people held the "counterintuitive" belief. Therefore, expert testimony about delayed or non-delayed disclosure merely tells jurors what they already believe and is therefore not counterintuitive (nor, on the face of it, substantially helpful).

The second problem is that this counterintuitive testimony is often inaccurate or incomplete because it does not fit with the research. In fact, research suggests strongly that children typically do *not* engage in many of the behaviours inherent in CSAAS. In two large-scale reviews London and colleagues (London, Bruck, Ceci, & Shuman, 2005; London, Bruck, Wright, & Ceci, 2008) examined the empirical support for CSAAS. Using two approaches, both reviews addressed the issue of children's delayed disclosure of abuse. In the first approach the authors examined studies where adults who retrospectively reported being sexually abused as children remembered back to their childhood, and indicated if and when they ever told anyone about their abuse. In the second approach the authors examined studies of children who were being treated (or assessed) for sexual abuse.

London et al. (2005, 2008) identified 13 studies in which adults were asked whether they experienced sexual abuse as children and, if so, whether they ever disclosed the abuse to anyone during

childhood. The results were very consistent: on average only one-third to one-half of the adults remembered disclosing the abuse during childhood. These data, while subject to the limitations present in any retrospective study, support the view that sexually abused children are often silent about their victimisation and delay disclosure for long periods of time. Although these studies are informative on the issue of delay of reporting, the data are silent on issues of denial and recantation by sexually abused children because the adults in these studies were never asked, "As a child, did anyone ever ask you if you were abused?" In particular these data do not tell us how often children who come to the attention of authorities disclose abuse or deny and recant their allegations.

To illuminate this issue London et al. (2005, 2008) identified 24 studies that examined rates of denial and recantation by children who were being assessed or treated for suspected sexual abuse. The rates of denial at assessment interviews were highly variable (4% to 76%) as were the rates of recantation (4% to 27%). But the highest rates of denial and recantation were associated with studies that drew on samples from high profile cases—cases in which leading and suggestive interview techniques had cast serious doubt on the validity of the allegations (e.g., Gonzalez, Waterman, Kelly, McCord, & Oliveri, 1993; Sorenson & Snow, 1991; for details see London et al. 2005, 2008). For the six studies that reported data from high-probability abuse cases, the average rate of denial was only 14%, and the average rate of recantation was only 7%. So, among populations of children presenting for forensic evaluation, those who have been sexually abused do not usually deny when directly asked about it, nor do they typically recant the details of their abuse. Thus, although many sexually abused children may not spontaneously disclose their abuse shortly after it occurs, most children who undergo structured forensic interviews are already telling and continue to tell.

Of course, truly abused children who are reluctant to disclose their abuse also come before forensic interviewers (Pipe et al., 2007). Delayed or false denials of abuse may occur for social or motivational reasons (such as fear) as well as for cognitive reasons (such as a failure to recognise abuse as such or a failure to remember the abuse due to developmental immaturity). But despite Summit's theory that sexually abused children typically display such a pattern, denial and

retraction during formal investigation appear to be the exception rather than the rule.

One final problem with the CSAAS-type counterintuitive evidence is that non-abused children may show very similar patterns during an extended assessment of abuse. That is, sometimes children who deny abuse do so because they were not abused. For example, a child might show some concerning behaviour (e.g., sexual behaviour) for reasons that have nothing to do with sexual abuse, or a concerned parent's suspicions about another adult might be completely wrong. Non-abused children may at first deny abuse but with time and continued pressure, they may come to make allegations.

In New Zealand some psychologists testify that children typically “progressively” or “incrementally” disclose abuse—but there is no good evidence for this claim. The notion of these “halt-ing” disclosures is misleading for several reasons. First, young children generally do not recount events of their lives in spontaneous well-developed narratives, including narratives about events such as a trip to Disneyland or other non-traumatic events (Reese et al., 2011) and possibly including sexual abuse (there are no scientific studies on these issues for disclosure of sexual abuse). Second, piecemeal disclosures may also characterise the accounts of children who make false allegations. Under experimental conditions, for example, children may offer a few bits of information in response to leading or suggestive questioning techniques, but with time and encouragement and additional questions, they begin to expand and embellish their narratives (e.g., Ceci, Huffman, Smith, & Loftus, 1994; Gross, Hayne, & Poole, 2006).

In summary, some psychologists proffer CSAAS-type evidence under the rationale that it is counterintuitive, but the evidence suggests that, in addition to not being counterintuitive, much of that evidence is unsupported at best—or contradicted at worst—by the scientific literature. Put simply, how children do or do not behave (including towards a person who is accused of abusing them) should not be taken as evidence as to whether or not sexual abuse occurred.

## **EXPERT OPINION ABOUT CHILDREN'S TESTIMONY**

In addition to children's symptoms and their pattern of disclosure, most cases of sexual abuse rise or fall on what the child says during the

investigative interview and during the trial. In this context a number of myths about children's testimony make their way into the courtroom. Although some jurors (and possibly some judges) bring their own misconceptions to the courtroom, other misconceptions are introduced or reinforced via opinions proffered by experts.

### **Misconception 1: The more detailed the testimony, the more accurate it is likely to be**

It is well recognised that the decision makers in legal investigations typically use the level of detail in a witness's account as a proxy for accuracy—so when children provide a highly detailed account, the natural assumption is that they are telling the truth. Mock jurors, for example, often equate level of detail with accuracy (Bell & Loftus, 1985, 1989; Klettke & Powell, 2011). Level of detail is also a crucial aspect of Criteria-Based Content-Analysis (CBCA), a method that has been used in an attempt to evaluate the accuracy of a witness's statement. CBCA is based on the Undeutsch hypothesis: that true and false accounts will differ in both quantity and quality (Undeutsch, 1967). According to CBCA criteria accurate accounts contain substantially more details than inaccurate ones. In fact 80% of the first 37 published studies using CBCA found that true reports contained more detail than deceptive ones (Vrij, 2005).

On the surface these data appear to support the view that detail is a proxy for accuracy, but there is more to the story than meets the eye. Specifically, these early studies of CBCA tended to focus on witnesses who were deliberately trying to mislead. In cases involving children, the children might actually believe what they are saying is true even though in reality their account has been tainted by suggestive influences. Although there is far less evidence about the accuracy of CBCA when it comes to suggested accounts, some data indicate that suggested accounts include just as many details as true ones (e.g., Porter, Yuille, & Lehman, 1999). This finding is highly consistent with a large body of laboratory-based research showing that children's false accounts (which they presumably believe) contain a high level of detail (e.g., Gross et al., 2006; Principe & Schindewolf, 2012). Furthermore, even in studies that report differences in the quantity of details between true and deceptive accounts, the data are based on group differences, which hold little meaning in a

forensic setting, where accuracy must be predicted on the basis of testimony provided by an individual.

Although most professionals now recognise that children's accounts can be tainted by misleading questions and exposure to misinformation, many still hold the misconception that the only time children will actually report false details is when they are asked specific questions; in other words, despite the negative effects of other influences, children's free recall accounts will remain highly accurate. Contrary to this misconception, we now know that after repeated suggestions over a long period of time children can give convincing, detailed accounts of events that never occurred, even when asked "gold standard" free recall questions (e.g., Erdmann, Volbert, & Bohm, 2004; Poole & Lindsay, 2001).

Furthermore, false reports can develop in the absence of multiple suggestive interviews. In fact, a single presentation of misinformation can be sufficient to taint children's reports (Ackil & Zaragoza, 1995; Ceci, Ross, & Toglia, 1987; Garven, Wood, & Malpass, 2000) and one suggestive interview can be as damaging as two or more (Marche, 1999; Melnyk & Bruck, 2004). Even in the absence of suggestive interviews, children who have been exposed to suggestive influences outside of the interview context can make highly elaborate false reports, even in response to open-ended prompts (see Principe & Schindewolf, 2012, for a review).

In sum, although jurors are often impressed by a high level of detail in a child's account, they rarely consider how those details got there in the first place. Yet there is ample evidence that children can provide abundant detail about events that never actually happened (see below). As Erdmann and colleagues (2004, p. 607) point out: "focusing on a given statement without examining whether there have been suggestive influences beforehand can be a dangerous enterprise." Despite these cautions, many expert witnesses in New Zealand continue to testify that detail is a sign of accuracy (e.g., Eichelbaum, 2001).

### **Misconception 2: Children easily differentiate something they heard from something they experienced**

In most cases of suspected sexual abuse involving children, the child has been exposed to multiple

sources of information prior to coming to court. The child might have discussed the events in question with a number of different conversational partners including parents, friends, police officers, social workers, forensic interviewers, and therapists. Thus the jury is often forced to decide whether the child is reporting something that actually happened or something he or she has been told or overheard. When providing their opinion, experts often make comments about whether these other sources of information could have tainted the child's account.

In the same way that we often overestimate our own ability to differentiate what we have heard from what we have experienced, expert witnesses and jurors often make some fallacious assumptions about a witness's ability to differentiate between these two different sources of information. Errors such as confusing things that we read, heard, or dreamed about with things that we actually experienced happen to the best of us (Johnson, Hashtroudi, & Lindsay, 1993). This situation becomes all the more complicated in a case of suspected sexual abuse because children are often exposed to conversations or directly questioned about the alleged event prior to giving their evidence.

What is the potential impact of all of this informal questioning and information sharing on the content of the children's subsequent evidence? A large body of published research shows that young children are highly susceptible to the negative effects of suggestions, particularly when suggestions occur after a delay (Ackil & Zaragoza, 1995; Holliday, Douglas, & Hayes, 1999; Marche, 1999), when details are suggested repeatedly (Melnyk & Bruck, 2004), when the interviewer appears knowledgeable about the events (Lampinen & Smith, 1995), when an air of accusation is established (Leichtman & Ceci, 1995; Lepore & SESCO, 1994), when the child is led to believe that others have already reported the details in question (Garven, Wood, Malpass, & Shaw, 1998), and when multiple conversations with multiple sources of contaminating information proceed unchecked (Poole & Lindsay, 2001; Principe & Ceci, 2002).

While most of the research published to date has involved deliberate questioning or deliberate exposure to additional information, a more recent body of research has also shown that simply overhearing a conversation about an event can lead children to falsely report that event as if it happened to them. In this line of research, some

children experience an event. Other children do not experience the event, but rather passively overhear about it through conversations between adults or through conversations between their peers in the classroom. The conversations that children overhear are structured in such a way that some of the information they overhear is correct, while other information is completely fictitious.

For example, a series of studies using this basic experimental procedure has now shown that children who overhear conversations about an event are as likely to report the event during a formal interview as children who actually experienced it (see Principe & Schindewolf, 2012, for a review). Children who simply overhear adults or children talking about a fictitious event spontaneously give detailed reports of the (fictitious) event, even when they are asked free-recall questions. When specifically probed, children who simply overhear the conversation claim to have actually seen the fictitious event. Children report information that they have overheard even when it conflicts with something they have actually experienced, or when they are specifically warned that any information they might have overheard is false. Children will even start rumours themselves based on inferences about an event; these child-generated rumours are subsequently incorporated into the reports provided by peers from the same classroom.

In summary, while there will undoubtedly be cases in which children are intentionally deceptive when recounting their experiences, a more pressing concern is that children will confuse the source of the information that they report, reporting incorrect information as if it happened to them. The findings described above make it clear that even subtle suggestive influences can exert marked negative effects on children's reports. Given that it is often difficult to know what sources of information children have been exposed to, this issue poses a considerable problem for fact-finders seeking to evaluate children's accounts.

### **Misconception 3: Experts can make valid assessments of the accuracy of children's reports**

Trials involving child witnesses often boil down to a battle of expert witnesses. Each side mounts

their expert who provides his or her professional opinion on factors affecting the likely accuracy of the child's account. Jurors place considerable weight on experts' opinions when making their own decisions (Crowley, O'Callaghan, & Ball, 1994; Gabora, Spanos, & Jaob, 1993; Kovera, Levy, Borgida, & Penrod, 1994).

Despite the trust jurors place in the opinions of experts, a number of different lines of research cast doubt on experts' ability to accurately evaluate a child's evidence. For example, multiple experts do not always judge similar cases in similar ways. Horner, Guyer, and Kalter (1993) presented experienced clinical psychologists, social workers, and other developmental specialists with details of a case of alleged interfamilial abuse of a 3-year-old girl, and asked them to rate the likelihood that the abuse had occurred. The estimates varied widely, from certainty that no abuse occurred, to certainty that it had.

Laboratory-based research allows us the luxury of knowing which aspects of children's accounts are correct and which are not. In these kinds of studies adults typically have considerable difficulty evaluating the truthfulness of accounts from children (Ball & O'Callaghan, 2001; Block et al., 2012; Laimon & Poole, 2008; Leippe, Manion, & Romanczyk, 1992; Qin, Ogle, & Goodman, 2008) or from adults reporting childhood events (Ost, Vrij, Costall, & Bull, 2002; Schooler, Gerhard, & Loftus, 1986). Even the ability of experts to discern true from false reports is uniformly poor; in many instances professionals are no better than chance and some are reliably worse (Bond & DePaulo, 2006; Ekman, O'Sullivan, & Frank, 1999; Erdmann et al., 2004; Kassin, Meissner, & Norwick, 2005; Leichtman & Ceci, 1995; Vrij & Mann, 2001).

Despite the fact that they are not accurate in their judgements, experts are often highly confident in their ability to sort fact from fiction (e.g., Brigham & Spier, 1992; DePaulo & Pfeifer, 1986; Kohnken, 1987; Leach, Talwar, Lee, Bala, & Lindsay, 2004). For example, Brigham and Spier (1992) reported that 76% of police officers and 79% of child protection workers believed they could usually tell if a child's statement was truthful. Unfortunately people's confidence in their ability to discriminate true and false accounts is not significantly related to their actual ability to do so (Nysse-Carris, Bottoms, & Sale-rno, 2011).

In conclusion, research suggests that when experts evaluate the information elicited during

children's investigative interviews a perfect storm brews: (1) experts are confident that they can accurately distinguish true from false reports, (2) experts actually cannot reliably draw this distinction, and (3) experts' testimony has a considerable effect on jurors. As much as experts, judges, lawyers, or police officers might like to think (or testify) otherwise, no one is a walking lie detector test.

### THE POTENTIAL ROLE FOR MEMORY EXPERTS IN THE COURTROOM

Given that much of the expert psychological opinion in New Zealand courtrooms about childhood sexual abuse is more likely to cloud the issues at hand than clarify them, how might psychological scientists—particularly those with expertise in memory—make a substantially helpful contribution as required by the New Zealand Evidence Act 2006? One possibility is that scientists could help the jury better understand what is true and false about memory. Information of this kind would be helpful not only in cases of sexual abuse, but also in other cases that rely on eyewitness accounts of a particular event. Furthermore, this information would be relevant not only to cases involving children, but to cases involving adult witnesses as well. There are at least four aspects of memory about which qualified experts can assist the jury.

First, memory is not like a movie; experience does not burn a faithful, complete record of what really happened, and remembering is not like playing back a recording so that each time the same thing happens in the same order. Instead, remembering is a reconstruction: memories of virtually all experiences are reconstructed and therefore prone to distortions—this pattern is true for positive and negative experiences. Sometimes people are aware they are reconstructing (and their language indicates it); at other times they are not aware of it (Marsh & Tversky, 2004; Schooler et al., 1986; Wade, Garry, Read & Lindsay, 2002).

Second, people take in only some of what happens during an event, and they “colour in” that limited information with additional information drawn from their previous experiences, their biases, their expertise or lack of it, their goals and expectations, their imagination, talking with others, and so on. As time goes by, people sweep

new information into memory, whether correctly or incorrectly. Subsequent acts of recall can then be the product of genuine memory and post-event suggestions. Hundreds of scientific studies from around the world show that post-event information can impair memory and cause it to be inaccurate (for review, see Loftus, 2005). In fact the binding of new information to existing memories begins in infancy and appears to be a fundamental consequence of the human information-processing system (Hayne, 2006).

Third, when people talk about the past they often have goals that override the need to convey information accurately—such as entertaining their friends, or gaining sympathy—and they talk about the past in a way that does not accurately reflect their memory (Hyman & Faries, 1992; Hyman & Loftus, 1998; Marsh & Tversky, 2004; Neisser, 1988). Does telling an inaccurate version of a story—one that changes details, or otherwise tailors it to an audience—change people's ability to tell that story again later in an accurate form? The answer is yes (Echterhoff, Hirst, & Hussy, 2005; Higgins, McCann, & Fondacaro, 1982; Higgins & Rholes, 1978). Once the original representation is altered, it is virtually impossible to go back to the original version.

Fourth, people go for a while without thinking about something—without being aware that they know something—then they remember it again, then go for another while without thinking about it, and so on. Perhaps the best everyday example of a related (but not exactly the same) phenomenon is hearing an old song and suddenly being flooded with a memory of something that one has not thought about for many years—the memory feels almost new, as though we were discovering it for the first time. People often have a sense of discovering something new, but it is really not new. Moreover, they also do not remember telling anyone about that experience before. Such an illusion may contribute to a (false) feeling of suddenly uncovering a repressed memory. In fact, one recent study shows that women who said they had recovered memories of sexual abuse had a strong tendency to underestimate their prior remembering (Merckelbach et al., 2006; Schooler & Hyman, 1997).

In conclusion, well over a century of scientific research shows that memories are surprisingly fluid and easily corrupted. In any case before the court that hinges in whole or in part on someone's account of an alleged event, a memory expert would not only be substantially helpful in assisting

the jury, but it is hard to see how a memory expert's assistance could be anything other than essential.

### WHO SHOULD BE A MEMORY EXPERT?

Ultimately it is up to the judge to determine who is or is not qualified as an expert witness. The British Psychological Society (British Psychological Society, 2008, 2010) has proposed that a memory expert witness for the court is someone whose expertise is recognised by the research community. This recognition is typically demonstrated in the form of outputs that are publicly verifiable—most importantly, peer-reviewed publications. In our view, courts should require putative memory expert witnesses to provide evidence of their expertise in human memory, and this evidence must be available to all parties. At a minimum these experts will have earned a PhD in psychology or a related discipline, hold a position at a research institution, and have published a significant number of empirical papers in internationally recognised peer-reviewed journals (for the most part, conference presentations or posters are no substitute for peer-reviewed journal publications). It is also our view that people whose primary occupation is clinical practice are not automatically qualified to give evidence on human memory, even if they have published the occasional paper: experts in memory are deeply immersed in the international scientific community, benefit from it, and regularly contribute to it. In short, they are in the best position to inform the court on issues related to memory.

### CONCLUSIONS

Child sexual abuse is a sad reality, and a genuine problem in New Zealand. That it should be dealt with by the criminal justice system is patently obvious. There is, however, another real problem in New Zealand: much of the expert psychological testimony presented in New Zealand courtrooms does not accurately or fairly represent the scientific literature. What follows is the possibility of injustice on a wide scale. Inaccurate, incomplete expert testimony can prevent fact-finders from carrying out their duties, bias their decision

making, and lead them to an unwarranted verdict. Moreover, if inaccurate expert testimony misleads jurors and judges it ultimately creates two victims, turning the innocent into criminals, and cementing in children memories of terrible—but false—events, yet the experts themselves are unaccountable. Our fervent hope is that this paper is a first step towards preventing psychological experts from contributing to miscarriages of justice.

Manuscript received 6 February 2013  
 Manuscript accepted 17 February 2013  
 First published online 18 March 2013

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