

MEMORY AND CHILDHOOD ABUSE: THE PSYCHOLOGICAL EVIDENCE

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I. INTRODUCTION

Dealing with child sexual abuse allegations in the courts presents special difficulties. These relate in large part to the nature of sexual abuse. It is rare for there to have been any witnesses. Secrecy is enforced by physical threat and/or psychological coercion. This process is aided by the huge power imbalance between the perpetrator and victim: adult versus child, trusted authority figure (typically) versus dependant. This results in delayed and hesitant disclosures, if disclosure occurs at all. Medical evidence is rarely available, either because there is none or because by the time disclosure occurs healing has occurred. Thus concerns are raised about the believability of witnesses.

Sexual abuse allegations are also difficult because of the community's response to the offence. It involves an "unnatural" sexual act. It is often conducted by a family member (father, stepfather, older sibling), family friend, or person responsible for a child's supervision or care. Only 10% of child abuse is conducted by strangers. Disbelief and denial are typical responses. Furthermore, the state has traditionally been reluctant to intervene in situations involving family members since it challenges familial boundaries and beliefs favouring the sanctity of the family.¹

Awareness of sexual abuse has been effectively suppressed over hundreds of years.² The mental health professions have played their part in that. In this century, Freud's shift from sexual abuse as real to sexual abuse as fantasy denied generations of victims, and perpetrators, responsible help. It took the efforts of feminists and rape trauma specialists, therapists and social workers, to raise awareness. Systematic studies of the prevalence and effects of abuse did not take place until the late 1970s and 1980s. The facts emerging from these studies show that approximately one in four

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¹ Sale, Schuman, and O'Connor, "In a Dim Light: Admissibility of Child Sexual Abuse Memories" (1994) 8 *Applied Cognitive Psychology* 399.

² Olafson, Corwin, and Summit, "Modern History of Child Sexual Abuse Awareness: Cycles of Discovery and Suppression" (1993) 7 *Child Abuse and Neglect* 7.

females and one in seven males have experienced at least one sexual abuse event before the age of 16, and that the impact of abuse for many of these people is considerable.³ These studies confirmed the early claims of feminists and mental health workers.

The legal response to emerging awareness of child sexual abuse has initially been characterised by the same responses seen earlier in the mental health profession and general community: disbelief and denial. In the 1980s, these responses were enacted in courtrooms through attacks on the credibility of child witnesses. Defence lawyers portrayed children as inherently unreliable (because they were children), as subject to suggestion (by parents or mental health professionals), as having poor memory, and/or as confusing fantasy with reality.

Yet a growing body of research has established that children, on the whole, are reliable witnesses. False allegations of sexual abuse by children, are rare.⁴ Even very young children can provide accurate recall about central events they have experienced, or which were personally significant to them, although they may not remember peripheral events so well. Children may be more influenced by suggestible information than adults. Suggestibility is minimised when the information being recalled is central and personally significant, when memory of the event is good, when leading questions are avoided, and when social pressure to give particular answers to an authority figure is controlled.⁵ The Evidence Amendment Act 1989 was a practical and reasonable response to these concerns about children's memory, and in the light of the research evidence on children's testimony.

In the 1990's the controversy in the courts has shifted from the credibility of child witnesses to the credibility of adult witnesses who allege they were abused as children. This controversy is focused particularly on those cases where memory for the abuse was purportedly forgotten for a period

³ Browne and Finkelhor, "Impact of Child Sexual Abuse: A Review of the Research" (1986) 99 *Psychological Bulletin* 66. See also Finkelhor, "Early and Long-Term Effects of Child Sexual Abuse: An Update" (1990) 21 *Professional Psychology: Research and Practice* 325.

⁴ Jones and McGraw, "Reliable and Fictitious Accounts of Sexual Abuse to Children" (1987) 2 *Journal of Interpersonal Violence*, 27.

⁵ Ceci and Bruck, "Suggestibility of the Child Witness: A Historical Review and Synthesis" (1993) 113 *Psychological Bulletin*, 403. See also Pipe, "Children's Testimony: Current Issues and Research" in *Butterworths Family Law in New Zealand* (7th ed 1995) 522.

- often many years - then subsequently remembered. On one side there is the argument that childhood trauma cannot be forgotten (or 'repressed') but is always remembered, and so called 'recovered memory' is typically the result of suggestions made to clients in therapy. Organisations that include lawyers and psychologists in prominent positions have been established in USA (False Memory Syndrome Foundation) and more recently in Britain and Australia, specifically to promote this argument and to lobby government agencies in the belief that many are being falsely accused and wrongly convicted for sexual abuse. On the other hand, many psychologists and other mental health professionals are providing the argument and evidence that memories for childhood trauma *can* be forgotten and later recalled. They have defended themselves against what is perceived as a misrepresentation of what psychologists believe about memory.

The first position in this controversy is well represented in a recent paper by Nigel Hampton, QC.⁶ He states his belief that there is "inadequate" or "no" evidence to support the "repression" of childhood sexual abuse,⁷ and that there are "increasing numbers" of wrongly convicted people in our prisons.⁸ He blatantly attacks therapists and counsellors for what he sees as the "ease" with which they are paid by ACC⁹ and accuses them of often being poor note takers. He refers to them in this context as "charlatans".¹⁰ He inaccurately portrays therapy practice and refers to counsellors as, "often self-appointed and often self-trained zealots- and worse- trading in the ever seductive currency of guilt and blame - and of revenge".¹¹ Not surprisingly he then introduces the *Ellis* case, which is irrelevant to the recovered memory issue. The issues in *Ellis* concern delayed disclosure not memory repression. He misrepresents Ceci both in terms of the authority he bestows on him as "the leading US child memory researcher"¹² and in terms of his conclusions about the reliability of children's evidence. The paper is a polemic, fuelled by prejudice rather than a careful analysis of the facts. As such it is typical of the line taken by the "False Memory Syndrome" organisations.

⁶ "Recovered Memory Syndrome v False Memory Syndrome or in repression and revenge, where resides justice?" [May 1995] New Zealand Law Journal 154 .

⁷ *Idem.*

⁸ *Ibid.*, 154-155.

⁹ This comment displays total ignorance of ACC procedures.

¹⁰ Hampton, *supra* n. 6, at 155.

¹¹ *Idem.*

¹² *Idem.*

In the remainder of this paper the psychological evidence in relation to the various issues associated with recovered memory are presented. This is now an active area of research so we can expect much more information in the coming years. However, a body of data exists already from which some conclusions can be drawn. In presenting this commentary, I am mindful of the statement by Banks and Pezdek that the most difficult part of the discussion is to keep the emotional power of the issues from clouding the scientific questions.¹³

II. DOES FORGETTING OF CHILDHOOD SEXUAL ABUSE OCCUR?

Before considering the forgetting of sexual abuse, it is important to state that it has long been accepted in the mental health professions that traumatic events can and do produce forgetting, for a period at least, of the traumatic event, and indeed in some cases, forgetting of a more pervasive type. Usually referred to as amnesia, this has been reported in studies of combat veterans¹⁴ and has also been observed in other victims of Post Traumatic Stress Syndrome. In the Diagnostic and Statistical Manual produced by the American Psychiatric Association (DSM)¹⁵ and used internationally for the classification of mental disorders, this was previously called Psychogenic Amnesia, although more recently in DSM IV, this is called Dissociative Amnesia. It is observed as a phenomena on its own; alternatively, amnesia for a traumatic event may occur in Post-traumatic Stress Disorder, Acute Stress Disorder as well as Dissociative Disorders.¹⁶

Many practising psychologists and counsellors report they have had clients who, at one stage forgot (or were amnesic for) childhood sexual abuse. Over half of 810 British Chartered Psychologists surveyed recently reported that they had at some time had a client who had recovered memories (not necessarily in therapy) for childhood sexual abuse. Often those memories are corroborated by existing records or other family members, including in some cases the admission by the perpetrator of the abuse. Some case studies, with corroboration, have been reported in the

¹³ "The Recovered Memory/False Memory Debate" (1994) 3 *Consciousness and cognition* 265.

¹⁴ See, for instance, Bremner et. al., "Dissociation and Post-Traumatic Stress Disorder in Vietnam Combat Veterans" (1992) 149 *American Journal of Psychiatry* 328.

¹⁵ American Psychiatric Association *Diagnostic and statistical manual of mental disorders* (4th ed 1994).

¹⁶ *Ibid.*, 480.

literature.¹⁷

Several systematic group studies have involved interviewing or giving questionnaires to clients of a sexual abuse treatment programme¹⁸ or of a substance abuse clinic containing individuals who reported having been sexually abused.¹⁹ Overall rates of total and partial “forgetting” of abuse ranged from 31%²⁰ to 64%.²¹ Of those studies that distinguished between degrees of forgetting, “severe memory losses” occurred in 28%²² and “complete forgetting” in 19%²³ and 30%.²⁴

In a study of a non-clinical sample, Feldman-Summers and Pope²⁵ asked a national sample of psychologists whether they had been abused as children, and if so whether they had ever forgotten some or all of the abuse. Almost a quarter said they had been abused (sexual and/or physical) and of those, 40% reported a period of some form of forgetting. In two of these studies individuals were asked whether there was subsequent corroboration of their recovered memories of abuse. In Herman and Schatzow’s²⁶ study 74% were able to obtain corroboration of the sexual abuse from another source (the perpetrator, other family members, or physical evidence such as diaries or photographs).

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- ¹⁷ Nash, “Memory Distortion and Sexual Trauma” (1994) 42 *International Journal of Clinical and Experimental Hypnosis* 346. See also Schooler, “Seeking the Core: The Issues and Evidence Surrounding Recovered Accounts of Sexual Trauma” (1994) 3 *Consciousness and Cognition* 452.
- ¹⁸ Brier and Conte, “Self-reported Amnesia for Abuse in Adults Molested as Children” (1993) 6 *Journal of Traumatic Stress* 21-31; Gold, Hughes and Hohnacker, “Degrees of Repression of Sexual Abuse Memories” (1994) 49 *American Psychologist* 441; and Herman and Schatzow, “Recovery and Verification of Memories of Childhood Sexual Trauma” (1987) 4 *Psychoanalytic Psychology* 1.
- ¹⁹ Loftus, Polonsky and Fullilove, “Memories of Childhood Sexual Abuse: Remembering and Repressing” (1994) *Psychology of Women Quarterly*.
- ²⁰ Banks and Pezdek, *supra* n. 13.
- ²¹ Herman and Schatzow, *supra* n. 18.
- ²² *Idem*.
- ²³ Loftus et al., *supra* n. 19.
- ²⁴ Gold et al., *supra* n. 18.
- ²⁵ “The Experience of ‘Forgetting’ Childhood Abuse” (1994) 62 *Journal of Consulting and Clinical Psychology* 636.
- ²⁶ *Supra* n. 18.

In a more direct study of forgetting of childhood sexual abuse, Williams²⁷ interviewed 129 women who were known to be victims of sexual abuse from reports to authorities 17 years earlier. In interviews they were asked detailed questions about their abuse history. Of the women, 38% did not recall the reported instance of abuse, and of these 12% denied ever being sexually abused during childhood.

Do these studies constitute proof that forgetting of childhood sexual abuse can and does occur? While there are some methodological flaws with individual studies, collectively they provide evidence that has convinced even the most sceptical amongst psychologists. For example, Ceci and Loftus²⁸ write “we too believe it is possible to lose contact with memories for long periods of time,” although they dispute that the process is one of “repression,” preferring to consider the phenomenon as “ordinary forgetting.”

Furthermore, the American Psychological Association Working Group on investigation of memories of childhood abuse concluded in an interim report of November 1994, “it is possible for memories of abuse that have been forgotten for a long time to be remembered.”²⁹ The British Psychological Panel on the same subject concluded:

“Complete or partial memory loss is a frequently reported consequence of experiencing certain kinds of psychological traumas including childhood sexual abuse. These memories are sometimes fully or partially recovered after a gap of many years.”³⁰

III. ARE MEMORIES “REPRESSED”?

Much confusion, deliberate and accidental, has been caused by referring to the central process of memory loss as “repression”. The history of this concept lies with Freud and psychoanalysis. It implies that the memory becomes inaccessible because of its traumatic or emotionally unpleasant nature. It is taken to mean absolute memory loss for the event, and does not allow for partial or vague memories to exist.

²⁷ Williams, “Recall of Childhood Trauma: A Prospective Study of Women’s Memories of Child Sexual Abuse” (1994) 62 *Journal of Consulting and Clinical Psychology*, 1167.

²⁸ ‘Memory Work’: A Royal Road to False Memories?’ (1994) 8 *Applied Cognitive Psychology*, 351.

²⁹ *Press release 11.11.94*.

³⁰ Andrews et al., “The Recovery of Memories in Clinical Practice: Experiences and Beliefs of British Psychological Society Practitioners” (May 1995) *The Psychologist* 209.

Most of the criticism and disbelief of memory loss for childhood trauma has focused on "repression".³¹ The statement "there is no evidence for the repression of childhood trauma" denies the fact there is ample evidence for the *forgetting* of childhood trauma, as described above. Furthermore, the statement "there is no evidence for repression" is itself misleading. Such a statement can mean that there has been research that has disproved the phenomenon or it can mean that positive experimental research does not yet exist. In this case, there is no research yet that disproves repression of child sexual abuse. Experimental or laboratory research cannot replicate the circumstances of sexual abuse so there is as yet no experimental research that proves it either. Observation of the phenomenon in real victims of abuse with associated corroboration is the only available evidence at this point. It is interesting to remember there was once no proof that the world was round. Observation of ships disappearing over the horizon established it was. Observation of real events can and should constitute proof.

This statement that there is "no proof of the repression of childhood sexual abuse" has been used by defence counsel in recent trials both here and overseas - to good effect it seems - even when the complainants claim to always have had some memory of the events. The problems related to the concept of repression have helped to promote doubt and confusion in juries.

In all likelihood, several processes of forgetting will be shown in time to be relevant. Furthermore, memory loss is not an all or nothing phenomena. As noted in the group studies earlier, individuals may have periods of complete forgetting of the abuse event or partial forgetting. Harvey and Herman³² identified three general patterns of traumatic recall from studies of their clients: (1) relatively continuous and complete recall of childhood abuse experiences coupled with changing interpretations (delayed understanding), (2) partial amnesia for abuse events, accompanied by a mixture of delayed recall and delayed understanding, and (3) delayed recall following a period of profound and pervasive amnesia. Total or extensive forgetting appears to be more likely if the abuse began when the individual was a young child, and if the acts were overtly violent or sadistic.³³

³¹ Loftus, "The Reality of Repressed Memories" (1993) 48 *American Psychologist* 518.

³² "Amnesia, Partial Amnesia, and Delayed Recall among Adult Survivors of Childhood Trauma" (1994) 3 *Consciousness and Cognition* 295.

³³ Herman and Schatzow, *supra* n. 18.

Loss of memory, partial or total, may be more common in cases of sexual abuse than for example, in combat situations. The reasons for this include the younger age at which the trauma occurred, the isolation of the sexual abuse victim compared with trauma experienced in the company of others, the likelihood that trauma was from the deliberate acts of a person close and known to the sexual abuse victim compared with chance events of war carried out by strangers, the production of shame, and the differences in the time lapse between the event and being able to talk about it.³⁴ The literature that exists on Post Traumatic Stress Disorder for other groups may not apply directly to the victims of childhood sexual abuse.

More research with sexual abuse victims is needed in order to gain understanding of why and how memory loss occurs. The absence of knowledge about process does not however negate the fact memory loss does occur.

IV. ARE FAKE MEMORIES OF CHILDHOOD SEXUAL ABUSE POSSIBLE?

There are as yet no systematic studies of this, yet individual reports are in existence. These reports are largely those of individuals who alleged abuse and then recanted. At best this proves that individuals may at one time say that they were abused and at another that they were not. There are reasons other than truth for changing positions.

Yet it is widely accepted in mental health surveys that false memories may occur. Three surveys³⁵ found a high proportion of practitioners endorsing the belief that recovered memories can be false. This was also the opinion of the American Psychological Association and British Psychological Association panels of experts.

This should give comfort to those who believe that mental health professionals accept as necessarily true their clients' accounts of childhood sexual abuse.

³⁴ Cameron, "Veterans of a Secret War: Survivors of Childhood Sexual Trauma compared to Vietnam War Veterans with PTSD" (1994) 9 *Journal of Interpersonal Violence* 117.

³⁵ *Supra* n. 30; Poole, Lindsay, Memon and Bull, "Psychotherapy and the Recovery of Memories of Childhood Sexual Abuse: US and British Practitioners' Opinions, Practices and Experiences" (1995) 63 *Journal of Consulting and Clinical Psychology* 426; Yapko, "Suggestibility and Repressed Memories of Abuse: A Survey of Psychotherapists' Beliefs" (1994) 36 *American Journal of Clinical Hypnosis*, 163.

V. IS THERE EVIDENCE THAT FALSE MEMORIES ARE PRODUCED IN THERAPY?

The term "false memory syndrome" was coined by the American False Memory Syndrome Foundation as part of an effort to undermine the credibility of complainants and to discredit therapists. Not one professional body, anywhere, has endorsed "false memory syndrome" as a legitimate syndrome. This is not to deny that false memories may occur in some individuals. The related argument that false memories are the product of therapy, and particularly some therapeutic procedures, is also without direct evidence.

Firstly, therapy is not the only occasion for remembering. In Feldman-Summer's and Pope's study,³⁶ one-fourth of the participants identified therapy alone as the sole factor associated with recall. Forty-four percent stated that memory recovery had been triggered exclusively in other contexts. Therapists surveyed by Andrews et al.³⁷ reported thirty-one percent of their clients recovered child sexual abuse memories prior to any therapy. People often go to therapy *because* they are recovering memories (in the form of flashbacks, vague memories or suspicions, or complete recall of events) in order to gain help and understanding of the events. Therapy often provides the first opportunity ever to discuss sexual abuse memories and suspicions.

Secondly, concerns from cognitive/experimental psychologists that therapy may produce false memories are based on experiments which show that in certain conditions false memories can be produced.³⁸ It is important, however, to remember that laboratory experiments can never replicate the conditions of traumatic events. Furthermore, many of the experiments relate to memory for associated circumstances to a central event in which the subject is an observer rather than a central participant. Whether memory is as suggestible as is feared when the event is of high emotional content, involves the individuals directly in the action, and concerns a common taboo (sexual abuse) is less certain, and some would claim absolutely unproven.³⁹

³⁶ *Supra* n. 25.

³⁷ *Supra* n. 35.

³⁸ Lindsay and Read, "Psychotherapy and Memories of Childhood Abuse: A Cognitive Perspective" (1994) 8 *Applied Cognitive Psychology*, 281; Loftus, *supra* n. 31.

³⁹ Pezdek, "The Illusion of Illusory Memory" (1994) 8 *Applied Cognitive Psychology* 339.

Thirdly, in the most comprehensive review of the experimental research on suggestibility, Lindsay and Read are quite specific in what their concerns relate to: not all therapy but some specific techniques. They state, "There is little reason to fear that a few suggestive questions will lead psychotherapy clients to conjure up vivid and compelling illusory memory of childhood sexual abuse"⁴⁰ and "not all or even most memories recovered in therapy are false...our comments focused exclusively on approaches that make extensive use of suggestive memory recovery techniques."⁴¹ The techniques they are concerned about include hypnosis, guided imagery, journaling, dream interpretation, body memories and survivor groups.

Fourthly, if memory recovery techniques are used, this does not mean that the memories so recovered will inevitably be false. To quote cognitive psychologists, Ceci and Loftus, "There is no theoretical reason why true memories cannot be recovered using memory work techniques." And, "The point is not that suggestive memory techniques unalterably lead to false memory but merely that they *may* do so."⁴² What is argued by the critics of memory recovery techniques such as those listed above, is that there is an increased *risk* of false memories with their use, and their concerns are that therapists therefore acquaint themselves with the issues and exercise the appropriate level of caution.

Thus the evidence that therapy is at significant fault does not exist. There is a reasonable concern raised by cognitive psychologists about some recovered memory techniques, but it is acknowledged that there is "a paucity of direct evidence."⁴³ Practitioners have long been aware of the pitfalls of hypnosis. This, and other techniques listed by Lindsay and Read, are appropriately regarded with caution in the guidelines produced by the British Psychological Association and the Australian Psychological Society.⁴⁴ Therapists who are appropriately trained and belong to appropriate professional bodies that provide education and oversight through admission and complaint procedures, are likely to be mindful of appropriate practice.

⁴⁰ *Supra* n. 38, at 359.

⁴¹ Read and Lindsay, "Moving Toward a Middle Ground on the False Memory Debate" (1994) 8 *Applied Cognitive Psychology* 407.

⁴² *Supra* n. 28, at 359.

⁴³ Read and Lindsay, *supra* n. 41, at 417.

⁴⁴ See *Bulletin of the NZ Psychological Society* (March, 1994).

VI. DO THERAPISTS USE MEMORY RECOVERY TECHNIQUES?

If the concerns of cognitive psychologists are to be regarded as significant, it must be shown not only that the procedures they are concerned about *do* produce false memories in therapy, but also, that psychologists and counsellors actually use these techniques. And if they do, in what context? In particular, are they used in forensic work, as distinct from psychotherapy.

Poole et al.⁴⁵ showed that of 145 American and 57 British psychologists, a high percentage had used at least one memory recovery technique to help clients remember child sexual abuse. Evidence of widescale use of these techniques, in combination, was lacking. No such data exists for New Zealand therapists.

In any case, cautious use of these techniques is not without justification in a psychotherapy context, at least in the hands of competent clinicians. It can provide a hypothesis as to what may account for a client's condition; data can then be re-evaluated in subsequent sessions. This approach to clinical decision-making is widely accepted. It supposes an ongoing relationship with the client, and a purpose of treatment. In the court context, however, there is no ongoing relationship in which to later re-evaluate false conclusions. Given the increased risk that these techniques may produce inaccurate memories the use of them in a forensic context is potentially problematic; at the least, an individual's process of memory recovery needs to be reported fully in the courtroom.⁴⁶

VII. CAN PSYCHOLOGISTS ASSIST IN CRIMINAL TRIALS RELATED TO SEXUAL ABUSE ALLEGATIONS?

Given the widespread misinformation on the status of memory loss for childhood trauma, the status of recovered memory, and the role of therapists in memory recovery, expert psychological evidence should be of value for judges and juries in decision-making. There is now a body of knowledge on these topics, much of which I have reviewed in this paper. The opinions on these matters professed by Nigel Hampton in his recent paper are clearly at variance with the facts. Given the historical attractiveness of such opinions (ie disbelief, denial, "shooting the messengers" who bring the bad news - psychologists and counsellors), the placement of expert evidence before a court seems especially relevant.

⁴⁵ *Supra* n. 35.

⁴⁶ Sale et al., *supra* n. 1.

Outside of a relationship to particular cases, psychologists and others in the mental health profession need to enter more actively into the discussion of these issues. This paper is an effort to do just that. I have argued that there is ample evidence that childhood psychological abuse can be forgotten (although the majority of people will retain complete or partial memory) and that accurate memory recovery is common. It is possible that some recovered memories will be false. The allegation that psychologists and counsellors are responsible for creating false allegations of sexual abuse is without research support. The mostly reasonable concerns of cognitive psychologists about *some* recovered memory techniques have been misrepresented as being more critical of practitioners than is the case. An interest in accuracy is important to our profession. It is even more important for clients, present and future, who turn to therapists for assistance. For those clients who take action in the courtroom there is a similar need for accuracy and fairness from those who will represent them and cross-examine them.