

INVESTIGATING FALSE AND QUESTIONABLE CHILD SEXUAL ABUSE ALLEGATIONS

By Dr. Simon B. Miranda And Teresa M. Pastor

While sexual assaults on children are an undisputed ugly reality in our society, it has become increasingly evident over the last decade or two that false accusations of sexual assaults on children are also an ugly reality.

It is very seldom totally correct to say that a child is lying when making sexual abuse allegations. When false allegations make it into the protective services, the law enforcement, or the judicial fields, what has almost invariably happened is that a child's sexual gesture or activity, or a child's comment of answer (usually to leading questions) has been interpreted, exaggerated, distorted, or in some other way shaped into a sexual abuse statement by a series of individuals.

Writer A.A. Milne tells the story about Winnie the Pooh and Piglet going for a walk in the snow and discovering fresh tracks where they had been walking. They fearfully conclude that some threatening creature, perhaps a woozle, must be nearby and perhaps even following them. As they walk around in the snow, examining the tell-tale marks, they discover more and more tracks, and become more and more alarmed. This blind search goes on until they discover that the tracks are their own and that the terrifying woozles simply do not exist. Like Winnie the Pooh and Piglet, many parents and professionals involved in the alleged sexual abuse cases create tracks that they later attribute to the defendant.

Some powerful negative motive usually underlies the birth of a false sex abuse allegation, and often questionable (however pro-socially clothed) motives energize its flow through the governmental systems. At the entry point of a false allegation one almost always finds a parent who has questioned a child in indeterminate ways and often also exposed the child to powerful emotional messages.

This parent will then pass that exchange through her/his personal psychological filter (beliefs, memories, attitudes, resentments, fears) before delivering this filtered information to a law enforcement professional. This professional has the unique opportunity of detecting the false or doubtful nature of the allegations and stopping them. Unfortunately, too often this person also has the power to give the allegation life and elevate it to an official status.

When the later takes place, the accused ends up facing capital charges of sexual assault; once filed, these charges give the case a life of its own. By the time discovery begins, several persons have interviewed; mental health professionals, protective services personnel, medical professionals, lay and/or attorney guardians. At this point, one frequently encounters a child who in a few months has acquired impressive intellectual and emotional sophistication in the rendering of sexual abuse allegations. One also often faces allegations that have grown in number of incidents, severity of incidents, and all kinds of aggravating concomitants.

It is here that a trained psychologist will draw upon the ever growing body of knowledge in the experience, to ascertain if there are "tracks" created by "Poohs" and "Piglets" of the case. Specifically, this clinician addresses himself to the information available on the case and then reader's opinions as to its reliability.

The trained clinical psychologist working on the defense of someone accused of sexual abuse must be aware of the ease with which parents, children, and other professionals fall into the trap of bias. Bias

can be inadvertent or malicious, rooted in personal history, based on gender or professional differences, gathered from ideologies of the field, or caused by lack of professional training.

Unfortunately, too many law enforcement interviewers and social service workers accept as true the information given in the referral or by the parents. Many will conduct validation interviews which seek to elicit from the child verbal and/or non-verbal confirmation for a series of "facts" already in the interviewer's possession, and which the interviewer believes are based on reality.

Just as Winnie the Pooh created footprints himself and blamed them on some unknown force, the interviewer who has already reached a conclusion about a case also contaminates the child's statement with his own tracks. How does the psychologist identify these footprints?

The psychologist analyzes the child's statement(s) and other related documents to determine whether the child's independence has been removed, making the child vulnerable to suggestion, leading, manipulation, or any type of distorting influence. This leading tactic is seductive in nature, in that the interviewer appeals to the child's emotions in order to persuade her/him to adopt the interviewer's position on the issue. For example, the interviewer may infantilize the child by using a regressive tone of voice or by using excessive flattery.

Interviewers often manipulate the child through psychological crowding, in other words, by creating an atmosphere of doubt and by throwing the child off balance mentally, in order to redefine the child's mental contents. For example, in one case the interviewer suggested that an anatomical girl doll bear the same name as the child, even after the child had given the doll another name. Later in the same interview, the following interchange took place:

Q. Should we have his (adult male anatomical doll's) clothes on or his clothes off?

A. On.

Q. On?

A. Yes, I think on.

Q. Well, I don't know. You tell me.

A. On. It would look better with his clothes on.

Q. O.K., but we're not looking for better. We're looking for you just to tell the truth.

Although professional guidelines consistently stress that an investigation must be clearly distinguished from therapy, many interviewers assume a therapeutic role, which ultimately gives the child permission to make potentially negative statements about a person who might be close to the child, and gives reinforcement for making these negative statements. In reality, therapy should take place only once diagnosis is made, and an investigator who sees herself as providing therapy has clearly made the determination that the child is indeed a victim, and therefore the accused must be guilty.

For example, one interviewer repeatedly made statements such as, "You're not in any trouble." "It takes a lot of courage to tell." "You didn't do anything wrong even if you said OK." This investigator, when

deposed, actually referred to her interview as "therapeutic investigative," terms which are mutually exclusive. This same interviewer also explained in deposition that her job was to give the child "permission to say the words."

Once an emotional atmosphere is created in which the child is robbed of independence and manipulated into adopting the agenda of the interviewer, various tactics are used to elicit or even twist verbal statements. Leading questions abound such interviews.

An interviewer who is biased toward a particular scenario will confirm his leaning by failing to follow up on statements that might disprove or cast doubt on the allegations, or lead to a different interpretation of the case. For example, in a case in which the child referred to the alleged abuser as Uncle X, she also mentioned having seen Uncle Y in the nude. The interviewer's response was, "Oh, OK. Besides Uncle Y, who else have you seen like this?" Failing to follow up on the information given about Uncle Y indicates that the interview was only seeking statements about Uncle X not about any possible perpetrator.

Interviewers also elicit information by giving positive verbal reinforcement to desired statements ("Good" or "I'm glad you told me.") and, conversely, showing disapproval when the child gives an unwanted response. In extreme cases, an interviewer may even offer the child tangible rewards for giving the expected statement or negative reinforcement for not giving it.

Beyond eliciting certain information from a child, an interviewer might actually attempt to twist the child's statements. For example, after one child stressed that the alleged abuse happened at one place, the detective pressed her, "And that happened at two different places, am I right?"

Even after the interview is concluded, a biased investigator may misrepresent a child's ambiguous or inconclusive statement. For instance, a police report may state that "The child told me..." but on close examination, the transcript of the actual interview shows that the child half-heartedly agreed to the interviewer's suggestion by nodding or responding "I think so" to a leading question.

These tactics merely begin to describe the way in which unreliability is brought into sexual abuse allegations. If evidence of bias, contamination, training, or fabrication is found, it must be laid bare for the prosecutor to see and hopefully dismiss the charges. If worst comes to worst, the psychologist will hope for the opportunity to eloquently bring this unreliability to the trier of fact.

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