North Dakota Law Review

Volume 70 | Number 4 Article 4

1994

Assessing Children's Credibility: Scientific and Legal Issues in 1994

Charles Robert Honts

ASSESSING CHILDREN'S CREDIBILITY: SCIENTIFIC AND LEGAL ISSUES IN 1994

CHARLES ROBERT HONTS*

I. BACKGROUND

Few things cause as much concern and consternation in the criminal justice system as a case that requires a child to take the witness stand and give testimony. This concern is heightened when the child witness is called on to tell about traumatic events, such as sexual or physical abuse, that may have happened to him or her. In this context the judicial system has struggled with questions such as: Are children legally competent to testify? If they are allowed to testify, can children give accurate testimony about things they have experienced? Can children be led to give inaccurate testimony by the suggestion or influence of adults? Will children tell lies about serious matters? If children lie, can those lies be detected by the average person, or are special techniques required?

These are not new questions to either science or the law. Scientific research addressing these questions now spans over 100 years. However, the past fifteen years have seen a tremendous increase in the reporting of child sexual and physical abuse, and as a result a dramatic increase in the number of children called to testify about these traumatic events. Therefore, finding and understanding the answers to the questions stated above takes on critical importance in the law since the welfare of children and the freedom of the accused adults hangs in the balance.

This article briefly reviews the science that addresses these questions, and strong scientific evidence can be brought to bear on all of them. However, the focus of this article will be on the last question stated above: Can children's lies be detected? The article continues by describing a technique that has been developed for assessing the credibility of the narrative statements given by children who have made an accusation of child sexual abuse. This technique, known as Statement Validity Assessment, has been used for many years in Germany, but is new in the English speaking world. The science concerning Statement Validity Assessment is presented and considered. Finally, the potential use and status of Statement Validity Assessment in the American judicial system is considered in the context of the recent standards for the

* Associate Professor of Psychology, University of North Dakota, Box 8380, Grand Forks, ND 58202-8380. EMAIL: HONTS@BADLANDS.NODAK.EDU

admission of expert scientific evidence developed by the United States Supreme Court.[1]

II. STATEMENT OF THE PROBLEM

A. RAPID GROWTH IN CHILD ABUSE ALLEGATIONS

Over the past fifty years there has been a startling increase in the rate of child sexual abuse reporting. For example, the reporting rate of child sexual abuse in 1955 was 1.9 per million.[2] In 1981 the reporting rate was up to 385 per million[3]. In 1992 the reporting rate was estimated at 7,143 per million.[4] Surveys have suggested that even this high figure is a gross underestimate of the actual abuse rate, estimated to be as high as 50,000 per million.[5] As a result of such perceptions, during the 1980s a number of programs by government agencies, civic organizations, schools, and the mass media were undertaken to encourage both children and adults to report cases of suspected child abuse. A common result of these programs was a many-fold increase in the rate of child sexual abuse reporting.[6]

Unfortunately, this increase in reporting has not been without problems, as revealed by several legal and psychological authorities. In 1985 Besharov found that as many as 65% of the reports of abuse were unfounded.[7] In 1987 Jones and McGraw reported that more than 8% of the reports of child sexual abuse resulting in formal evaluations were false.[8] Raskin and Steller report that between 1983 and 1985 referrals to the University of Utah for polygraph tests in child sexual abuse cases increased 400%, while the percentage of the accused who passed those tests increased 56%.[9] Raskin and Steller further report that false

---

1. Daubert v. Merrell Dow Pharmaceuticals, Inc., 113 S. Ct. 2786 (1993).

2. David C. Raskin & Max Steller, *Assessing Credibility of Allegations of Child Sexual Abuse: Polygraph Examinations and Statement Analysis*, *in* CRIM. BEHAV. & JUST. SYS. 290 (H. Wegener, et al. eds., 1989) (citing S. WEINBERG, INCEST BEHAVIOR (1955)).

3. U.S. DEPT. OF HEALTH & HUMAN SERVICES, NAT'L CTR. OF CHILD ABUSE & NEGLECT, STUDY FINDINGS: NATIONAL STUDY OF THE INCIDENCE AND SEVERITY OF CHILD ABUSE AND NEGLECT (1981).

4. Michael E. Lamb, *The Investigation of Child Sexual Abuse: An Interdisciplinary Consensus Statement*, 2 EXPERT EVIDENCE 152 (1994).

5. Finkelhor et al., *Sexual Abuse in a National Survey of Adult Men and Women: Prevalence, Characteristics, and Risk Factors*, 14 CHILD ABUSE AND NEGLECT 19 (1990).

6. Raskin & Steller, *supra* note 2, at 290.

7. Besharov, *"Doing Something" About Child Abuse: The Need to Narrow the Grounds for State Intervention*, 8 HARV. J.L. & PUB. POL'Y, 539, 556 (1985).

8. David P.H. Jones & J. Melbourne McGraw, *Reliable and Fictitious Accounts of Sexual Abuse to Children*, 2 J. INTERPERSONAL VIOLENCE 27 (1987).

9. Raskin & Steller, *supra* note 2, at 290-91.

accusations were more common in domestic relations and child custody cases.[10]

B. ALLEGATIONS OF CHILD SEXUAL ABUSE ARE DIFFICULT TO ADJUDICATE

Allegations of child sexual abuse are particularly difficult to adjudicate for the following reasons: the nature of this crime makes it a private event; there are rarely eyewitnesses other than the accused and the alleged victim; there is rarely useful physical evidence; benign child care can sometimes be misperceived as abuse; small children of limited verbal ability are often involved; investigative techniques applied by law enforcement and child protection services are often of poor quality, and there is no accepted set of diagnostic criteria or any formally recognized child sexual abuse syndrome to aid in the discovery, diagnosis, or adjudication of these cases.[11] Thus, the resolution of child sexual abuse cases often comes down to a decision by the trier of fact about which of the two parties, that is, the accused and the alleged victim-witness, is telling the truth. Maximizing the accuracy of this credibility assessment task is particularly important given the high incidence of unfounded accusations that has resulted from the increased reporting of abuse. It is at this point that science has information to offer that may assist the trier of fact.

III. HISTORICAL REVIEW OF THE SCIENCE REGARDING CHILDREN'S CREDIBILITY

A. CAN CHILDREN GIVE ACCURATE TESTIMONY?

A great deal of scientific research has addressed general questions about the ability of children to give accurate testimony. That research was recently reviewed in detail by two leading psychologists, Ceci and Bruck.[12] In their review, Ceci and Bruck found strong empirical support spanning nearly 100 years for the notion that children can give highly accurate accounts of things they have witnessed or experienced.[13] This finding was supported even for pre-school children.[14] Thus, general questions about the ability of children as a group to give

---

10. *Id.* at 291.

11. David L. Corwin, *Early Diagnosis of Child Sexual Abuse: Diminishing the Lasting Effects*, *in* LASTING EFFECTS OF CHILD SEXUAL ABUSE 251, 253 (Gail Elizabeth Wyatt & Gloria Johnson Powell eds., 1988); Robert J. Levy, *Using "Scientific" Testimony to Prove Child Abuse: The Dorsey & Whitney Professorship Lecture*, 23 FAM. L. Q. 383 (1989-90).

12. Stephen J. Ceci & Maggie Bruck, *Suggestibility of the Child Witness: A Historical Review and Synthesis*, 113 PSYCHOLOGICAL BULLETIN 403 (1993).

13. *Id.* at 408-09.

14. *Id.* at 409.

accurate reports about things they have witnessed or experienced seem to have been answered in the affirmative by scientific research.

If children are assumed to have the ability to give accurate reports, then the salient questions for the legal system become: 1) Are children suggestible? and 2) Will children deliberately lie about serious matters?

B. ARE CHILDREN SUGGESTIBLE?

Ceci and Bruck also review extensive scientific literature that shows that children, like adults, can be misled by suggestion.[15] Moreover, pre-school children were found to be disproportionately susceptible to the effects of suggestion.[16] Children were also found to be willing to tell deliberate lies under a variety of situations.[17] Those situations and the minimum age where lying was shown are illustrated in Table 1.

Table 1. Situations where children have been shown by scientific research to be willing to tell lies. Material adapted from Ceci and Bruck.

Situation	Minimum Age (Years) Where Lying has been Demonstrated
To Avoid Punishment	4.00
To Sustain a Game	2.00
To Keep Promises	3.00
For Personal Gain	4.00
To Avoid Embarassment	3.00
To Protect a Loved One	5.00

However, much of this research has been criticized as lacking ecological validity.[18] That is, the situations and paradigms used by the scientists in these studies have been criticized for not being very realistic. Moreover, some scientists continue to maintain the position that children

15. *Id.* at 431.
16. *Id.*
17. Ceci & Bruck, *supra* note 12, at 432-433.
18. Gail S. Goodman, *Commentary: On Stress and Accuracy in Research on Children's Testimony, in* THE SUGGESTIBILITY OF CHILDREN'S RECOLLECTIONS: IMPLICATIONS FOR EYEWITNESS TESTIMONY 77 (John Doris ed., 1991); John C. Yuille and Gary L. Wells, *Concerns About the Application of Research Findings: The Issue of Ecological Validity, in* THE SUGGESTIBILITY OF CHILDREN'S RECOLLECTIONS: IMPLICATIONS FOR EYEWITNESS TESTIMONY 118 (John Doris ed., 1991).

will not tell lies about serious matters. In discussing the results of a study they had conducted, Goodman and Clarke-Stewart have said the following, which is typical of those who maintain that children do not lie about serious matters:

> If these results can be generalized to investigations of abuse, they suggest that normal children are unlikely to make up details of sexual acts when nothing abusive happened. They suggest that children will not easily yield to an interviewer's suggestion that something sexual occurred when in fact it did not, especially if non-intimidating interviewers ask questions the children can comprehend.[19]

C. WILL CHILDREN DELIBERATELY LIE ABOUT SERIOUS MATTERS?

Recent research at the University of North Dakota has addressed the issue of children's willingness to lie about serious matters in serious situations. This article's author and his colleagues used a very realistic laboratory paradigm where children were prompted by a parent to make a false allegation about a theft to a person the child believed to be a police officer. Three conditions were included in the study (hereinafter Honts study). In one condition children witnessed the theft of a book by one of the researchers. At a later time, those children were asked to truthfully recall what they had witnessed to a police officer investigating the theft. In the other two conditions the parent prompted the child to tell a false story to the police officer. In one of those conditions the child had to make up a completely false story. In the other condition the child witnessed the parent steal the book, but was then asked by the parent to say that he or she had seen one of the research assistants (Researcher 2) take the book. The former deceptive condition modeled a completely false accusation, and the latter deceptive condition modeled a perpetrator substitution situation.[20]

---

19. Gail S. Goodman and Alison Clarke-Stewart, *Suggestibility in Children's Testimony: Implications for Sexual Abuse Investigations*, *in* THE SUGGESTIBILITY OF CHILDREN'S RECOLLECTIONS: IMPLICATIONS FOR EYEWITNESS TESTIMONY 93, 103 (John Doris ed., 1991).

20. *See* Mary K. Devitt et al., *A Study of the Willingness of Children to Make False Accusations About a Serious Matter in a Realistic Setting*, Presentation Before the American Psychology-Law Society (March 1994) (Mid-Year Meetings, Sante Fe, NM) [hereinafter Willingness Study]; Mary K. Devitt et al., *A Study of the Willingness of Children to Make a False Accusation About a Serious Matter*, Presentation Before NATO ASI: The Child Witness in Context: Cognitive, Social, and Legal Perspectives (May, 1992) (Il Ciocco, Italy) [hereafter Willingness Presentation]; Charles R. Honts et al., *Detecting Children's Lies With Statement Validity Assessment: A Pilot Study of a Laboratory Paradigm*, Presentation Before NATO ASI: The Child Witness in Context: Cognitive, Social, and Legal Perspectives (Il Ciocco, Italy) (May 1992) [hereinafter Detecting Lies Presentation].

These studies examined truth telling, deception, and credibility assessment in children aged four to 11. Details of that experiment are as follows: After fully informing and obtaining permission from

The results of the studies are illustrated in Figure 1. Over all conditions, 69% (33 of 48) of the subjects made accusations.[21] In the true statement condition, 81% (13 of 16) of the children correctly accused the researcher of the theft of the book.[22] In the completely false accusation condition, 69% (11 of 16) of the subjects falsely accused Researcher 2 of the theft.[23] Finally, 56% (9 of 16) of the children in the perpetrator substitution condition falsely accused researcher 2 of stealing the book.[24]

---

a child's parents, the child was brought to a psychology laboratory under the pretext of being given some mental abilities tests. Upon arriving at the psychology building, the subject and the parent were escorted to the experimental room by two researchers. A student, actually a confederate, was studying for a test in that room. One of the researchers told the student that the room had been reserved and then asked the student to take a break and leave the room for approximately 20 minutes while the testing was being conducted. The student was given permission to return to the room after the testing was completed. The student was allowed to leave his or her study materials, including a textbook, in the experimental room while taking this break. Researcher 1 then took the parent aside while Researcher 2 began working with the child. Researcher 2 had the child complete a number of easy mental ability tasks (e.g., sorting cards, drawing a picture). Next, Researcher 1 and the parent left the testing room. While Researcher 1 and the parent were out of the room, one of three situations occurred that specified the conditions of the experiment.

Truthful. In this condition, Researcher 2 looked at the student's book and announced how interesting and nice the book was. Researcher 2 picked up the book, admired it, told the child that the researcher was going to take the book, and then put the book in a backpack. Subsequently, Researcher 2 instructed the child that the theft was to be their secret and that the child should not tell anyone that the researcher had taken the book.

Completely False. In the second condition, the child did not see anyone take the book, but the book disappeared. Later the child and the parent were left alone in the experimental room for several moments. Then, when the theft was discovered by the returning student wanting to study for the following day's exam, the parent was accused of stealing the book. Later, when the child and parent are again alone in the room, the parent asked the child to lie to protect him or her from the allegations about taking the missing book. The parent suggested that the child should say that Researcher 2 had taken the book. This condition was designed to model a condition where the child makes up a completely false accusation.

Perpetrator Substitution. The third condition was similar to the truthful condition except that the parent was instructed to take the book when the researchers were out of the room. The parent then told the child that this was to be their secret and if the child disclosed the information the parent would get in trouble. The parent suggested that the child should blame Researcher 2 for the theft of the book. This condition was designed to model a perpetrator substitution condition in the real world.

In all conditions, Researcher 2 left the experimental room for "a meeting across campus." The owner of the book then returned and a dramatic scene ensued. The student indicated the importance of the book in studying for the following day's exam. The child was then questioned by Researcher 1 and the student concerning the whereabouts of the book. A police officer was then summoned at the request of the student. The student then left the room, returned several minutes later, and asked the parent and child to wait in the experimental room until a police officer arrived. Children in all conditions were interviewed by a person they were told was a police officer (actually a graduate student).

21. Willingness Study, *supra* note 20.

22. *Id.*

23. *Id.*

24. *Id.* Three children in the perpetrator substitution condition correctly identified the parent as the thief, and one child in the truthful condition prevented Researcher 2 from leaving the experimental room. *Id.*

FIGURE 1

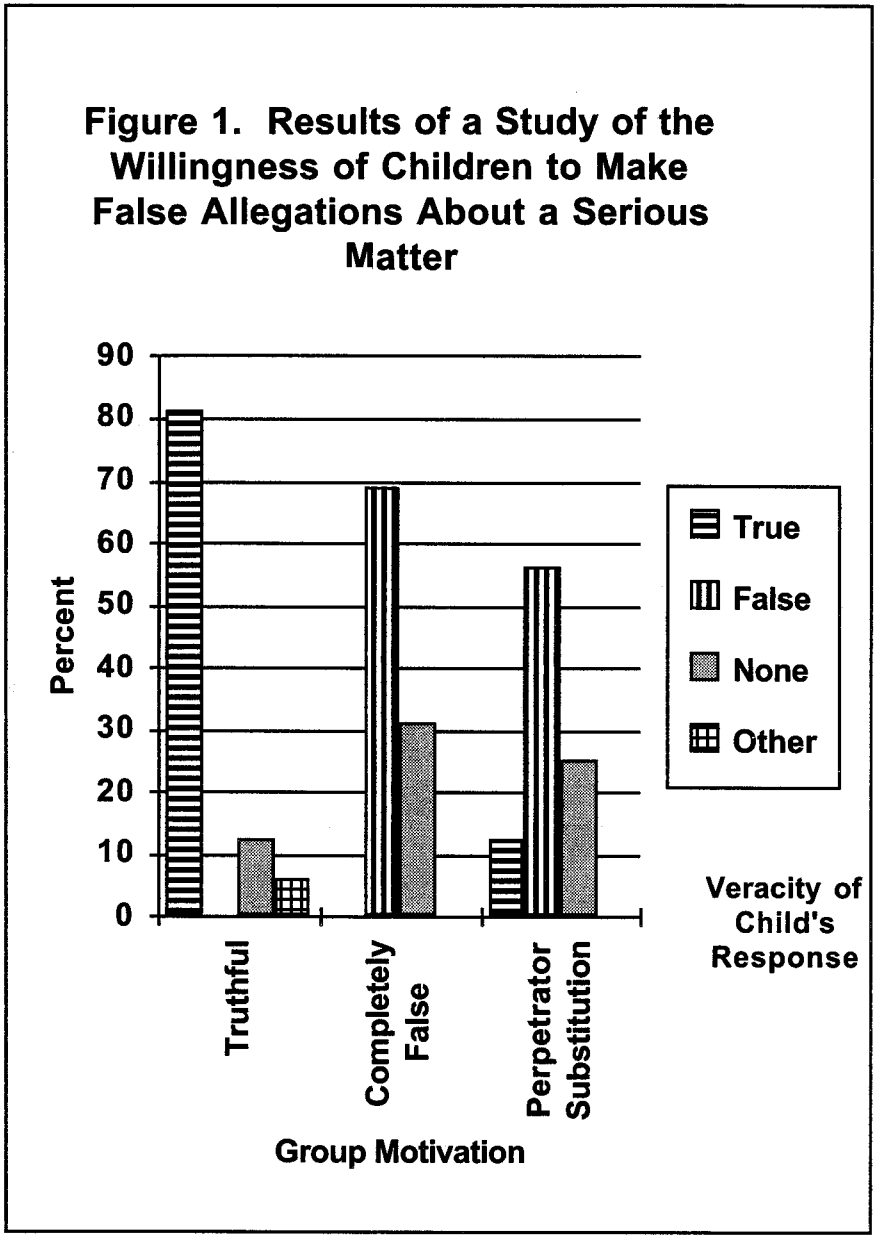
Figure 1. Results of a Study of the Willingness of Children to Make False Allegations About a Serious Matter
Percent
90
80
70
60
50
40
30
20
10
0
Truthful
Completely False
Perpetrator Substitution
Group Motivation
True
False
None
Other
Veracity of Child's Response

These results strongly suggest that under certain circumstances, children will tell lies about serious matters in situations they believe to be important. Given the finding that children will lie about serious matters, and in that sense are no different than adults, the important question for the legal system becomes: When a child lies, can that lie be detected by the average person, or are special methods required?

IV. ASSESSING THE CREDIBILITY OF A CHILD'S STATEMENTS

A. ABILITIES OF AVERAGE PERSONS TO DETECT DECEPTION IN CHILDREN

Assessing the truthfulness of a person's statements has traditionally been one of the functions of the trier of fact. However, a large body of scientific research has shown that people are generally no better than chance in determining whether an adult is lying or not.[25] This finding that people are very poor at deception detection includes not only average people but also professionals, such as customs officers, police, lawyers, and judges, who are constantly confronted with the task of deception detection. If people are no better than chance at detecting the deception of adults, can they do better with children? Recent research at the University of North Dakota has addressed this question.

As a master's degree thesis project, Marcus Tye asked college students to view the videotapes or to read transcripts of the interviews of the children in the Honts et al. studies described above.[26] Those students made 917 judgments of truthfulness and they were correct only fifty-six percent of the time.[27] The results indicated that they were no better than

---

25. Bella M. DePaulo, *Spotting Lies: Can Humans Learn to Do Better?*, 3 CURRENT DIRECTIONS PSYCHOL. SCI. 83, 84 (1994).

26. Marcus J. Tye, *Criteria-Based Content Analysis of Children's Statements About a Mock Crime Compared with the Evaluations of Naive Subjects* (1994) (M. Psych. thesis, University of North Dakota) [hereinafter Children's Statements], *summarized in* Marcus J. Tye & Charles R. Honts, *Adults Are No Better Than Chance at Detecting Children's Narrative Deception* (July 1994) (paper submitted for presentation) (on file with author) [hereinafter No Better Than Chance]. This study examined the ability of 115 young adults to detect deception in the narrative statements of children aged four to 11, $M = 7.45$. *Id.* Each evaluator made a credibility decision on eight statements. *Id.* For each evaluator four of the statements were presented on videotape, and four were presented as a typed transcript. *Id.* Evaluators also made ratings of their confidence in their credibility decisions. *Id.* Overall, credibility decisions were correct 56% of the time. *Id.* The evaluators were at chance performance with children who provided false accusations. *Id.* Discrimination between truthful and deceptive statements was significant, $r = 0.154$, $p < .001$, but accounted for only a tiny amount (2%) of the criterion variance. *Id.* Confidence in credibility decisions was not related to the accuracy of those decisions, and judgments based on video-tape were no more accurate than judgments based on transcripts. *Id.*

27. No Better than Chance, *supra* note 26.

chance in detecting the false statements of the children.[28] Given that adults do not appear to be able to detect deceptive statements made by children, a special technique appears to be needed to perform that task. A technique now known as Statement Validity Assessment was developed in Germany in the 1950s for just that purpose[29].

B. SCIENTIFIC CREDIBILITY ASSESSMENT OF CHILDREN'S STATEMENTS

The idea of scientifically analyzing statements to assess credibility can be traced to turn of the twentieth century and the work of William Stern.[30] Stern conducted research on adult and child memory and found that completely accurate recall was rare.[31] Stern noted the relevance of his research for cases of sexual abuse, but at that time the testimony of psychological experts was not admissible in the German courts. After World War II, the German judicial system was completely restructured and special courts were created to adjudicate cases concerning offenses committed by or against persons under twenty-one years of age. In 1954 Udo Undeutsch, a clinical psychologist, was called on by the court to help assess the credibility of a fourteen-year-old alleged victim/witness of rape. Based on Undeutsch's testimony in that case, a ruling was made by the German Supreme Court in 1955 that required the use of psychological interviews and assessments of credibility in virtually all contested cases of child sexual abuse.[32] That ruling led to the development of clinical interview and assessment procedures that were used to assess the credibility of alleged victim/witnesses of child sexual abuse in Germany and later in Sweden.[33]

The initial clinical technique for assessing children's credibility was known as Statement Reality Analysis.[34] The basic notion underlying Statement Reality Analysis is that a statement derived from memory of an actual experience differs in content and quality from statements based on invention or fantasy.[35] This notion has come to be known as the Undeutsch Hypothesis.[36] It was estimated that by 1982 Statement Reality Analysis testimony had been offered in more that 40,000 cases in

---

28. *Id.*

29. To the author's knowledge, no other such techniques exist for assessing the credibility of children's statements.

30. *See* Udo Undeutsch, *The Development of Statement Reality Analysis*, *in* CREDIBILITY ASSESSMENT 101 (John C. Yuille ed., 1989) (providing a discussion of the historical development of statement credibility assessment).

31. *Id.* at 102.

32. *Id.* at 103-04; 7 BGHSt 82-86 (1955).

33. Undeutsch, *supra* note 30, at 110-112.

34. *Id.* at 110.

35. Max D. Steller, *Recent Developments in Statement Analysis*, *in* CREDIBILITY ASSESSMENT 135 (John C. Yuille ed., 1989).

36. *Id.* at 136.

Germany.[37] Despite this widespread use and acceptance, there were no English language publications on Statement Reality Analysis until 1982.[38] Moreover, since the results of a Statement Reality Analysis were per se admissible in the German courts, clinicians in Germany were not motivated to attempt a formal scientific validation of their statement analysis techniques. Efforts to standardize, validate, and develop these statement analysis techniques so that they may meet American judicial standards are quite recent and they have been primarily a North American effort.[39] The statement analysis system that has emerged in North America is now known as Statement Validity Assessment.[40]

C. STATEMENT VALIDITY ASSESSMENT

Statement Validity Assessment (SVA) as it now exists in North America has been described in detail by Raskin and Esplin, two leading psychologists, and will be presented only briefly in this article.[41] SVA is a procedure for assessing the credibility of a child that has previously made an accusation of child sexual abuse.[42] It is not appropriately applied in situations where sexual abuse is only suspected.[43] SVA is designed to be used early in the investigation of child sexual abuse, although it may be applied with caution at any phase of the investigation.[44] The procedures are designed to be used with an alleged victim/witness from the age of about two and half to seventeen years of age.[45] However, younger children may pose special problems for developmental reasons, and adolescents may present problems because of their greater knowledge and experience.[46]

---

37. Friedrich Arntzen, Die Situation der Forensischen Aussagepsychologien in der Bundesrepublik Deutschland, *in* RECONSTRUCTING THE PAST: THE ROLE OF PSYCHOLOGISTS IN CRIMINAL TRIALS 107 (Arne Trankell ed., 1982).

38. Udo Undeutsch, *Statement Reality Analysis*, *in* RECONSTRUCTING THE PAST: THE ROLE OF PSYCHOLOGISTS IN CRIMINAL TRIALS 27 (Arne Trankell ed., 1982).

39. For a brief history of this effort see David C. Raskin & Phillip W. Esplin, *Statement Validity Assessment: Interview Procedures and Content Analysis of Children's Statements of Sexual Abuse*, 13 BEHAVIORAL ASSESSMENT 265 (1991); Steven W. Horowitz, *Empirical Support for Statement Validity Assessment*, 13 BEHAVIORAL ASSESSMENT 203 (1991). *But see* Max Steller & Guenter Koehnken, *Criteria-Based Statement Analysis*, *in* PSYCHOLOGICAL METHODS IN CRIMINAL INVESTIGATION AND EVIDENCE 217 (David C. Raskin ed., 1989) (deserving special mention for presenting the first true formalization of the criteria used in the credibility analysis).

40. David C. Raskin & Phillip W. Esplin, *Assessment of Children's Statements of Sexual Abuse*, *in* THE SUGGESTIBILITY OF CHILDREN'S RECOLLECTIONS: IMPLICATIONS FOR EYEWITNESS TESTIMONY 103 (John Doris ed., 1991).

41. *See supra* notes 39-40 and accompanying text.

42. Raskin & Esplin, *supra* note 39, at 269.

43. *Id.*

44. *Id. at 267.*

45. *Id.* at 270.

46. *Id.* Very young children can be problematic as subjects for SVA because they may have

The general principles of SVA call for the psychologist to approach the assessment of the child's credibility as a scientific problem. The psychologist collects data (a narrative statement given by the alleged victim/witness) and then uses those data to assess a number of alternative hypotheses. For example, in many child sexual abuse cases the following alternative hypotheses might all be considered:

- The allegations are basically true.
- The allegations are basically true, but the child has substituted a different person for the perpetrator.
- The fundamental allegation is true, but the child has made additional allegations that are false.
- The child has been influenced or pressured to make a completely false allegation to serve the needs of someone else.
- The child has made a false allegation for personal motives.
- The child has fantasized the allegations, possibly because of psychological problems.

By considering a number of hypotheses the investigator avoids problems of self-fulfilling expectations associated with investigators having only one hypothesis.[47] At the end of the SVA process the psychologist determines which of the alternatives is best supported by the data.

1. *The SVA Interview*

SVA is composed of three somewhat independent phases. The first phase of SVA is an interview.[48] This interview is not therapy, nor is it an interrogation. Rather, the SVA interview is an open-ended investigative interview based on psychological principles.[49] The SVA interview is designed to maximize the amount of accurate information obtained from the child by relying on free recall and by not leading the child. SVA interviews should be conducted in simply furnished but pleasant

limited verbal and cognitive abilities. *Id.* In addition, younger children may show problems with attention span, social skills, and self-control during the interview. *Id.* Adolescents, on the other hand, present problems because they may have considerable sexual knowledge and are more facile at manipulating the interview situation and adults in general. *Id.*

47. Ceci & Bruck, *supra* note 12, at 419-422 (discussing studies that indicate that when the persons who are interviewing children have only one hypothesis about what actually happened, the child tends to produce a statement that supports the interviewers sole hypothesis, even if that hypothesis is false). Moreover, the same research suggests that if the interviewers have information that they believe to be true, but which is in fact false, that false information will tend to appear in the statements of the children being interviewed. *Id.*

48. *See* Raskin & Esplin, *supra* notes 39-40 (detailing the principles of the SVA interview). *See also* Michael E. Lamb et al., *Factors Influencing the Reliability and Validity of Statements Made by Young Victims of Sexual Maltreatment*, 15 J. APPLIED DEV. PSYCHOL. 255 (1994).

49. The form of the SVA interview is consistent with a set of recent international suggestions for unbiased interviewing of children. *See* Lamb, *supra* note 3, at 153.

rooms that are totally free from distractions, such as toys or games. The child should be seated in a comfortable chair that brings the child up near the level of the interviewer. Everything possible should be done to assure that the child is focused on the interview and functioning at his or her highest level. The interview begins with open-ended questions, but as the interview progresses the interviewer may ask progressively more direct questions to clarify or expand certain areas, if necessary. As a general principle, all responses to direct questions are followed with an open-ended prompt. Throughout the interview, the major purpose is to gather as much information as possible in order to evaluate the alternative hypotheses.

SVA interviews are tape recorded, and videotape recording is strongly preferred. Because of all the possible biasing effects of the interviewer, it is now generally agreed by scientists working in this area that no interview of a child can be adequately evaluated without a tape recording.[50] After the conclusion of the interview, the interview is transcribed and the SVA moves into its second phase.

2. *Criteria-Based Content Analysis (CBCA)*

The second phase of SVA is the scientific assessment of the credibility of the statements given by the child during the interview. This process is known as Criteria-Based Content Analysis (CBCA). CBCA involves formally applying the Undeutsch Hypothesis[51] to the child's statement. This assessment is conducted by looking for the presence of criteria in the statement. In the most recent published form of SVA there were eighteen CBCA criteria.[52] Those eighteen criteria are organized into three broad categories and are briefly described at Appendix I. These criteria are all affirmative criteria, that is, their presence is considered to be supportive of the validity of the statement. The evaluator examines the statement in its entirety and in detail and then assesses the presence or absence of the eighteen criteria. One approach has the evaluator score the presence of criteria on a three-point scale where "0" is assigned if the criterion is absent, "1" is assigned if the criterion is present, and "2" is assigned if the criterion is strongly present.[53]

---

50. Lamb et al., *supra* note 48, at 258.

51. The Undeutsch Hypothesis asserts that a statement derived from memory of an actual experience differs in content and quality from statements based on invention or fantasy. *See* Steller, *supra* note 35, at 136 (discussing the underlying notion of the Undeutsch Hypothesis).

52. Raskin & Esplin *supra* note 39, at 279.

53. For additional detail on how these criteria are scored see *supra* note 39.

CBCA provides for an evaluation of the child's statement in light of the Undeutsch Hypothesis. In general, the more CBCA criteria that are present, and the greater the strength of their presence, the more strongly the evaluator will feel that the statement was of high quality and was based on a true recollection of an event. On the other hand, statements generally lacking in specific criteria, and particularly those lacking the general characteristic criteria, will be considered low quality and viewed with great skepticism. However, CBCA may be limited by several contingencies. One situation where a CBCA may be misleading would be where the child has had a sexual experience, but the source was other than with the alleged perpetrator. Thus, a high quality but false statement might result from the child drawing on memory derived from the other experience. On the other hand, a low quality statement might result from a poorly conducted interview or from a child with severe limitations in cognitive or verbal skills. Such possibilities should be considered when conducting the interview and in evaluating the results of the CBCA. The third phase of SVA, the Validity Checklist, provides a formal mechanism for evaluating the quality of the interview and the validity of the CBCA.

3. *Validity Checklist*

Systematically addressing each of the topics in the Validity Checklist (shown at Appendix II) gives the evaluator a formal way to explore and consider alternative interpretations of all of the available information.[54] The use of the Validity Checklist hopefully prevents premature conclusions based on bias or preconceived notions. If the CBCA has produced a high quality statement, then the Validity Checklist is used to evaluate the likelihood of the alternative hypotheses. If the interview has produced a low quality statement containing few criteria, then the Validity Checklist is used to see if there is additional support for one of the alternative hypotheses, or if there is a likely explanation for the poor quality of the statement, such as a poor interview or a child with limited expressive abilities. After considering the elements of the Validity Checklist and all of the available information, the evaluator arrives at a conclusion about the likely validity of the child's statement.

54. The present discussion relies heavily on Raskin & Esplin, *supra* note 39, at 288.

D. SCIENTIFIC RESEARCH ON STATEMENT VALIDITY ASSESSMENT

Scientific research generally on SVA, and specifically on each of its three phases, is a relatively new undertaking. So far CBCA, the second phase of SVA, has been the target of virtually all the scientific research and commentary.[55] Because the SVA interview appears to be based on standard psychological interviewing practice and on psychological principles that are founded in the very large research data base concerning children's memory, recall, and suggestibility, this phase of SVA does not seem to be controversial.[56]

The third phase of SVA, the Validity Checklist, is not designed to be a measurement tool. It is a heuristic checklist of items that are designed to force the evaluator to consider the alternative hypotheses and all of the available information. Since the Validity Checklist is not intended to be a psychometric instrument, issues of validation are moot, except in the sense that the utility of the items on the checklist might be amenable to examination in the field. CBCA, on the other hand, is a psychometric test based on the Undeutsch Hypotheses. As such, it is subject to examination under the scientific method.

When assessing a psychometric test like CBCA, scientists are concerned with two issues: reliability and validity. In this context, reliability refers to the repeatability of data collection. For CBCA, inter-judge reliability is critical. That is, if a statement is presented to several evaluators, will they report the same criteria as being present? Several studies have examined the reliability of CBCA and all report acceptable overall reliability.[57]

The second issue of interest to scientists is validity. Validity for a scientist refers to the accuracy of a technique. The important question concerning CBCA is: How well do CBCA scores discriminate children who are telling the truth from those who are lying? Scientists generally take one of two approaches to the validation of a test. One approach is

---

55. Horowitz, *supra* note 39, at 295.

56. See *supra* notes 12, 35, 39-40, and accompanying discussions.

57. *See* John C. Yuille, *A Simulation Study of Criterion Based Content Analysis*, Paper presented at the NATO Advanced Study Institute on Credibility Assessment, Maratea, Italy (1988) (reporting high levels of reliability); Steller, *supra* note 35, at 143 (documenting high levels of reliability). *But see* Anson et al., *Child Sexual Abuse Allegations: Reliability of Criteria-Based Content Analysis* 17 LAW AND HUMAN BEHAVIOR 331 (1993) (reporting lower levels of reliability for some of the individual criteria); Horowitz et al., *Reliability of Criteria-Based Content Analysis of Child Witness Statements*, manuscript submitted for publication (1994) (finding lower reliability on some individual criteria); *see also* Horowitz, *supra* note 39, at 298-299 (discussing and reviewing the reliability of CBCA).

to examine the technique under controlled laboratory conditions. In such a situation, children would be asked to lie, or would be maneuvered into lying, about some known issue. The major advantage of this approach is that the scientist has control over the situation and knows with certainty when the children are lying and when they are not. The major criticism is that it often lacks realism.[58] To date, all of the laboratory studies of CBCA have shown high levels of accuracy in discriminating true and false statements given by children.[59]

The other approach to the validation of a psychological test is to conduct research based on real cases of child sexual abuse as they occur in the real world. The major strength to this field approach is that it has complete realism since the scientist is studying the very kind of case he or she wants to make scientific statements about. The great limitation of field studies is that it is often impossible to know with any amount of scientific certainty which children are telling the truth and which are lying. Some criterion, independent of any use of SVA, must be developed to determine who is truthful, and this criterion will, in all likelihood, itself be in error in some cases. The strongest field studies employ multiple indicators in the development of the criterion.

To date, there are two field studies in the scientific literature addressing the accuracy of CBCA.[60] Both of those studies report very high accuracy, approaching one hundred percent, in classifying true and

58. Since children cannot be ethically abused or traumatized in the laboratory, the lies they tell in the laboratory must necessarily be about other less emotional issues. This may introduce qualitative changes that may limit the meaningfulness of the results. In this particular context, it is particularly important that the children be motivated to lie to adults, and that they be in a situation where the child realizes there is a possibility that she or he will be detected in their deception.

59. Horowitz, *supra* note 39, at 299-303 (reviewing all of the laboratory studies available in 1991 and noting that although they all showed high accuracy for CBCA, they all lacked realism). Since the review by Horowitz there has been one new laboratory study of CBCA with children that was specifically designed to be as realistic as possible, and that study was the Honts study. *See* Honts, *supra* note 20. The statements given by the children in the Honts study were submitted to an independent CBCA analysis by a team of three reviewers who were unaware of the group assignments of the children who made the individual statements. *Id.* With an optimal cutoff of the total CBCA scores, it was possible in that study to correctly classify all of the children who made false statements and 10 of 13 children who gave true statements. *Id.* When multivariate statistical techniques were used to weight the criteria, 100% of the resulting classifications were correct. *Id.* Thus, in this laboratory study where children were telling lies about serious matters in what they believed to be a serious situation involving the police, CBCA scores were able to classify statements by truthful and deceptive children with a great deal of accuracy. *Id.*

60. *Compare* Raskin & Esplin, *supra* note 40, at 159-62 *with* Tascha D. Boychuk, *Criteria-Based Content Analysis of Children's Statements About Sexual Abuse: A Field-based Validation Study* 2272 (1991) (available through DAI-A 52/06 Dissertation Abstracts International, Order no. ACC9124789).

doubtful statements given by children in real cases of child sexual abuse.[61]

V. LEGAL ISSUES[62]

Scientific research strongly suggests that people are not very good at assessing the credibility of children's statements. Moreover, scientific research says that there is a reliable and valid technique, Statement Validity Assessment (SVA), that could assist parties that have to assess children's credibility. Trials involving child victim/witnesses seem to be

---

61. The first study, reported by Raskin & Esplin, *supra* note 40, involved 40 cases. Twenty of the cases were confirmed by confessions that occurred outside of plea bargaining, unequivocal medical evidence, or both. *Id.* The remaining cases were rendered doubtful by the case facts. *Id.* In the doubtful cases there was no confession, medical evidence, or other corroborating evidence of any kind. *Id.* Further, in all of the doubtful cases, criminal proceedings had been dismissed, often because the child had recanted. *Id.* Sixty-five percent of the doubtful cases also included a polygraph examination which the accused had passed. *Id.* The children's statements were independently evaluated for CBCA criteria by an experienced psychologist who was unaware of the confirmation status of the individual statements. *Id.* The resulting CBCA scores were highly discriminating of the confirmed (Mean Total CBCA score = 24.8) and doubtful statements (Mean Total CBCA score = 3.6). *Id.* In fact, the highest total CBCA score for a doubtful statement was less than the lowest score for a confirmed statement. *Id.* Thus, if an optimal cutoff were used, 100% of the cases would have been correctly classified. *Id.* The study received some criticism because one of the criteria used for establishing the doubtful group (the dismissal of charges) was susceptible to similar factors (the child's believability) as the CBCA criteria. *See* Gary L. Wells & Elizabeth F. Loftus, *Commentary: Is This Child Fabricating? Reactions to a New Assessment Technique, in* THE SUGGESTIBILITY OF CHILDREN'S RECOLLECTIONS: IMPLICATIONS FOR EYEWITNESS TESTIMONY 168 (John Doris ed., 1991). In an effort to address these criticisms, Raskin & Esplin reanalyzed their data with a subsample of doubtful cases that contained at least two of the following criteria: lack of medical evidence, recantation, or a truthful polygraph result with the accused. *See* David C. Raskin & Phillip W. Esplin, *Commentary: Response to Wells, Loftus, & McGough, in* THE SUGGESTIBILITY OF CHILDREN'S RECOLLECTIONS: IMPLICATIONS FOR EYEWITNESS TESTIMONY 172 (John Doris ed., 1991). The basic findings did not change. *Id.* There was still no overlap of the total CBCA score produced in confirmed and doubtful cases. *Id.*

The second of the existing field studies was reported by Tascha D. Boychuk. *Criteria-Based Content Analysis of Children's Statements About Sexual Abuse: A Field-Based Validation Study* 2272 (1991) (available through DAI-A 52/06 Dissertation Abstracts International, Order no. ACC9124789). Boychuk replicated the Raskin and Esplin field study with a sample of 75 cases. *Id.* One-third of the cases were classified as doubtful and one-third were classified as confirmed on the bases of multiple criteria that were independent of the children's statements. *Id.* The remaining cases were confirmed only by the confession of the suspect and judicial outcomes. *Id.* These cases were included to test differences across a continuum of confirmations. *Id.* Boychuk reported no differences between cases with strong and only moderate confirmation, thus partially answering the criticisms of Wells & Loftus. *Id.* The children's statements were transcribed and evaluated independently by two trained CBCA evaluators. *Id.* The reliability of the evaluators was high and the resulting total CBCA scores were very discriminating of confirmed and doubtful statements. *Id.* Although not included in the original report, additional analyses of these data were reported. *See* David C. Raskin & Charles R. Honts, *A Bootstrap Reanalysis of the Results of Boychuk, 1991, in* VITNEPSYKOLOGI - 94: PSYCHOLOCIAL METHODS IN THE INVESTIGATION AND COURT TREATMENT OF SEXUAL ABUSE (University of Tronsø, Norway, Trond Skjæveland ed., 1994). This reanalysis of the Boychuk data indicate that for all practical purposes, the theoretical population distributions of the doubtful and confirmed statements do not overlap.

62. The legal analysis presented here is intended to be a scientific view of the issues and is not intended to be a comprehensive legal analysis of the issues.

one situation where expert testimony about SVA could be very useful. The following sections consider the possible forms that SVA testimony might take and then provides a brief consideration of the admissibility of such testimony.

A. POSSIBLE FORMS OF SVA TESTIMONY

1. *Education of the Jury*

One way that some SVA testimony might be offered is as a tool for educating the trier of fact. In this educational form, the expert would educate the trier of fact about the research concerning interviewing children, assessing children's credibility, and the factors described in the SVA Validity Checklist. However, in this form, the expert would stop short of offering a specific opinion about the credibility of the child's statements.

This educational form of the testimony would seem to be particularly appropriate when the expert has not had the opportunity to interview the child, but may have had access to others' interviews or to the child's sworn testimony. The expert could also educate the trier of fact about the dangers of leading interviews, the susceptibility of children to suggestion, and the willingness of children to lie in certain situations. There is scientific evidence that even brief training in the basics of SVA significantly improves the ability of average persons to make accurate credibility assessments.[63] This form of the testimony would not seem to be very controversial, and the present author and others have offered such testimony in a number of cases.

2. *Direct Expert Opinion Regarding the Credibility of a Child Victim/Witness*

In this form of testimony, the expert goes beyond the educational role and offers a direct opinion about the credibility of the alleged victim/witness' statement during a specific interview. This form of testimony is clearly more controversial, and may be objectionable on several counts. For example, SVA testimony is very similar to the testimony regarding the results of polygraph tests, and may therefore be subject to many of the same criticisms. In that regard, polygraph tests

63. Steller, *supra* note 35, at 146 (achieving high reliability and validity by evaluators after only 90 minutes of training in CBCA). *Cf.* Kristine L. Landry & John C. Brigham, *The Effect of Training in Criteria-Based Content Analysis on the Ability to Detect Deception in Adults*, 16 LAW & HUM. BEHAV. 663 (1992) (finding that subjects were able to perform significantly better than chance at detecting deception in adults after only a brief introduction to the CBCA criteria). Subjects in that study who were not exposed to the CBCA criteria were no better than chance at detecting deception. *Id.* at 674.

have been held inadmissible because it was felt that juries may be overwhelmed by the scientific nature of the evidence and surrender their decision-making role to the expert.[64] However, there is not a shred of scientific evidence that polygraph testimony overwhelms juries. In fact, the opposite seems to be true; juries do not seem to give polygraph results much, if any, weight.[65] Scientific research has consistently shown that juries are quite capable of ignoring all manner of scientific expert testimony, particularly if there has been critical cross-examination.[66] There does not seem to be any reason to suspect that direct expert testimony on child witness credibility will have the magical powers to overwhelm juries that other scientific evidence lacks.

B. A SCIENTIST'S VIEW OF ADMISSIBILITY UNDER THE *DAUBERT* DECISION

In Daubert v. Merrell Dow Pharmaceuticals, Inc.,[67] the United States Supreme Court set out a new set of guidelines for admitting expert scientific evidence in the federal courts. The Supreme Court provided the following non-definitive list of factors for the trial judge's analysis of expert testimony admissibility:

- Is the scientific hypothesis testable?
- Has the proposition been tested?
- Is there a known error rate?
- Has the hypothesis and/or technique been subjected to peer review and publication?
- Is the theory upon which the hypothesis and/or technique is based generally accepted in the appropriate scientific community?[68]

The Court went on to state that "[the admissibility inquiry's] overarching subject is the scientific validity — and thus the evidentiary relevance and reliability — of the principles that underlie a proposed submission. The focus, of course, must be solely on principles and methodology, not on the conclusions that they generate."[69] Although *Daubert* is not controlling in the state courts, rulings by the United States

64. Under Rule 403 of the Federal Rules of Evidence, a judge may reject probative expert testimony if the probative value of that testimony is outweighed by its tendency to mislead or confuse the jury. *See, e.g.*, United States v. Alexander, 526 F.2d 161, 168 (8th Cir. 1975).

65. *See* Charles R. Honts & Mary V. Perry, *Polygraph Admissibility: Changes and Challenges*, 16 LAW & HUM. BEHAV. 357 (1992) (discussing the weight given to polygraph results by juries).

66. *Id. at 366-67.*

67. 113 S. Ct. 2786 (1993).

68. *See generally* Daubert v. Merrell Dow Pharmaceuticals, Inc., 113 S. Ct. 2786 (1993).

69. *Id.* at 2797.

Supreme Court are often mimicked in lower courts. Therefore, it may be useful to examine SVA under the factors developed in the *Daubert* decision.

• *Is the scientific hypothesis testable?* This factor asks if there is a scientific hypothesis that is falsifiable, that is, can the scientific hypothesis be proven to be incorrect. The answer to the question for SVA is clearly, yes. The basic scientific hypothesis, the Undeutsch Hypothesis, can be shown to be incorrect by scientific research.[70]

• *Has the proposition been tested?* Again the answer is clearly, yes. A number of laboratory and two field studies have examined the validity of the Undeutsch Hypothesis and it has been supported by the data.[71]

• *Is there a known error rate?* Again the answer is, yes, but the results are not as definitive. Different studies have produced different accuracy rates. Accuracy in the two field studies and in the most realistic laboratory study were very high. Moreover, all of the accuracy estimates produced to date suggest that CBCA, the scientific analysis portion of the technique, has an accuracy rate higher than most other forensic evidence accepted by the courts.[72]

• *Has the hypothesis and/or technique been subjected to peer review and publication?* Again the answer is, yes. As shown in the reviews by this author and by others,[73] peer-reviewed scientific publications and presentations have supported the reliability and validity of CBCA.

• *Is the theory upon which the hypotheses and/or technique is based generally accepted in the appropriate scientific community?* This question is more difficult to assess. There have been no surveys of scientists directly addressing this question. However, it is interesting to

---

70. *See supra* notes 30-34 and accompanying text (discussing the Undeutsch Hypothesis).

71. *See supra* notes 39, 61 and accompanying text (examining the validity of the Undeutsch Hypothesis).

72. As noted earlier, the scientific credibility assessment (CBCA) portion of SVA has been the subject of both laboratory and field studies, and to date, all of the studies have produced high rates of accuracy. *See supra* notes 59-61 (discussing the studies performed and results received). In both of the existing field studies, there was 100% discrimination of confirmed truthful and doubtful statements. *See supra* note 61. Similar patterns of results and levels of accuracy were also obtained in a realistic laboratory study, although somewhat lower accuracy rates have been obtained in other laboratory experiments. *See* Horowitz, *supra* note 39, at 299-303. These levels of accuracy clearly place CBCA as one of the more accurate forensic techniques available to the courts, and it is clearly in the range of accuracies generally accepted by courts throughout the country. *See* Peter J. Neufeld & Neville Colman, *When Science Takes the Witness Stand*, 267 SCI. AM. 46 (1990); J.L. PETERSON ET AL., U.S. GOV'T PRINTING OFFICE, CRIME LABORATORY PROFICIENCY TESTING RESEARCH PROGRAM xi-xvi (1978); *see also* United States v. Gipson, 24 M.J. 246, 252-53 (C.M.A. 1987). Moreover, although there has been some technical criticism of the resarch methods used in one of the field studies, *see* Wells & Loftus, *supra* note 61, there has not been any significant criticism of the basic theory of SVA or CBCA, nor has there been any scientific criticism of the basic resarch findings.

73. *See generally* Horowitz, *supra* note 39.

note that after nearly forty years of application in Germany, there appears to be very little controversy about SVA in the German psychological literature. Moreover, with the exception of some methodological criticisms, the English language psychological literature is, so far, without published criticism of the theory and techniques underlying SVA and CBCA. If lack of criticism, despite opportunity to present such criticism, is general acceptance, then the theory of SVA seems to have general acceptance at this time.

VI. SUMMARY AND CONCLUSIONS

In this article, I have reviewed the scientific and legal status of SVA, a technique for assessing the credibility of the statements of an alleged child victim/witness of child sexual abuse. This technique has had a long and successful history of application in Germany and in the German courts, but is a relatively new technique in the English speaking world and is quite new to American jurisprudence. The central part of the technique for the credibility assessment, Criterion-Based Content Analysis (CBCA), has been subjected to a number of scientific studies and favorable results have been published in peer-reviewed scientific journals. Estimates of the error rate of the technique are available in the scientific literature and the technique appears to be as accurate as the best of the forensic techniques that are generally admissible in the courts of this country. Currently there is no published criticism of the theory underlying SVA and CBCA.

The legal relevance of SVA is to make more or less probable the truthfulness of a child, as a witness in court. This opinion is based on the scientific analysis of collected data and, in that sense, is no different from other forensic evidence requiring expert interpretation before being useful. It is then up to the trier of fact to determine if the offered expert testimony is sufficiently reliable to result in an inference that the child, as a witness, is to be believed or not.

SVA testimony could be offered in one of two forms. In the weaker, educational form, the expert provides information based on scientific research to the trier of fact that may aid the trier of fact in evaluating the testimony of the child witness before the court. In the stronger opinion form of the testimony, the expert goes on to give a formal opinion about the credibility of a specific statement given by the child. The weaker form of the testimony does not seem to be very controversial and such testimony has already been admitted in a number of cases around the country. The stronger form of the testimony is

more controversial, but the present analysis suggests that it, too, should be admissible.

APPENDIX I

CBCA Content Criteria (Adapted from Raskin & Esplin, 1991)

General Characteristics

Logical Structure. This criterion requires that, taken as a whole, the statement must make sense. This criterion does not require that the statement be linear. Moreover, unusual details, peculiar content, and unexpected events do not diminish this criteria as long as the statement is coherent.

Unstructured Production. The statement should be somewhat disorganized, unlinear, and unconstrained. There should be spontaneous digressions and shifts of focus. However, this criterion requires that the statement be logical.

Quantity of Details. This criterion requires that the statements be rich in detail about specific persons, places, times, and events. Simple repetition does not contribute to the presence of this criterion.

Specific Contents

Contextual Embedding. This criterion requires that the central event or events in the statement be anchored in specific places and times. Moreover, the central event should be tied to incidental events like everyday occurrences.

Interactions. This criterion requires the report of action and reactions or conversations composed of a minimum of three elements involving at least the accused and the alleged victim/witness.

Reproductions of Speech. This criterion requires that conversation from the incident be reported in its original form. Unfamiliar terms or quotes are considered especially strong indicators, even when they are attributed to only one person.

Unexpected Complications. This criterion requires the description of an unplanned interruption or an unexpected complication or difficulty during the sexual incident.

Unusual Detail. This criterion requires the report of details that are unusual, yet meaningful in context. The detail must be realistic.

Superfluous Details. This criterion requires the report of details described in connection with the alleged sexual event that are not necessary and do not contribute directly the accusation. If the passage satisfies any of the other criterion it is not considered superfluous.

Accurately Reported Details Misunderstood. This criterion requires that the child accurately describe an object or event, but interpret it incorrectly.

Related External Associations. This criterion requires references to a sexually-toned event or conversation that is related in some way to the incident, but is not part of the alleged sexual offense.

Subjective Experience. This criterion requires that the child describe feelings or thoughts experienced at the time of the incident. This criterion is not met by a response to a direct question unless the answer goes beyond the question.

Attribution of the Accused Mental State. This criterion requires reference to the alleged perpetrator's feelings or thoughts during the incident. Descriptions of overt behavior do not qualify.

Motivation-Related Contents

Spontaneous Additions or Corrections. This criterion requires that additions or corrections be offered to material previously provided in the statement. Responses to direct questions do not qualify.

Admitting Lack of Memory or Knowledge. This criterion requires that the child clearly indicate a lack of memory or knowledge of some aspect of the incident. In response to a direct question the answer must go beyond "I don't know" or "I can't remember" in order to qualify.

Raising Doubts About One's Own Testimony. This criterion requires that the child express a concern that some part of her or his statement will not be believed. Merely asserting that one is telling the truth does not qualify.

Self-Deprecation. This criterion requires that the child describe some aspect of his or her behavior in the sexual incident as wrong or inappropriate.

Pardoning the Accused. This criterion requires that the child make excuse for or fail to blame the alleged. Minimizing the seriousness of the acts, or failing to add to the allegations when possible also qualifies for this criterion.

APPENDIX II

The Validity Checklist (Adapted from Raskin & Esplin, 1991)

Psychological Characteristics

Cognitive-Emotional Limitations of the Alleged Victim/Witness. Were there characteristics of the child or the situation that may have interfered with obtaining an adequate statement from the child? (For example: did the child have limited cognitive abilities, or was the child unwilling or obviously uncomfortable in discussing the events?)

Language or Knowledge. Did the child display language and knowledge beyond that of a normal child of this age, capacity, and experience, and beyond what could have been gained from the alleged incident?

Affect During the Interview. Did the child display appropriate effect during the interview?

Suggestibility. Did the child show obvious signs of susceptibility to suggestion? Did the child make attempts during the interview to find out what was expected by the interviewer?

Interview Characteristics

Interview Procedures. Was the interview acceptable under the general principles of interviewing according to the rules of Statement Validity Assessment?

Influence on Statement Content. Was the content of the child's statement likely influenced by the interviewer?

Motivational Factors

Motives for Reporting. Are there possible and reasonable motives for the child to make a false report?

Context of Disclosure. What is the context of the original report? Are there things about that context that may have influenced the accuracy of the statement?

Influence by Others. Is there evidence that others may have influenced the child to make a false statement?

Investigative Questions

Lack of Realism. Is the child's statement unreasonable, or do elements of it violate the laws of nature?

Inconsistent Statement. Has the child made inconsistent statements about central elements of the incident? Are elements of the child's statement inconsistent with the statements of other witnesses? Inconsistencies in peripheral elements are not of concern.

Contradictory Evidence. Are there important elements of the child's statement that are contradicted by physical or other concrete evidence?

Characteristics of the Offense. Does the reported incident have the general characteristics typical of such offenses?