

ENSURING WE GET CASES RIGHT: IDENTIFYING MISTAKES THAT LEAD TO CHILD ABUSE BEING RULED OUT

Presentation to
The 41st Annual San Diego International Conference on
Child and Family Maltreatment

January 25, 2026

Paul Griffin
Legal Director, Child Justice, Inc.

CONTENT WARNING:

Please be advised that this presentation contains discussions about and descriptions of child abuse, including child-sexual abuse. Readers and audience members who may be sensitive about such subjects, please take note.





- Child Justice, Inc. is a nonprofit legal services organization founded in 2013.
- Our **MISSION** is to protect and advocate for children who have been abused or affected by family violence or coercive control; to support them and their protective parents; and to promote justice for them through legal services, community outreach, education, and policy recommendations.
- Our **VISION** is a future in which every child's right to safety, dignity and selfhood is honored and protected.

CPS INVESTIGATION RESULTS

“INDICATED”

A finding that there is credible evidence, which has not been satisfactorily refuted, that child abuse or neglect occurred.

“UNSUBSTANTIATED”

A finding that there is insufficient evidence to support a finding of indicated or ruled out.

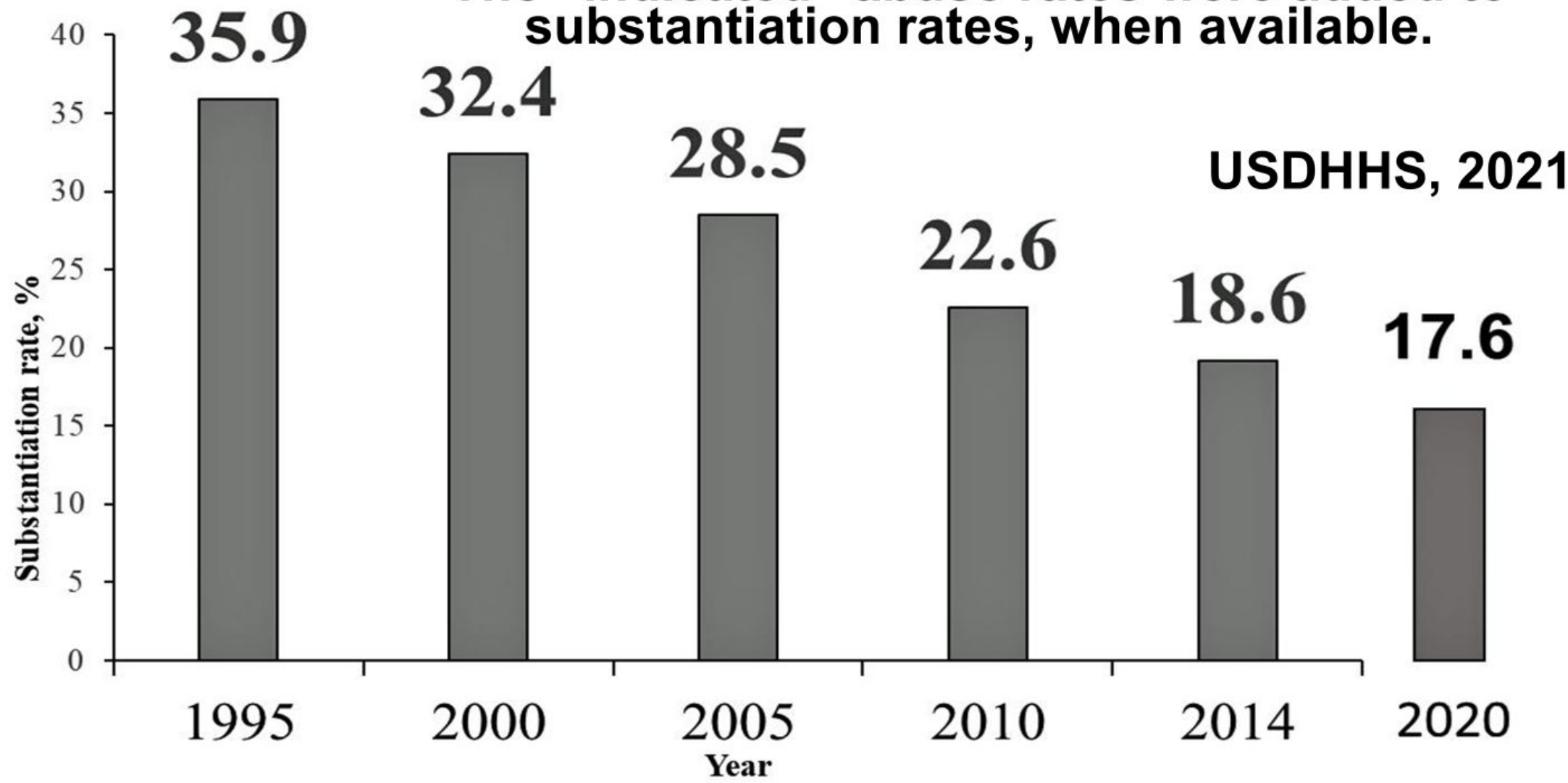
“RULED OUT”

A finding that child abuse or neglect did not occur.

MD. CODE ANN., FAM. LAW §5-701
AND
COMAR 07.02.07.12

Substantiation rates for screened-in child abuse referrals to CPS/CWS.

The “indicated” abuse rates were added to substantiation rates, when available.



Common Reasons Abuse is Ruled Out

- Child failed to disclose
- Child was inconsistent
 - Formal Reticence and Response Bias
- Child was coached
 - Child used “adult” language
- Child had no physical evidence of sexual abuse
- Child also disclosed fantastic and/or impossible elements (e.g., “I was rescued by my dog, who opened the door and shot [the abuser].”)
- Child gave dates/time frame that made abuse by the accused impossible (e.g., accused had an air-tight alibi)
- Child Recanted

Common Reasons Abuse is Ruled Out

Not one of these is a *per se* reason to rule out abuse!

Child Failed to Disclose

Research suggests that approximately **one-third to one-half** of children for whom there are strong suspicions of CSA fail to disclose despite skilled interviewing.

Everson, M. D., & Faller, K. C. (2012). Base Rates, Multiple Indicators, and Comprehensive Forensic Evaluations: Why Sexualized Behavior Still Counts in Assessments of Child Sexual Abuse Allegations. *Journal of Child Sexual Abuse*, 21(1), 45–71. <https://doi.org/10.1080/10538712.2012.642470>; and Lyon, T. D. (2007). False Denials: Overcoming Methodological Biases in Abuse Disclosure Research. In M.-E. Pipe, M. E. Lamb, Y. Orbach, & A.-C. Cederborg (Eds.), *Child Sexual Abuse: Disclosure, Delay, and Denial* (pp. 41–62). Lawrence Erlbaum Associates Publishers.

See also Hartman, D. T., Wang, Y., Wu, Y., Goldfarb, D., Vidales, D., Qin, J., Eisen, M. L., & Goodman, G. S. (2023). Childhood Sexual Abuse: A Longitudinal Study of Disclosures and Denials. *Child Maltreatment*, 28(3), 462–475. <https://doi.org/10.1177/10775595231165335> (“It is estimated that under 25% of CSA victims disclose their abuse immediately [i.e., without a CFI]”).

Child Failed to Disclose

- Lyon examined studies concerning gonorrhea in children.
- Eliminated from consideration children so young they may have acquired gonorrhea congenitally, as well as those who were old enough to have conceivably acquired it through consensual sex with peers.
- **The disclosure rates during interview of children with gonorrhea persistently hovered close to 50%.**

Lyon, T. D. (2007). False Denials: Overcoming Methodological Biases in Abuse Disclosure Research. In M.-E. Pipe, M. E. Lamb, Y. Orbach, & A.-C. Cederborg (Eds.), *Child Sexual Abuse: Disclosure, Delay, and Denial* (pp. 41–62). Lawrence Erlbaum Associates Publishers.

Child Failed to Disclose

See also Hartman, D. T., Wang, Y., Wu, Y., Goldfarb, D., Vidales, D., Qin, J., Eisen, M. L., & Goodman, G. S. (2023). Childhood Sexual Abuse: A Longitudinal Study of Disclosures and Denials. *Child maltreatment*, 28(3), 462–475.

<https://doi.org/10.1177/10775595231165335>

(“Perhaps counterintuitively, greater CSA severity is often associated with denial and non-disclosure. . . survivors of more severe forms of CSA and chronic CSA were more likely to deny CSA experience when asked about it in childhood. Greater severity of CSA is also associated with delay.”).

See also Faller K. C. (2007). Coaching Children About Sexual Abuse: A Pilot Study of Professionals’ Perceptions. *Child Abuse & Neglect*, 31(9), 947–959.

<https://doi.org/10.1016/j.chiabu.2007.05.004>.

(“[S]tudies generally conclude that children’s failure to report actual touching of their bodies during [a] medical exam occurs at much higher frequencies than false reports of touching”).

Child Failed to Disclose

Children fail to disclose for multiple reasons:

- Close relationships with the perpetrator. Children may be less likely to disclose abuse the more closely related they are to the perpetrator.
- Guilt or shame. Children may resist disclosure when they feel responsible and thereby guilty or ashamed for having participated in sexual activities.
- Instructed to keep quiet about the abuse. Instructions to keep a secret can have a powerful effect on children, especially those in the 5- to- 6-year range.
- Threat of reprisals. An abuser may threaten the child with further physical harm, may have threatened to harm their pets, or the other, non-abusive parent.
- Fear of not being believed. This is especially so if the other, non-abusive parent is perceived by the child to be non-supportive (based perhaps on earlier reports of abuse to that parent).

Cederborg, A.-C., Lamb, M. E., & Laurell, O. (2007). Delay of Disclosure, Minimization, and Denial of Abuse When the Evidence is Unambiguous: A Multivictim Case. In M.-E. Pipe, M. E. Lamb, Y. Orbach, & A.-C. Cederborg (Eds.), *Child Sexual Abuse: Disclosure, Delay, and Denial* (pp. 159–173).

Lawrence Erlbaum Associates Publishers.

Child Was Inconsistent

Inconsistency in children's statements is normal!

“Adults who are unaware of the nature of language acquisition process are in danger mistaking inconsistency in the *language* of children's reports for a *fundamental* inconsistency that would render testimony incredible. This is unfortunate, because . . . from the language point of view (and there are others), inconsistency is a normal part of the development process.”

Walker, A. G., Kenniston, J., Inada, S. S., Caldwell, C., & ABA Center on Children and the Law. (2013). *Handbook on Questioning Children: A Linguistic Perspective* (3rd edition.). ABA Center on Children and the Law.

Child Was Inconsistent

There are many question and answer combinations that have the potential to create an apparent inconsistent statement.

Children have difficulty with the use of following concepts, words, or word combinations:

- Any/Some
- Ask/Tell
- Before/After
- On/Off (especially when speaking about clothes)
- Touch
- “Higher Order Word” such as (residence/home, pet/dog, vehicle/car)
- Pronouns
- Prepositions

Child Was Inconsistent

The concept of “Formal Reticence”

- When asked forced-choice questions, children tend to simply choose one of the responses, even when neither response is correct.
- Children often exhibit “formal reticence,” whereby they provide answers that are minimally responsive given the form of the question.
- When asked yes–no questions, they tend to provide unelaborated “yes” and “no” responses.

Stolzenberg, S. N., McWilliams, K., & Lyon, T. D. (2017). Ask versus tell: Potential confusion when child witnesses are questioned about conversations. *Journal of Experimental Psychology. Applied*, 23(4), 447–459. <https://doi.org/10.1037/xap0000136>.

Child Was Inconsistent

Formal Reticence

- Even when they do not know the answer, they will answer yes–no or choose one of the options given to the forced-choice questions rather than say “I don’t know.”
- Often the correct answer to a yes–no or forced-choice question is “neither” or “both,” but children’s failure to go beyond the form of the question in providing an answer makes such answers rare.

Stolzenberg, S. N., McWilliams, K., & Lyon, T. D. (2017). Ask versus tell: Potential confusion when child witnesses are questioned about conversations. *Journal of Experimental Psychology. Applied*, 23(4), 447–459. <https://doi.org/10.1037/xap0000136>.

Child Was Inconsistent

Formal Reticence/Response Bias

- In addition, formal reticence coupled with *response bias* (a “yes” or a “no” bias) can lead to the child’s being inconsistent.
- If questions are incomprehensible, 2-year-olds and young 3-year-olds tend to answer “yes,” but by age 4, children usually answer “no.”
- If questions ask about something plausible, young children are more likely to answer “yes.”
- If questions ask about undesirable acts, young children tend to answer “no.”

Lyon, T.D., & Henderson, H.M. (2021). Increasing true reports without increasing false reports: Best practice interviewing methods and open-ended wh- questions. *American Professional Society on the Abuse of Children Advisor*, 33(1), 29-39. <https://ssrn.com/abstract=3759908>.

Child Was Inconsistent

Formal Reticence/Response Bias

- Imagine a case in which a child has been abused.
- If asked yes/no screening questions about abuse, it is easy for the child to simply answer “no.”
- The child is now on record as denying abuse.
- Any subsequent disclosure of the actual abuse will appear less convincing as a result of this inconsistency.
- Because of *formal reticence* and *response bias*, the child is likely to provide inaccurate and inconsistent information.

Lyon, T.D., & Henderson, H.M. (2021). Increasing true reports without increasing false reports: Best practice interviewing methods and open-ended wh- questions. *American Professional Society on the Abuse of Children Advisor*, 33(1), 29-39. <https://ssrn.com/abstract=3759908>.

Child Had No Physical Evidence Of Sexual Abuse

If child-sexual abuse is involved, the investigator may have given undue weight to a lack of physical evidence to support child-sexual abuse. The court will need to be educated that there is seldom physical evidence to support child-sexual abuse, and that it is “normal to be normal.”

Child Had No Physical Evidence Of Sexual Abuse

Landmark review of case files and colposcopic photographs of 236 children with perpetrator conviction for sexual abuse, only 9% had suspicious findings.

“Abnormal genital findings are not common in sexually abused girls, based on a standardized classification system. More emphasis should be placed on documenting the child’s description of the molestation, and educating prosecutors that, for children alleging abuse: It’s normal to be normal.”

Adams, J. A., Harper, K., Knudson, S., & Revilla, J. (1994). Examination findings in legally confirmed child sexual abuse: it's normal to be normal. *Pediatrics*, 94(3), 310–317.

Child Had No Physical Evidence Of Sexual Abuse

- Another landmark study debunked the myth that a history of penile-vaginal penetration will be associated with examination findings of penetrating trauma.
- Here, a retrospective case review of 36 pregnant adolescent girls who presented for sexual abuse evaluations was performed to determine the presence or absence of genital findings that indicate penetrating trauma.
- Only two of the 36 subjects – who, again, were pregnant, some with their rapist's child – had definitive findings of penetration.

Kellogg, N. D., Menard, S. W., & Santos, A. (2004). Genital anatomy in pregnant adolescents: "normal" does not mean "nothing happened". *Pediatrics*, 113(1 Pt 1), e67–e69.
<https://doi.org/10.1542/peds.113.1.e67>.

Child Had No Physical Evidence Of Sexual Abuse

“Research indicates that medical, social, and legal professionals have relied too heavily on the medical examination in diagnosing child sexual abuse. History from the child remains the single most important diagnostic feature in coming to the conclusion that a child has been sexually abused. . . . ***Even with a history of severe abuse such as vaginal or anal penetration***, the rate of abnormal medical findings is only **5.5%**.”

[Evidence of anal penetration is present approximately 1% of the time]

Heger, A., Ticson, L., Velasquez, O., & Bernier, R. (2002). Children referred for possible sexual abuse: medical findings in 2384 children. *Child Abuse & Neglect*, 26(6-7), 645–659. [https://doi.org/10.1016/s0145-2134\(02\)00339-3](https://doi.org/10.1016/s0145-2134(02)00339-3).

Child Disclosed Fantastic and/or Impossible Elements

- Fantastic elements can be defined as any strange, ill-fitting, or improbable claims made by children during child-abuse disclosures.
- Common examples may include the child taking on super-human strength or abilities, or anthropomorphizing animals, which rescue the child.
- Their presence will often lead CPS to discount all of the child's disclosure as not credible.

Child Disclosed Fantastic and/or Impossible Elements

Dalenberg found that fantastic elements were present at the highest rate within cases identified as those **where abuse was both most certain and most severe.**

Review of 800 videotaped interviews, found that among children 4–9 years old whose child sexual abuse was ***independently confirmed by offender confession and physical findings***, more than 15% of children in cases of severe sexual assault incorporated bizarre and impossible details into abuse accounts. When abuse was “mild” rates were less than 4%.

Dalenberg, C. J. (1996), Fantastic elements in child disclosure of abuse. *APSAC Advisor*, 9(2), 1, 5–10.

Child Disclosed Fantastic and/or Impossible Elements

In true disclosures where a child was actually abused, we often get a combination of fantastic, bizarre, and unbelievable details with plausible details.

Fantastic elements may be:

- Empowerment Statements
- Due to Developmental Issues, which result in “magical thinking” and metaphorical communications
- Distortion of Reality
- Exaggeration
- Rescue Fantasy
- An Accurate Description of Reality

Child Disclosed Fantastic and/or Impossible Elements

Empowerment Statements

- Also referred to as “Mastery Fantasy,” this information generally focuses on assertive, aggressive or protective actions reportedly taken by the child against the alleged perpetrator.
- Children who have been sexually abused often experience a sense of helplessness or culpability. In an attempt to regain power and reduce anxiety, vulnerability or shame, children may report things that they think they should have done to protect themselves or someone else.
- Empowerment statements can range from simple claims of getting away before anything happened (“She tried to touch me, but I ran”), to superhuman acts that injure or even kill the alleged perpetrator (“I pushed the car and it ran over him and he died”).
- The suggested approach with empowerment statements is to offer the child a possible “out” and ask, “Is that something that happened, something you wish you could have done, or something else?”

Miller, Anne Lukas Bizarre & Fantastic Elements: A
Forensic Interviewer’s Response, *NDAA (National
District Attorney’s Association) Update
Newsletter*, March 2008

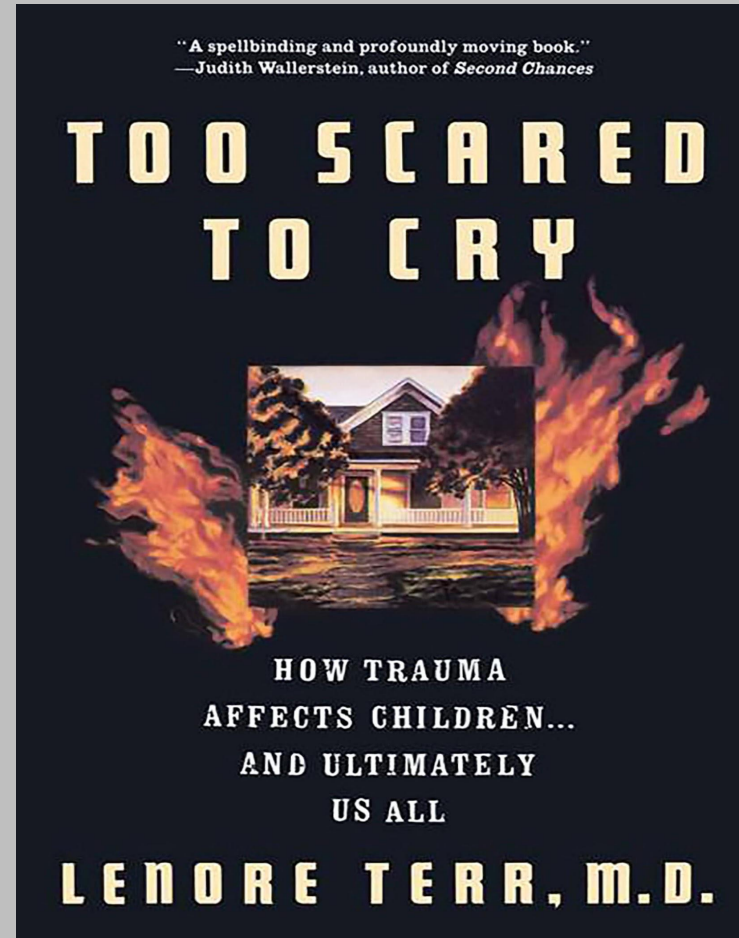
Child Disclosed Fantastic and/or Impossible Elements

Empowerment Statements (cont.)

In a study of children's memory of the 1979 sniper attack at Cleveland Elementary School in San Diego, CA, some of the children initially described as true events their imagined or intended interventions to aid their injured schoolmates (*i.e.*, what they wish they had done). Such "inner plans of action" seem to serve the purpose of reducing the sense of helplessness common to such experiences.

Everson, M. D. (1997). Understanding Bizarre, Improbable, and Fantastic Elements in Children's Accounts of Abuse. *Child Maltreatment*, 2(2), 134-149.
<https://doi.org/10.1177/1077559597002002007>

Child Disclosed Fantastic and/or Impossible Elements



1976 Chowchilla kidnapping and Lenore Terr's work with and observations of children who are known to have suffered trauma.

Child Disclosed Fantastic and/or Impossible Elements

- **Developmental Issues**, which result in “magical thinking” and metaphorical communications.
- Children may not have the cognitive skills or life experience to comprehend an abusive act, so they construct explanations that make sense to them.
- “**Magical thinking**” occurs when children lack the ability to discern between logical and illogical causal explanations. For example, a child who did not see someone enter a room might explain that the person “flew in through the window,” simply because the child does not know enough to recognize the implausibility of such information.

Child Disclosed Fantastic and/or Impossible Elements

- **Metaphorical Communication** is when a young child provides descriptive sensory information as if it were factual.
- The child may have said, “An alligator was biting my pee-pee,” when it would be more accurate to say, “It *felt like* an alligator was biting my pee-pee.”
- A good follow-up question would be “When that alligator bit your pee-pee, did you *feel* it, or see it, or something else?”
- If the child continues with the improbable answer, the interviewer should seek source attribution. Because children younger than five years of age generally lack the ability to monitor and categorize what they know by source, asking *how* they know something is unreasonable, so the interviewer should ask the child to tell what he knows through specific sensory channels, e.g., “Did you see that with your eyes, did someone tell you about that, or something else?” “What did you see?”
- If a child provides an implausible response to a question, it may be that the line of questioning was beyond the child’s developmental abilities.
- It is the interviewer’s responsibility to ask questions that the child can answer and to recognize when a developmental miscommunication has occurred.

Child Disclosed Fantastic and/or Impossible Elements

- **Distortion of reality** occurs when a child's report is based in reality, but intervening factors produce mutations in the child's recall.
- These mutations may be the result of a perpetrator's attempt to intentionally confuse or discredit the child – by giving the child drugs or alcohol or by redefining acts or activities (e.g., telling the child that he is “checking for alien tracking devices” while touching the child's genitals).
- With further questioning, the child might explain that she never saw any “tracking devices,” she only knew about them because of what the abuser told her.

Child Disclosed Fantastic and/or Impossible Elements

- **Exaggeration** is like Distortion of Reality in that they are both based in reality.
- Exaggerations are often embellishments, fueled by a child's need for sympathy, approval or attention.
- The elaboration may be driven by the desire to be believed. A child who has been abused may feel the need to convince an interviewer that he was abused and may add details to accomplish this.
- The child may elaborate on statements made by the perpetrator, the number of times things happened, or threatening elements, such as weapons.
- Some exaggerations overlap with empowerment statements in that a child struggling with culpability may feel the need to justify why he did not do anything to “stop” the abuse or why he “let it happen.”

Child Disclosed Fantastic and/or Impossible Elements

- A **Rescue Fantasy** occurs when the child describes an unrealistic scenario in which a third party has come to the rescue and saved the child from abuse.
- An example may be the family dog being somehow able to open locked doors and then hurt or even kill the abuser thus stopping the abuse.
- As with Empowerment Statements, the interviewer might consider offering the child a possible “out” and ask, “Is that something that happened, something you wish you could have done, or something else?”

Child Disclosed Fantastic and/or Impossible Elements

- There is always the possibility that a child is providing an **Accurate Description of Reality**.
- Information that conflicts with an interviewer's scope of knowledge should not be categorized as implausible simply because it is unusual or unfamiliar.
- It may be based in sexual activities, cultural practices, or spiritual beliefs unknown to the interviewer.

Child Disclosed Fantastic and/or Impossible Elements

- Italian researchers conducted a study, under the theory that child sexual abuse materials (CSAM, aka, child pornography) would reveal whether seemingly fantastic or bizarre reports of abuse could be based in reality.
- That is, if these abuse events were enacted to satisfy the abusers' fantasies, one should expect to find them reflected in CSAM, since the producers of the material are often catering to a market created by abusers desiring these very scenarios.
- Testers created 16 scenarios describing actual reports of bizarre acts of abuse.
- They presented these scenarios to 52 Italian police officers who work against online child exploitation and who investigate CSAM.
- They also presented the 16 scenarios to 28 individuals criminally convicted for the production and/or consumption of CSAM.

Longobardi, C., Malacrea, M., Giulini, P., Settanni, M., & Fabris, M. A. (2022). How Plausible are the Accounts of Child Victims of Sexual Abuse? A Study of Bizarre and Unusual Scripts Reported by Children. *Journal of Child Sexual Abuse*, 31(2), 216–235. <https://doi.org/10.1080/10538712.2021.2014612>.

Uncommon Scenario	Description	Examples
Recital	The child is involved in acting scenes depicting fantastical stories, fairy tales, folk narratives, or literature. Children may be required to impersonate some characters from the narrative and fairy-tale world.	M6: A wolf named Giovanni would go to the cellar where there was a good she-wolf that they wanted to hurt and he would run away; Franca would hold him and take him away; I had to cuddle the male wolf and they were cuddles that a woman usually does to a man.
Fantastic characters	There are characters from the fantasy world, and therefore, fairy tales (e.g., Little Red Riding Hood, the Wolf; The Witch). Animated Cartoons (e.g., Aladdin, The Little Mermaid, Super-heroes like Spiderman or Batman), or mythology and folklore (e.g., Santa Claus, etc.). Such characters can be animated (children or adults) or inanimate (e.g., photos, billboards, statues, dolls/effigies representing them).	F6: Father Christmas would put his thing inside my 'gyna. and then his willy in my mouth and I was about to throw up
Adult Sexual Disguise	Presence of Adults disguised as people of the opposite sex.	M3: Dad would wear makeup, put on a wig, get dressed as a woman and make love with me.
Adult Non-Sexual Disguise	Presence of adults disguised as characters of the fantasy world (e.g., superheroes, cartoon characters), mythological (e.g., ancient deities), folkloric (e.g., Santa Claus) and animal (adults disguised as animals or wearing animal masks). Adults disguised as elements of civil society (e.g., adults wearing medical uniforms) or military (e.g., adults wearing camouflage uniforms or calling up law enforcement) are also included.	M5: They would put handcuffs on me. they were dressed as cops, they made me kiss their willy.
Child Sexual Disguise	Children who wear clothes of the opposite sex or who are styled as adults of the opposite sex.	M7: Mom would dress me up as a girl, with long hair. She would put nail polish on my nails.
Sexualization of “playful activities”	The child is involved in sexual activities that are proposed as “playful activities,” but which involve manipulating the genitals of the adult.	F5: Then we would play with puppets. The father would peak his willy out from behind the sofa and I had to catch it. M6: The snow game, “to make snow” I had to spread a cream all over his body and a foam on his willy.

Uncommon Scenario	Description	Examples
Group Sexual Scenes	The child observes (look) or is involved in group sexual scenes, i.e. sexual situations involving groups of minors, groups of adults, or groups of children and adults.	F8: Dad would keep me still. without a word; I remember different men who touched me and penetrated me; I remember that at the beginning it was all dark and then there was a tiny light in the darkness.
Animal sexual interactions	The child observes (look) or is involved with animal sexual.	F10: He would have me see dogs making love. He would have me put my dog's penis inside me and watch.
Sexual interactions with food or commonly used objects not usually used in sexual practices	The child is involved in sexual activities involving the use of food (e.g., vegetables. Fruits, sausages) or everyday items (e.g., pens, kitchen tools, etc.).	F7: When I had my period, my father would stick it in my butt and in the front he would stick a sausage.
Use of violence	The child is involved in sexual activities involving the use of physical violence (e.g., kicks, punches, blunt objects, etc.) and psychological violence (e.g., denigration. humiliation. use of offensive words). coercion (e.g., laces, belts, handcuffs) or fear-inducing actions (e.g., threats, screams, lights).	F4: They would say to me "Dumb fuck off shut up dumb" uncle would tie me naked to a pole. and would put an iron stick in my vagina.
Use of Narcotics and other substances	The child is involved in sexual activity with the use of narcotics or other substances, such as alcohol and drugs, aimed at altering the child's state of consciousness.	F4: They would me give candies so I could better pretend that I was dead. to take better pictures. to make me sleep
Death and torture	The child is involved in sexual activities that are characterized by the death or torture (real or simulated) of another individual. both adult and minor. The child may be forced to witness or engage in physical violence (and killing) on the other.	M10: They beat up the little girl because she did not want to do those things. They killed her, she stopped breathing. She had blood on her face and on her legs. They put her inside a hole in the garden of one of my father's friends. There was also a baby in the kitchen cupboard, he was dead. They also put him in a hole in the garden with trash on top. F3: When he showed us that he killed a doll we thought that it was a real girl.

Uncommon Scenario	Description	Examples
Sexual interactions with excrement	The child is involved in sexual activities involving the contact or ingestion of own or other excrement.	F4: They made me drink pee and eat poo and drink it when the men did a wee in my mouth. The women kept me still. They would stick me to the butt and the willy of the men (which was still, then the pee would come out from the willy) and I was stuck with the mouth; all I had to do was eat the wee and the poo, while everyone laughed but I did not laugh nor talk.
Representations of medical environments	The child is involved in sexual activity in medical settings (e.g., medical practices. the presence of people dressed as a doctor or nurse; genital inspections as if they were specialist visits. or use of tools commonly used in the medical field).	F7: In the house of the squatters where my nanny would take me to, they touched my 'gyna there was a female doctor, in a lab coat who did it to other people, men and women. A. was also there.
Representations of religious or occult-related environments	The child is conducted in sexual activities in settings that evoke religious themes or related to occultism. Therefore. environments (churches. cemeteries. altars). objects and symbols (e.g., crucifix). activities (e.g., prayers; invocations. sacrifices. magical rites) and characters (e.g., presence of the devil or devil) that refer to religion or the occult. such as Satanism.	F4: They touched my private parts with a cross.
Vampirism	Blood is the central theme of sexual interaction in which the child is involved. Or, the presence of people who personify vampires or behave as such, for example, by procuring their own or others' blood leakage and/or ingesting blood.	F10: Men who had sex with me in a group. At times. one of them would cut himself and blood would come out of his arm and then he would get me dirty with it.

Child Disclosed Fantastic and/or Impossible Elements

- ***Each*** scenario was known to at least ***some*** of the respondents.
- Of the 16 scenarios, only Vampirism was observed by less than 10% of the subjects in both groups (observed by 8.4% of the police officers and 5% of the convicts).

Child Disclosed Fantastic and/or Impossible Elements

- Finding is significant because it indicates that seemingly fantastic scenarios are present in CSAM.
- Therefore, these scenarios can certainly represent a real lived experience of suspected victims of child-sexual abuse, whose disclosures might otherwise be disbelieved as improbable.

Dates/Times

- Often the child will give dates/time frame that make abuse by the accused impossible.
- For example, when asked when the abuse happened, the child answered, “last weekend,” which was impossible because the accused didn’t have custody/visitation that weekend and was out of town.
- CPS will then rule out the abuse as an impossibility – at least by that accused abuser.

Dates/Times

“Phrases like ‘two months ago,’ ‘three hours,’ ‘it happened Friday,’ ‘in the spring,’ ‘a long time ago’ should not be taken literally without further probing.”

Walker, A. G., Kenniston, J., Inada, S. S., Caldwell, C.,
& ABA Center on Children and the Law.
(2013). *Handbook on questioning children: A linguistic perspective* (3rd edition.). ABA Center on Children and
the Law.

Dates/Times

To young children the concept of time and the words that describe them – such as “months” or “hours” – can be too abstract for them to fully understand. Unfortunately, the misuse of time can damage their credibility with investigators and fact finders.

Dates/Times

To young children, yesterday “includes anything that happened in the past. ‘Tomorrow’ simply refers to something that hasn’t gotten here yet, a day that never comes.”

Walker, A. G., Kenniston, J., Inada, S. S., Caldwell, C., & ABA Center on Children and the Law. (2013). *Handbook on questioning children: A linguistic perspective* (3rd edition.). ABA Center on Children and the Law.

Dates/Times

But this problem is not constrained only to preschoolers. Wandrey *et al.*, asked 167 maltreated 6- to 10-year-olds under the jurisdiction of juvenile court to estimate the temporal location and numerosity of two repeated, emotionally charged events occurring over long intervals of time: changes in placement and courthouse visits.

Wandrey, L., Lyon, T. D., Quas, J. A., & Friedman, W. J. (2012). Maltreated children's ability to estimate temporal location and numerosity of placement changes and court visits. *Psychology, Public Policy, and Law*, 18(1), 79–104.
<https://doi.org/10.1037/a0024812>.

Dates/Times

- Only about 10% of children could identify the exact month of any of the events.
- Estimates tended to be 9 to 12 months off for placements and 6 months off for court visits.
- With respect to answering the question about what *season* their last court date was in, children were correct about 1/3 of the time.

Dates/Times

- Children were also poor in recalling the number of their placements (27% gave correct answer) or court visits (13% gave correct answer).
- On average, the children erred about 35% of the time when asked whether the event had occurred once or more than once.
- Children did not appear to be aware of their own inabilities; there were remarkably few “I don’t know” answers.

Dates/Times

However, the children retained vivid memories of the events themselves, which shows that having better memory for an event does not predict better temporal estimation.

Dates/Times

Children and adults generally have better recall for the ***core aspects of emotionally significant events*** that they personally experienced and worse recall about peripheral details. This is especially true for negative events.

Olafson, E. (2007). Children's Memory and Suggestibility. In G. C. Calloway & S. M. Lee (Eds.), *Handbook of Children in the Legal System* (pp. 10–33). Routledge/Taylor & Francis Group

Recantation

- Recantation, especially of child-sexual abuse, is common.
- One study of approximately 250 **substantiated** cases of sexual abuse found that nearly one-quarter of the children recanted at some point.
- This study also found that “children abused by a parent[al] figure were more likely to recant, as were children whose non-offending caregivers were unsupportive.”

Raeder, Myrna, Distrusting Young Children Who Allege Sexual Abuse: Why Stereotypes Don't Die and Ways to Facilitate Child Testimony, 16 *Widener L. Rev.* 239, 250 (2010).

Practice Tips

- If the CPS finding was adverse to your case, file a Motion in Limine preventing the finding from having any preclusive effect.
- **CPS findings are *not* binding by collateral estoppel, *res judicata*, or law of the case and the court should not rely on them as preclusive.**
- Challenge the interview as improper with unreliable results and conclusions.
- Consider filing a *Daubert* motion if the methodology is sufficiently flawed.

THANK YOU!

Feel free to contact us with any questions, we are happy to help!

Paul Griffin

301.254.2745

Paul.Griffin@Child-Justice.org

www.child-justice.org



AUTHORITIES

- Adams, J. A., Harper, K., Knudson, S., & Revilla, J. (1994). Examination findings in legally confirmed child sexual abuse: it's normal to be normal. *Pediatrics*, *94*(3), 310–317.
- Ahern, E. C., Andrews, S. J., Stolzenberg, S. N., & Lyon, T. D. (2018). The productivity of wh- prompts in child forensic interviews. *Journal of Interpersonal Violence*, *33*(13), 2007–2015. <https://doi.org/10.1177/0886260515621084>
- Bays, J., & Chadwick, D. (1993). Medical diagnosis of the sexually abused child. *Child Abuse & Neglect*, *17*(1), 91–110. [https://doi.org/10.1016/0145-2134\(93\)90011-s](https://doi.org/10.1016/0145-2134(93)90011-s)
- Bidrose, S., & Goodman, G. S. (2000). Testimony and evidence: A scientific case study of memory for child sexual abuse. *Applied Cognitive Psychology*, *14*(3), 197–213
- Cauchi RT, Powell MB, Hughes-Scholes CH (2010). A controlled analysis of professionals' contemporaneous notes of interviews about alleged child abuse. *Child Abuse Negl.*, *34*(5):318-23. <https://doi.org/10.1016/j.chiabu.2009.09.016>.
- Cederborg, A.-C., Lamb, M. E., & Laurell, O. (2007). Delay of Disclosure, Minimization, and Denial of Abuse When the Evidence is Unambiguous: A Multivictim Case. In M.-E. Pipe, M. E. Lamb, Y. Orbach, & A.-C. Cederborg (Eds.), *Child Sexual Abuse: Disclosure, Delay, and Denial* (pp. 159–173). Lawrence Erlbaum Associates Publishers
- Dalenberg, C. J. (1996), Fantastic elements in child disclosure of abuse. *APSAC Advisor*, *9*(2), 1, 5–10.

Dept. of Human Resources v. Thompson, 103 Md. App. 175, 194-99 (1995) (“Accordingly, the DSS investigation [which resulted in a finding of “abuse indicated”] did not result in a final determination of guilt Consequently, the agency’s internal investigation cannot have preclusive effect in a subsequent proceeding.”).

Everson, M. D. (1997). Understanding Bizarre, Improbable, and Fantastic Elements in Children’s Accounts of Abuse. *Child Maltreatment*, 2(2), 134-149. <https://doi.org/10.1177/1077559597002002007>

Everson, M. D., & Faller, K. C. (2012). Base Rates, Multiple Indicators, and Comprehensive Forensic Evaluations: Why Sexualized Behavior Still Counts in Assessments of Child Sexual Abuse Allegations. *Journal of Child Sexual Abuse*, 21(1), 45–71. <https://doi.org/10.1080/10538712.2012.642470>.

Faller K. C. (2007). Coaching Children About Sexual Abuse: A Pilot Study of Professionals’ Perceptions. *Child Abuse & Neglect*, 31(9), 947–959. <https://doi.org/10.1016/j.chiabu.2007.05.004>. (“[S]tudies generally conclude that children’s failure to report actual touching of their bodies during [a] medical exam occurs at much higher frequencies than false reports of touching”).

Hartman, D. T., Wang, Y., Wu, Y., Goldfarb, D., Vidales, D., Qin, J., Eisen, M. L., & Goodman, G. S. (2023). Childhood Sexual Abuse: A Longitudinal Study of Disclosures and Denials. *Child Maltreatment*, 28(3), 462–475. <https://doi.org/10.1177/10775595231165335> (“It is estimated that under 25% of CSA victims disclose their abuse immediately [i.e., without a CFI]”).

Heger, A., Ticson, L., Velasquez, O., & Bernier, R. (2002). Children referred for possible sexual abuse: medical findings in 2384 children. *Child Abuse & Neglect*, 26(6-7), 645–659. [https://doi.org/10.1016/s0145-2134\(02\)00339-3](https://doi.org/10.1016/s0145-2134(02)00339-3).

Hewitt, S. K. (1998). *Assessing Allegations of Sexual Abuse in Preschool Children: Understanding Small Voices* (1st ed.). SAGE Publications, Incorporated. <https://doi.org/10.4135/9781452220505>

Kellogg, N. D., Menard, S. W., & Santos, A. (2004). Genital anatomy in pregnant adolescents: "normal" does not mean "nothing happened". *Pediatrics*, *113*(1 Pt 1), e67–e69. <https://doi.org/10.1542/peds.113.1.e67>

Lamb M. E. (2016). Difficulties Translating Research on Forensic Interview Practices to Practitioners: Finding Water, Leading Horses, But Can We Get Them To Drink? *The American Psychologist*, *71*(8), 710–718. <https://doi.org/10.1037/amp0000039>

In M.-E. Pipe, M. E. Lamb, Y. Orbach, & A.-C. Cederborg (Eds.), *Child Sexual Abuse: Disclosure, Delay, and Denial* (pp. 41–62). Lawrence Erlbaum Associates Publishers.

Lamb, M. E., Orbach, Y., Sternberg, K. J., Hershkowitz, I., & Horowitz, D. (2000). Accuracy of investigators' verbatim notes of their forensic interviews with alleged child abuse victims. *Law and Human Behavior*, *24*(6), 699–708. <https://doi.org/10.1023/a:1005556404636>

Longobardi, C., Malacrea, M., Giulini, P., Settanni, M., & Fabris, M. A. (2022). How Plausible are the Accounts of Child Victims of Sexual Abuse? A Study of Bizarre and Unusual Scripts Reported by Children. *Journal of Child Sexual Abuse*, *31*(2), 216–235. <https://doi.org/10.1080/10538712.2021.2014612>

Lyon, T. D. (2007). False Denials: Overcoming Methodological Biases in Abuse Disclosure Research. In M.-E. Pipe, M. E. Lamb, Y. Orbach, & A.-C. Cederborg (Eds.), *Child Sexual Abuse: Disclosure, Delay, and Denial* (pp. 41–62). Lawrence Erlbaum Associates Publishers

Lyon, T. D., Ahern, E. C., & Scurich, N. (2012). Interviewing children versus tossing coins: accurately assessing the diagnosticity of children's disclosures of abuse. *Journal of Child Sexual Abuse*, 21(1), 19–44.

<https://doi.org/10.1080/10538712.2012.642468>

Lyon, T. D., McWilliams, K., & Williams, S. (2019). Child witnesses. In N. Brewer & A. B. Douglass, *Psychological Science and the Law* (pp. 157–181). The Guilford Press. New York, NY: Guilford. See also Lyon, Thomas D., Interviewing Children (November 2014). *Annual Review of Law and Social Science*, Vol. 10, pp. 73-89, 2014,

<http://dx.doi.org/10.1146/annurev-lawsocsci-110413-030913>

Lyon, T.D., & Henderson, H.M. (2021). Increasing true reports without increasing false reports: Best practice interviewing methods and open-ended wh- questions. *American Professional Society on the Abuse of Children Advisor*, 33(1), 29-39. <https://ssrn.com/abstract=375990>

McWilliams, K., Williams, S., Stolzenberg, S. N., Evans, A. D., & Lyon, T. D. (2021). Don't know responding in young maltreated children: The effects of wh- questions type and enhanced interview instructions. *Law and Human Behavior*, 45(2), 124-137 <https://doi.org/10.1037/lhb0000404>

Miller, Anne Lukas Bizarre & Fantastic Elements: A Forensic Interviewer's Response, *NDAA (National District Attorney's Association) Update Newsletter*, March 2008

Olafson, E. (2007). Children's Memory and Suggestibility. In Faller, K. C. (ed.) *Interviewing children about sexual abuse: controversies and best practice*. Oxford University Press.

Quas JA, Davis EL, Goodman GS, Myers JE (2007). Repeated questions, deception, and children's true and false reports of body touch. *Child Maltreat.*, 12(1):60-7. doi: 10.1177/1077559506296141.

Raeder, Myrna, *Distrusting Young Children Who Allege Sexual Abuse: Why Stereotypes Don't Die and Ways to Facilitate Child Testimony*, 16 *Widener L. Rev.* 239, 250 (2010)

Stolzenberg, S. N., McWilliams, K., & Lyon, T. D. (2017). Ask versus tell: Potential confusion when child witnesses are questioned about conversations. *Journal of Experimental Psychology. Applied*, 23(4), 447–459.
<https://doi.org/10.1037/xap0000136>

Terr, L. (1990). *Too scared to cry: Psychic trauma in childhood*. Harper & Row Publishers.

Walker, A. G., Kenniston, J., Inada, S. S., Caldwell, C., & ABA Center on Children and the Law. (2013). *Handbook on questioning children: A linguistic perspective* (3rd edition.). ABA Center on Children and the Law

Wandrey, L., Lyon, T. D., Quas, J. A., & Friedman, W. J. (2012). Maltreated children's ability to estimate temporal location and numerosity of placement changes and court visits. *Psychology, Public Policy, and Law*, 18(1), 79–104. <https://doi.org/10.1037/a0024812>

Statutes, Regulations, and Government Reports

COMAR 07.02.07.12

FY2018 Child Maltreatment Referral, Pathways, and /Services

Md. Code Ann., Fam Law Sec 5-701

SCCAN's 2019 Annual Report to the Governor and General Assembly