

S.J. Ceci D.F. Ross M.P. Toglia  
Editors

# Perspectives on Children's Testimony



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# Perspectives on Children's Testimony

# Preface

This volume is the second in a series that deals with child witnesses. Our first volume, *Children's Eyewitness Memory* (1987), was primarily concerned with issues surrounding the veracity and durability of children's recollections. It grew out of an APA symposium we organized in 1985, to coincide with an important trend in the American legal system, namely, increasing numbers of young children being called on to offer testimony in juvenile and criminal proceedings. At that time, we had little empirical knowledge about what factors influence children's recollections, especially as they relate to the law. Since then, there has been a steady accretion of knowledge on this topic—some of it sparked by that volume. The current volume, *Perspectives on Children's Testimony*, focuses on adults' attributions about child witnesses. It is an outgrowth of a symposium we organized for the biennial meeting of the Society for Research in Child Development in 1987. Among the many lacunae in our knowledge about child witnesses is how they are perceived by jurors. At present, little research has been directed to this issue. We hope that this volume makes a modest beginning toward filling this gap.

*Perspectives on Children's Testimony* contains current empirical research on factors that affect adults' (e.g., jurors', judges', and attorneys') perceptions of the child witness. These factors include characteristics of the child witnesses themselves, such as their age and speech style, as well as adults' beliefs concerning children's memory capabilities, including whether or not the child's testimony is "scripted" (i.e., whether it is a prepared script of their testimony or their own words). The book is designed to provide researchers, criminal justice workers, attorneys, judges, psychiatrists, and psychologists with knowledge about adult beliefs regarding child witnesses and how these beliefs may influence verdicts. A variety of new techniques are employed in assessing adult views of the child witness. This volume includes several special features. In addition to the contributions on adult perception, the volume includes one chapter that treats in-depth the techniques for interviewing child victims of sexual abuse and two other chapters that provide invited commentaries, one by a legal specialist affiliated

with the American Bar Association and the other by an experimental social psychologist who specializes in psycholegal issues. Both commentators have prepared critical/theoretical integrations of the empirical chapters; one provides interesting insights into the impact of current research on the child witness on sexual abuse prosecutions and the other suggests how these findings can be incorporated into a larger sociopsychological framework. Also of interest are two chapters devoted to an examination of children's perceptions and knowledge of the American legal system. These features help make this volume a resource for those who work with children and the law.

It has become a convention to acknowledge in the Preface the shortcomings of a volume while boasting of its strengths. The present volume's main shortcoming has to do with the applicability of the findings to juvenile and criminal justice proceedings. When we invited the contributors to write chapters, we asked that they describe their most recent empirical research on this topic without stipulating that the research be "applied." This was no oversight. We firmly believe that science and policy are intellectually separate enterprises and ought not be wed by fiat. Our volume is eclectic in this regard; some chapters are quite relevant to current legal practices and others less so. For example, several of the jury simulations reported here employ adults chosen from the community who resemble actual jurors demographically. And the mock trials are based on actual trial transcripts, with actual attorneys and judges playing their respective roles. Other chapters, however, employ far less realism, using student jurors, abbreviated (written) transcripts rather than video or live, and so forth. Is one approach better than the other? Well, one is far closer to application than the other. But that is not the sole, or even main, criterion for making this judgment, nor should it be. As scientists, we believe knowledge is an incremental process that slowly builds over time. A headlong rush to become ecologically valid and "applied" can result in a predominance of studies that focus on aspects of cases that are most congenial to applied research paradigms but ignore the more difficult basic mechanisms that need to be illuminated to permit a complete understanding.

Thus, we are not disappointed that some of these chapters contain descriptions of basic sociopsychological and cognitive mechanisms that underpin adults' attitudes about children; in fact, we are heartened by their inclusion. But they need to be recognized for what they are—namely, the beginning of a scientific struggle to gain a complete understanding. Once the basic mechanisms are known, the next generation of research can capitalize on these insights as a starting point for the next round of studies, until finally the end product is of practical relevance. This reflects our "logical positivist" interpretation of how science builds toward an understanding of a phenomenon. And if our own experience is anything to go on, this is what will happen in the aftermath of this volume, because it is precisely what we witnessed in our first volume. At that time commentators

with a strong applied orientation were concerned that much of the research literature lacked ecological validity. Now two years later, we see a plethora of studies that are characterized by their ecological validity. It is exciting to witness this building process, and these new studies appear to be quite relevant for practitioners. But the first steps in this process (the conduct of basic research) cannot be ignored, and often it is best studied within the constraints of a laboratory context.

Attorneys who are involved with child victim-witnesses know how harrowing and difficult such an experience can be. In addition to the fears surrounding the examination and cross-examination of child witnesses (e.g., fear of revictimizing the child), there is an overriding concern about judges' and jurors' reactions to the child's performance. We found very little that would help one predict how adults viewed child witnesses. Although there is still much we need to know before our understanding is complete, we are beginning to fathom the mind and attitudes of adults toward children. The picture is a complex one, as the reader will soon see.

Ithaca, NY

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# 1

## Determinants of the Child Victim's Perceived Credibility

GAIL S. GOODMAN, BETTE L. BOTTOMS,  
BARBARA B. HERSCOVICI, and PHILLIP SHAVER

It is heartbreaking to realize that children fall victim to crime. We like to think of childhood as a time of innocence, trust, and protection. Yet children are not immune from assault. To protect children from the dangers of such crimes as child abuse, murder, sexual exploitation, and kidnapping, legal action is often required. If legal action results in a trial, a child may be required to take the stand (Goodman, Jones et al., 1988).

When a child testifies, whether or not justice is done may depend largely on jurors' perceptions of the child's credibility. Although the credibility of any victim/witness may be questioned, there are reasons to expect that children's credibility will be of particular concern. Jurors may believe that children's memory is relatively poor and that they are easily coached. Alternatively, jurors may assume children are inherently honest and too naive to make false reports. Regardless of the specific position taken, such "theories" about the abilities of children are likely to affect their perceived credibility. The question of how jurors' theories about children's abilities affect the perceived credibility of a particular child witness is explored in this chapter. As a starting point, we assume that most jurors hold at least two kinds of theories and that these influence their perceptions of children's credibility as witnesses (see also Goodman, Golding, & Haith, 1984). One theory is that children are generally as honest as adults, if not more honest—a theory that might predispose jurors to believe child witnesses. The second theory is that young children's cognitive abilities are less developed than those of adults, which might be expected to lead jurors to question children's testimony under many conditions.

We propose, however, that the second theory does not necessarily lead to a devaluing of children's statements. Rather, it can lead jurors to believe

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The research described in this chapter was funded in part by a grant to Gail S. Goodman from the National Center on Child Abuse and Neglect. We are grateful to Thomas Dunn, Arapahoe County District Attorney's Office, Denver, Co, and Kenneth Gordon, private practice, Denver, Co, for serving as the attorneys in Experiment 1.

children at some times and to disbelieve them at other times. Whether a child's credibility is weakened or strengthened by jurors' adherence to the second theory depends on how jurors' views of children interact with the details of a particular case. Moreover, at some age—probably late in childhood or during adolescence—the cognitive abilities children need to testify accurately about most events start to converge with the relevant cognitive abilities of adults. At this point, barring specific reasons to suspect dishonesty, the presumption that children are more honest than adults may lead to perceptions of heightened credibility for children.

To support these claims, we review current work on jurors' perceptions of child witnesses. We then describe two recent experiments on determinants of jurors' perceptions of child victim/witnesses. In one experiment, we investigated jurors' abilities to evaluate the accuracy of children's testimony. That is, we examined whether jurors can distinguish between accurate and inaccurate testimony given by a child. In the second experiment, we examined jurors' theories about child versus adult victim/witnesses. Both experiments focused on the credibility of child victim/witnesses, but in relation to two very different kinds of trials, one concerned with malpractice and the other with sexual assault.

## Research on Jurors' Perceptions of Child Witnesses

Until recently, few studies were concerned with jurors' perceptions of child witnesses. This area of research is now expanding rapidly; unfortunately, the findings from current studies are not entirely consistent.

A number of studies indicate that child witnesses are viewed as less credible than adult witnesses. Goodman, Golding, Helgeson, Haith, and Michelli (1987; see also Goodman & Michelli, 1981; Goodman et al., 1984) conducted three experiments in which mock jurors read about or heard the testimony of a six-, ten-, or thirty-year-old bystander eyewitness. Regardless of whether the testimony was presented in written form or on videotape, whether the subjects were undergraduate students or adults from the Denver community, or whether the trial concerned vehicular homicide or murder, mock jurors rated the six-year-olds as less credible witnesses than the thirty-year-olds. The credibility of the ten-year-olds fell between that of the other two age groups. Surprisingly, however, there were no significant effects of eyewitness age on mock jurors' judgments of guilt in any of the three studies.

Similarly, Leippe and Romanczyk (1987) report that bystander witness credibility increases with age from childhood to adulthood. Descriptions of a robbery-murder case were read by college students. The age of the key eyewitness was six, ten, or thirty years. The amount of incriminating evidence was also varied. The results duplicate those of Goodman et al.

(1987). Specifically, Leippe and Romanczyk found that the thirty-year-old eyewitness was viewed as more credible than the six-year-old. The ten-year-old's credibility fell between that of the other two witnesses. No significant main effect of eyewitness age on guilt ratings was found.

Interestingly, however, the amount of incriminating evidence affected the jurors' ratings of the defendant's guilt. When the incriminating evidence was weak or moderate, age differences were not found to affect verdicts, perhaps because a substantial majority of jurors voted "not guilty" based on lack of evidence. When the incriminating evidence was strong, the age of the eyewitness mattered. Under these conditions, the thirty-year-old's testimony resulted in 100 percent of the jurors rating the defendant as guilty, while the six- and ten-year-olds' testimonies resulted in only 58 percent of the jurors (for both ages) rating the defendant as guilty.

In a second experiment, Leippe and Romanczyk (1987) varied the age as well as the consistency of witness testimony. College students read a description of a mugging followed by murder. The sole eyewitness was a six-, ten-, or thirty-year-old onlooker. The onlooker later provided testimony that was either consistent or inconsistent over time. Leippe and Romanczyk found that testimonial consistency did not significantly affect the credibility of the ten- and thirty-year-old eyewitnesses but did significantly affect the credibility of the six-year-old. The consistent six-year-old was judged to be more credible than the inconsistent 6-year-old.

In contrast to the findings of Goodman et al. and Leippe and Romanczyk that children are viewed as less credible than adults, several other researchers report that children are seen as no less credible and may, in fact, be seen as more credible than adults. Ross, Miller, and Moran (1987) asked college students to watch a videotape of a simulated trial. The trial concerned a narcotics case in which a woman had been arrested for possession of cocaine. The key eyewitness, who was described as being either eight, twenty-one, or seventy-four years of age, testified for the prosecution that the cocaine had been in the woman's house for some time. The mock jurors rated witnesses on a variety of dimensions (e.g., accuracy, confidence, credibility, and truthfulness). No significant age effect on witness credibility was found: The eight-year-old was rated just as credible as the two adults. The eight-year-old was viewed as more accurate, intelligent, forceful, competent, consistent, and truthful than the twenty-one-year-old. The ratings for the seventy-four- and eight-year-old witnesses did not differ.

A few points concerning the Ross et al. study should be made. First, the particular case they used may have affected their findings. Jurors may have believed that the twenty-one-year-old was somehow involved in the drug deal whereas the eight- and seventy-four-year-olds were not. This interpretation of their findings fits well with our contention that children's credibility will vary as a function of case factors. Second, it is possible that the

individuals who played the role of the key eyewitness were not representative of their age groups. This would explain the counterintuitive finding that the eight-year-old was judged as more intelligent, forceful, and competent than the twenty-one-year-old. Again, this possibility points to the many factors that can determine a child's perceived credibility in an actual case.

Johnson (1986) attempted to replicate the study by Goodman et al. (1984). Unlike these researchers, however, he presented the trial scenario on audiotape and varied the amount of contradictory evidence presented. Instead of the witnesses' credibility increasing with age, age had no effect. Like Ross et al., Johnson found that the child witness was actually judged to be somewhat more truthful and unbiased than the adult witness. Nigro, Buckley, Hill, and Nelson (this volume) also used the scenario developed by Goodman et al. to investigate jurors' impressions of child versus adult witnesses. The key eyewitness was described as either eight or twenty-five years old. Nigro et al. also varied the powerfulness of the witness's speech style. Subject-jurors rated the eight-year-old who used a powerful speech style as the most credible witness.

How can we explain the inconsistencies across these several studies? One possibility has to do with jurors' theories of children's honesty and cognitive abilities. In the Ross et al. and Nigro et al. studies, the youngest witness was eight years old. Perhaps jurors believe that children of this age are similar to adults in the cognitive abilities and relevant experience required to provide accurate testimony in the cases described. This possibility would explain why Goodman et al. and Leippe and Romanczyk tended not to find age differences between the credibility of ten- and thirty-year-old eyewitnesses. The belief that older children are reliable witnesses appeared in the literature as early as 1910, when Gross, a German judge, stated that a "healthy half grown boy" is the best possible witness for simple events (as cited by Whipple, 1912). The belief that older children are likely to have accurate memories for simple events, combined with the belief that children are basically honest, may have led to the findings of Ross et al. and Nigro et al.

Another possible explanation for the inconsistent findings across studies is implied by Leippe and Romanczyk's results. The amount of incriminating evidence may alter jurors' perceptions of a child's credibility. Thus, Johnson's inability to replicate the Goodman et al. study may be a result of differences in the amount of corroborating information presented. In any case, the fact that Johnson's subjects viewed the child witness as more truthful and unbiased than the adult witness points again to the belief that children are particularly honest witnesses.

In this chapter, we focus on the first possibility—that is, that jurors' theories about children's cognitive abilities and relevant experience can lead to different evaluations of their credibility. To develop this argument, we present findings from two recent experiments.

## Juror's Ability to Discriminate between Accurate and Inaccurate Testimony

Recent research indicates that children, by at least the age of four years, can be quite accurate in reporting the main actions witnessed or experienced in real-life events (e.g., Goodman & Aman, 1987; Goodman, Aman, & Hirschman, 1987; Goodman & Reed, 1986; Marin, Holmes, Guth, & Kovac, 1979). Young children are also surprisingly resistant to suggestive questions concerning actions associated with abuse, such as being hit or having one's clothes removed (Goodman, Hirschman, & Rudy, 1987; Rudy, 1986). Yet, if jurors cannot distinguish accurate from inaccurate testimony, the child's accuracy is of little consequence. In fact, Wigmore (1909) argued that the crucial issue for psychological research on eyewitness testimony is not witness accuracy but the factfinder's ability to reach the truth (see also Melton & Thompson, 1987). With two exceptions (Leippe & Romanczyk, 1987; Wells, Turtle, & Luus, this volume), research on this matter has been limited to jurors' ability to distinguish accurate from inaccurate testimony given by adult bystander witnesses.

In a recent review of the literature on jurors' ability to reach the truth, Wells (1985) concluded that "there is no evidence supporting the view that people are good at evaluating the accuracy of eyewitness testimony under various conditions" (p. 60). This conclusion was based on a number of studies indicating that jurors cannot distinguish between accurate and inaccurate adult witnesses.

Two different experimental procedures have been used to investigate this issue. One involves asking subject-jurors to read descriptions of published research studies and predict the results. For example, Brigham and Bothwell (1983) asked randomly selected registered voters to read a scenario from a study by Leippe, Wells, and Ostrom (1978) dealing with a calculator theft and a scenario from a study by Brigham, Maass, Snyder, and Spaulding (1982) dealing with a customer's activities in a convenience store. In both studies (Leippe et al. and Brigham et al.), witnesses had attempted to identify the confederate from photo lineups. Brigham and Bothwell found that 70 to 91 percent of the registered voters overestimated witnesses' ability to identify the confederates.

Leippe and Romanczyk (1987) conducted a similar study, but one that investigated adult predictions of children's testimony. College students read about a brief (15-second) argument between an experimenter and an intruder, a scenario taken from a study by Marin et al. (1979). In that study, the argument was witnessed by individuals from one of four age groups—kindergartners and first graders, third and fourth graders, seventh and eighth graders, and college students. Contrary to the findings of Brigham and Bothwell, Leippe and Romanczyk report that subjects underestimated the accuracy of the witnesses. Of particular concern were sub-

jects' estimates of accuracy as a function of eyewitness age. Leippe and Romanczyk's subjects did not believe there would be age differences in accuracy on a photo identification of the intruder but did believe there would be age differences in the accuracy of answering questions about the intruder and the event. In fact, Marin et al. did not find significant age differences on either measure.

The second experimental procedure used to investigate jurors' abilities to estimate the accuracy of eyewitness testimony has been championed by Wells (Lindsay, Wells, & Rumpel, 1981; Wells, Ferguson, & Lindsay, 1981; Wells & Leippe, 1981; Wells, Lindsay, & Ferguson, 1979; Wells, Lindsay, & Tousignant, 1980). This procedure has greater ecological validity than the first, in that mock jurors actually see witnesses testify about an event. For example, Wells, Lindsay, and Ferguson (1979) staged a theft that was witnessed by college students. The students were asked to identify the culprit from a photo lineup and were then cross-examined in front of mock jurors. The mock jurors were unable to distinguish accurate from inaccurate witnesses.

In other studies of this sort, Wells and his colleagues found that, regardless of accuracy, jurors are much more likely to believe confident than nonconfident witnesses (Lindsay et al., 1981; Wells & Leippe, 1981; Wells et al., 1979; Wells et al., 1980). For example, when viewing conditions for witnesses were varied so that some witnesses had a good opportunity to see the culprit while others did not, subject-jurors still placed great emphasis on the witnesses' confidence in assessing their statements; confident witnesses were believed to the same extent regardless of viewing conditions (Lindsay et al., 1981).

In this volume, Wells et al. report a study of mock jurors' abilities to estimate the accuracy of child versus adult witnesses. Adults and eight- and twelve-year-old children viewed a brief videotape of a kidnapping. The next day each witness was subjected to direct- and cross-examination by two researchers. Videotapes of these interviews were then shown to college students. Wells et al. found that jurors were fairly accurate in estimating the witnesses' accuracy except in one case: they underestimated the eight-year-olds' suggestibility.

In summary, research on jurors' ability to discriminate between accurate and inaccurate testimony indicates that subject-jurors often overestimate the accuracy of adult eyewitness testimony, placing too much emphasis on the confidence of witnesses. They may also overestimate children's ability to resist suggestion. In contrast, at least on some tasks (e.g., answering questions about a witnessed event), the abilities of child witnesses may be underestimated. It is important to note, however, that the few studies dealing with predictions of children's accuracy (Leippe & Romanczyk, 1987; Wells et al., this volume) examined bystander witnesses. Children who testify in court, however, are more likely to be victim/witnesses. Jurors' ability to predict the accuracy of a child's statements may differ depending



on whether the child experienced an event or merely observed it. In the following section we describe the first study conducted on jurors' ability to distinguish between accurate and inaccurate testimony provided by child victim/witnesses.

### *Experiment 1: "Do You Remember the Last Time You Went to the Doctor?"*

In this study, we were concerned with subject-jurors' impressions of the accuracy of testimony given by young children who had experienced a stressful event, receiving an inoculation at a medical clinic. The study included three phases. In Phase 1, children were surreptitiously videotaped while receiving shots from a nurse as part of their regular medical care. The subjects ranged in age from three to six years and came from families of relatively low socioeconomic status. Three to four or seven to nine days later, the children's memory for the event was tested. The results of the initial phase have been reported elsewhere (Goodman, Aman, & Hirschman, 1987) and are described here only briefly. The children were very accurate in recalling what happened, although their reports were often sketchy. Age differences were found in the ability to answer objective and suggestive questions accurately. Finally, children's ability to recognize the nurse in a six-person photo lineup was relatively poor, especially for the three-year-olds, whose performance fell to chance levels following a seven- to nine-day delay period. The children's parents, however, were just as unsuccessful in identifying the nurse.

The second phase was conducted at a university law school and involved direct- and cross-examination of five of the children nine to twelve months after their visit to the medical clinic. The children were screened to ensure that they had not returned to the clinic and had not received another shot. The long delay period was chosen to mimic the time that often passes between initial interviews by police or other authorities and testimony in actual trials. A prosecutor and a defense attorney from the community, both of whom had worked with real child witnesses, volunteered to direct- and cross-examine the children. For purposes of the study, the two men alternated roles as prosecutor and defense attorney.

Each parent-child dyad was individually brought to a moot courtroom at the law school. Upon arrival, the child was told that a set of questions would be asked about what happened the last time he or she got a shot. The child was then given a second memory test identical to the one given months before. This memory test helped to remind the child of the event in question. No feedback concerning the correctness of the child's responses was provided.

The "prosecutor" then entered the moot courtroom, greeted the family, and explained to the child what would happen. Specifically, he said that the