

Second of two parts. Part one appeared in the May/June 2002 SKEPTICAL INQUIRER, with sections on "The Memory Wars" and "Our Search for the Full Story."

Who Abused Jane Doe?

The Hazards of the Single Case History

Part 2

Case histories have played a long-standing role in the history of science, medicine, and mental health. But they can mislead—especially when only half the story is told. Here's a case history about a case history that proves just that.

ELIZABETH F. LOFTUS and MELVIN J. GUYER

Many questions remain unanswered. Did Jane repress and recover an authentic memory of sexual abuse, or did she always remember the charges that cost her mother custody of her? Were those allegations accurate, or is there an alternative that might explain why Jane reported sexual abuse as a child and later came to believe it really happened? What is the truth about Jane's allegedly "burned" feet? Why were John Doe's abuse accusations against Dad never pursued?

A memory is, of course, not proof of the event it purports to recall. We all "remember" things that never actually happened, as ample scientific evidence has demonstrated (Loftus 1997). To take Jane's memory as evidence of an

About this article:

Case histories make contributions to science and practice, but they can also be highly misleading. We illustrated with our re-examination of the case of Jane Doe; she was videotaped twice, once when she was six years old and then eleven years later when she was seventeen. During the first interview she reported sexual abuse by her mother. During the second interview she apparently forgot and then remembered the sexual abuse. Jane's case has been hailed by some as the new proof of recovery of repressed or dissociated traumatic memories, and even as proof of the reliability of recovered memories of repeated abuse. Numerous pieces of "supporting evidence" were given in the original article for believing that the abuse occurred. Upon closer scrutiny, however, there are reasons to doubt not only the "supporting evidence," but also that the sexual abuse ever happened in the first place. Our analysis raises several general questions about the use of case histories in science, medicine, and mental health. There is a cautionary tale not only for those professionals who advance the case history, but also for those who base their theories on it or would readily accept it as proof.

—The Authors

Also see "The High Cost of Skepticism," Carol Tavris's essay about the Loftus/Guyer investigation into the case of Jane Doe, immediately following their article on page 41.

—The Editors

alleged prior event is to beg the question of whether it is a recovered memory. Instead, we must begin with an inquiry into what was regarded as corroboration of the claim of recollection. Thus we are led back to Corwin's original clinical evaluation.

There was no smoking gun in this case—no first-hand eyewitness accounts from impartial parties, no unambiguous physical evidence of sexual abuse or even of old burns. Corwin rests his corroboration of Jane's memory upon his *clinical opinion* that the alleged abuse occurred. The claim of corroboration naturally takes us to questions about the nature of clinical child abuse evaluations and their validity and reliability in general, and in this case in particular. Child sexual abuse is not

Elizabeth Loftus is professor of psychology and adjunct professor of law at the University of Washington. She is past president of the American Psychological Society and author of twenty books and more than 350 scientific articles. Address: Psychology Department, Guthrie Hall, University of Washington, Seattle, WA 98195-1525. E-mail: eloftus@u.washington.edu. Melvin J. Guyer is professor of psychology, Department of Psychiatry, University of Michigan Medical School, 1500 East Medical Center Drive, Ann Arbor, MI 48109-0390. E-mail: guyer@umich.edu.

a diagnosis. Instead such cases typically involve an effort to postdict—to say, on the basis of record review, contemporaneous observations, and credibility judgments whether some event did or did not occur in the past—an enterprise typically outside the scope of mental health expertise.

Can clinicians postdict with accuracy whether child sexual abuse occurred? Based upon a substantial body of scientific research, much of it done after Jane's 1984 evaluation, we have learned many sobering things about the limitations of clinical expertise in the postdiction of child sexual abuse.

1. We know that clinical judgments of alleged sexual abuse may be unreliable (Horner, Guyer, and Kalter 1993a, b). Even experienced evaluators of child claims disagree markedly.

2. We know that clinical judgments concerning the credibility of children's statements are not reliable (Ceci and Huffman 1997, Ceci, Loftus, Leichtman, and Bruck 1994), nor are clinical judgments concerning the credibility of adults particularly reliable (Ekman and O'Sullivan 1991).

3. We know that there are few, if any, specific behavioral indicators of child sexual abuse (Kendall-Tackett et al. 1993), and to rely upon any one or two behavioral indicators will result in many false positives.

4. We know that false allegations of child sexual abuse find fertile ground in highly contested child custody/visitation cases and that these are the most suspect cases in which allegations of abuse arise (Benedict and Schetky 1985). We know that children in such circumstances are often subject to so much parental influence that they sometimes lose the capacity to accurately report their own experiences.

5. We know that children, especially young ones, can be made to recall events that have not occurred, especially if they are questioned about them in suggestive and leading ways.

6. We know that interviewers and evaluators who have an expectation bias can influence the recollections and reports of their subjects to be congruent with their bias.

7. Finally, we know that multiple interviews and repeated and prolonged evaluations erode the capacity of people to obtain trustworthy data from child witnesses. Indeed, the study of the malleability of children's memory constitutes an important area of memory research, and much of it has developed only in the last ten years (Ceci and Bruck 1995).

What does all this mean for Jane Doe's case? The claim of recovered memory here is founded upon a type of corroboration that in general terms is highly unreliable and invalid, though it was standard throughout the 1980s and 1990s. It is doubtful, for example, whether the clinical evaluation method of assessing abuse allegations would pass the "junk science" test set out by the United States Supreme Court in *Daubert v. Merrill Dow*, given the demonstrated lack of agreement among clinicians in these sorts of cases. (At the time of Corwin's 1984 evaluation of Jane, however, the American Academy of Child and Adolescent Psychiatry had not yet promulgated its guidelines for assessing allegations of child sexual abuse and would not do so for several more years.)

To the extent that Jane's memory can be regarded as an instance of a recovered, accurate memory, there must be some objective and independent corroboration of the events she purports to remember. If Corwin's evaluation is to serve as the corroboration of Jane's alleged abuse, it must lay some strong claim to the measure of reliability, validity, and objectivity

upon which scientific claims are founded. We have argued that clinical evaluations of abuse allegations, in general, do not have the desired indicia of reliability necessary for corroborating scientific theories. There is nothing that we can see in Corwin's evaluation that distinguishes it from ordinary, subjective clinical assessments, or that allow him to make some special claim to objectivity and reliability.

Nonetheless, other important questions remain:

Even if there was no corroboration of sexual abuse, was there not corroboration of Jane's burned feet?

We learned from StepMom that Jane was taken to two hospitals on the same day to get as much documentation about the burned feet as possible. We learned from other sources that Jane had a fungal condition that could have been responsible for injuring her feet. We learned from FosterMom that Mom apparently did not have the type of stove that was supposed to have been used to burn Jane's feet. We could not access Jane's medical records, of course, because of confidentiality, but we did have descriptions about the burned feet provided in one of the CPS worker's reports. We then contacted Edwin Carlson, M.D., who was director of the emergency room at one of the hospitals where Jane was taken for examination of her feet. In response to the diagnosis of almost completely healed second-degree burns, Dr. Carlson told us: "A physician cannot tell the cause of sloughed skin when the area is healing. The sloughed area is caused by vesiculation and it in turn has many etiologies including thermal and chemical burns, exfoliative dermatitis secondary to a drug reaction, bacterial and fungal infections. Therefore the etiology in the diagnosis is related as past history by the patient or the patient's guardian."

He added that if there had been any suspicious circumstances, the chance of a report not being filed with Child Protective Services was near zero, especially with the above diagnosis. We also contacted an Emergency Room nurse who knew a great deal about the standard of care at one of the hospitals where Jane had been taken to have her feet examined. She told us that during 1982 (the year Jane was taken to have her feet examined), any suspected child abuse was reported immediately to CPS unless there was an investigation in progress in another county, that the CPS offices were in a building immediately adjacent to the hospital where Jane was taken, and that the staff were on call twenty-four hours a day. "We erred on the side of the child concerning the report," she told us. She implied that there must have been significant doubt that the "burns" were a result of child abuse.

If Mom did not sexually abuse Jane, why did Jane report abuse when she was six years old?

One possible answer: StepMom and Dad—"The Sexual Angle." A thorough examination of the data lead us to propose another equally plausible hypothesis about what happened, one that does not involve sexual abuse. Mom and Dad were involved in a prolonged and nasty divorce and child custody battle. Even allegations of deliberately burned feet had not succeeded in getting Mom out of the picture. StepMom seems to despise Mom to this day. Did she, with or without Dad's involvement, see a way to finally get rid of Mom once and for

all? "The sexual angle" is the phrase StepMom used in her interview with us when asked about the initial reports of abuse. Did StepMom question Jane in a suggestive manner? Mom obviously bathed her daughter Jane, and perhaps she might accidentally have poked her. Perhaps it was ordinary bathing with vaginal and anal cleansing of the type done by many parents. Did StepMom misconstrue Jane's honest accounts of how her mother bathed her? Did she reinforce suspicions and reports of sexual abuse? Documentation from that period reveals that StepMom was the first person to whom Jane "reported" sexual abuse; only later did she tell this story to others. This is only one of the ways that Jane may have come to report sexual abuse if in fact none occurred, but there is contemporaneous documentation that is consistent with this hypothesis.

If abuse did not occur, why were so many people—including Jane herself—persuaded that it did on the basis of the videotaped interviews of Jane at six?

When someone recounts an event, especially if it is detailed and accompanied by emotion, it can be very persuasive (Bell and Loftus 1989). Jane herself was persuaded when she saw herself on tape, as were many knowledgeable scientists. Where would all that emotion and detail come from, many people assume, if the recounted events didn't happen? But of course the fact that a person has come to believe that something happened does not mean it actually did. The belief can be absolutely real and heartfelt without being correct. People who believe they were abducted by aliens, people who believe they were kings and princesses in past lives, people who believe they can recall being born (or being cramped in the womb) will also give detailed, emotional, and persuasive reports of their "memories," but it seems unlikely that they are right. Thus, Ekman could have been absolutely right in his assessment that Jane's "emotions" at age six were authentic—and absolutely wrong that she was having an authentic memory.

Where did the pornography accusations come from?

Numerous commentators have puzzled over the accusations of pornography. Corwin and Olafson's original article repeated Jane's accusations: "I accused her of taking pictures of me and my brother and selling them," Jane recalled at age seventeen (Corwin and Olafson 1997, 105–106). Neisser suggested that the pornography accusations were false: "Jane has clearly 'remembered'—and been very upset by—something that never took place" (Neisser 1997, 123). Based on our interviews, we think that these accusations may have originated in the mind of StepMom and were communicated to Jane. They were denied by Jane's older brother John, who was supposed to have participated. They were denied by Mom. No reports or documentation exist to substantiate them. They almost certainly would have been noted in police reports, therapists' notes, or other documents had they been mentioned.

The Ethics of Exploring Jane Doe's Case

Are our efforts to examine this case study ethical? Was it appropriate for us to track down information, reassess the evidence and claims, and come to a different conclusion than Corwin's?

We consulted Thomas McCormick, a physician whose specialty is medical ethics at the University of Washington. McCormick offered a hypothetical situation in which a professional has published a case history claiming that he cured cancer with marijuana leaves and Crisco. Oncologists would naturally have many questions to ask of this case study: Did it really work? If the patient seems to be in better health after the "treatment," did he or she really have cancer in the first place? Would it be ethical for a physician to talk to the "case history" and to examine the original doctor's data?

McCormick thinks so, and so do we. The essence of science is its openness to examination by one's peers. Claims ought to be subject to peer review; facts must be available for verification or criticism; and findings ought to be reproducible. When an author puts forward a hypothesis based upon a case study that he maintains is true, one that he uses to defend his theory, others are entitled—indeed obligated—to scrutinize the methods and findings as long as this can be accomplished without undue harm. In the case of Jane Doe, we followed the trail left by Corwin, and we tracked down many documents pertinent to her case, and met a few individuals who knew her. We found a great deal of material that was damaging to his claims. What we did was reminiscent of the work of scholars who reexamined Freud's case of Dora, discovering crucial information about her that Freud neglected to tell his readers. Reanalyzing a case study does require detection skills.

Readers may wonder why we did not speak to Jane Doe herself. We thought long and hard about doing this. Although we obtained recorded permission from Jane's mother to contact her daughter, we worried that such contact might be upsetting to Jane—and she had surely been upset enough in her troubled young life. Given that Jane's own account at this point might well not shed additional light on the "case study," as her beliefs had potentially been so contaminated, we decided not to risk upsetting her.

Corwin and Olafson and some of the commentators proposed a new "research paradigm": future studies could take advantage of the existence of vast numbers of decades-old tapes of children making sexual abuse allegations. Adults like Jane who had been videotaped in childhood, reporting that they had been abused, could be recontacted to explore their memory of the childhood trauma. Adults like Jane could be shown their childhood tapes, as Jane was. Lindsay (1997) urged careful consideration of this idea, and after seeing what followed in Jane's life, we agree. We think this method is risky—indeed, potentially catastrophic.

If the abuse never happened in the first place, the adult-child may be mistakenly led to believe that it did because she does not understand that there are reasons why a child might make an abuse report even when no abuse had occurred. She may be led to act on the basis of this "new information" in ways that she would not have otherwise acted, with results devastating for her and others. In this case, for example, Jane terminated her newly reforming relationship with her mother after seeing her childhood tapes. No one counseled her that her age six statements, however dramatic, might have been the

result of suggestion. Moreover, according to many sources, prior to Corwin's intervention, Jane was frequently questioning her "memories," talking about them, wondering what "really" happened. Did her 1995 contact with Corwin push her over from uncertain to certain?

Postscript

Our efforts to critically evaluate this claim of the recovery of a repressed memory were met with unexpected and unsettling obstructions. Critics of our inquiry, some of whom shielded themselves in "confidential" memos and anonymous allegations of our supposed wrongdoing (memos to which we were denied access and hence opportunity to respond), were able to impede the publication of our work for more than two years. Indeed, our respective universities issued chilling warnings to us that we were to avoid the publication, in any forum, of any of this material, even that which is in the public domain and readily found by anyone with access to a modem and Google search engine. Our vindication, and concomitant recognition of our constitutionally protected speech, was wrested from the academy not by the shield of "tenure" and its intended protections of the spirited exchange of intellectual ideas, but through the costly (emotionally, professionally, and financially) retention of private counsel. We are alarmed on behalf of all members of the academic community that our universities, institutions that above all others should be championing the right to free speech and academic debate, so implacably opposed it in this instance.

Jane Doe's case continues to be offered as proof of the authenticity of repressed or dissociated memories in many venues, including court cases involving other, potentially innocent, accused individuals.

Jane terminated her newly emerging relationship with her mother after Corwin came back into her life and replayed her childhood tape. Her mother lost her once, long ago in 1984, and lost her again in 1995. At this writing they are not in contact with one another.

Acknowledgments

We are enormously grateful to Carol Tavris, so generous of her time and her talent, a veritable muse. Many other individuals, friends and colleagues, provided valuable insights and editing assistance.

References

- Bell, Brad, and Elizabeth Loftus. 1989. Trivial persuasion in the courtroom: The power of (a few) minor details. *Journal of Personality and Social Psychology* 56: 669–679.
- Benedek, Elissa P., and Diane H. Schetky. 1985. Allegations of sexual abuse in child custody and visitation disputes. In E. Benedek and D. Schetky (Eds.), *Emerging Issues in Child Psychiatry and the Law*. (pp. 145–156). New York: Brunner/Mazel.
- Borch-Jacobsen, Mikkel. 1997. Sybil: The making of a disease: An interview with Dr. Herbert Spiegel. *The New York Review of Books* XLIV: 60–64.
- Bradley, Susan J., Gillian D. Oliver, Avinoam B. Chernick, and Kenneth J. Zucker. 1998. Experiment of nurture: Ablatio penis at 2 months, sex reassignment at 7 months, and a psychosexual follow-up in young adulthood. *Pediatrics* 102: e9, July.

WHO ABUSED JANE DOE?

Continued on page 44

Postscript

Institutional Review Boards misuse their power not only when they impose excessive and unnecessary restrictions on free speech in the name of protecting subjects; but also when financial interests influence their approval of research that is potentially harmful to subjects. Consider this irony: Stanley Berent's confidential memo excoriated Mel Guyer for his alleged scientific and ethical lapses—among them, failing to get Jane Doe's consent to call her *mother*, who was eager to tell them her side of the story; failing to enlist the "ongoing cooperation" of Corwin(!), as if Corwin would have granted it; and failing to consider whether this "research" might have "a negative effect upon the dignity and welfare of the participant." Yet at the very same time, Berent got permission from his own IRB (of which he was a member) to conduct research with, in my view, far graver implications for the dignity and welfare of his subjects.

The Michigan IRB had granted approval for Berent and his associate James Albers to retrieve medical records of railroad workers who had been exposed to dangerous solvents. The workers were suing their employer, CSX Transportation Inc.,

and Dow Chemical, claiming that exposure had caused brain damage and other medical problems. Berent and Albers, hired by CSX and Dow, examined the medical records—*without the workers' knowledge or consent*—and concluded that there was no connection between the workers' medical problems and their exposure to solvents.

An investigation conducted by the University of Michigan found no conflict of interest in Berent and Albers' behavior and no need to obtain the workers' informed consent, because Berent and Albers' conclusions about the workers were based on "existing non-research data." (Just the kind of data Loftus and Guyer used.) However, the Office of Human Research Protections at the U.S. Department of Health and Human Services is continuing its investigation of Berent and Albers' potential conflict of interest. Berent has taken early retirement.

Note

1. In the interests of full disclosure, I am a friend of both Loftus and Guyer, and I write this essay as a concerned observer, not as a disinterested reporter. Their experiences described here are accurate, but I did not interview administrators or investigators to get "their side." □

WHO ABUSED JANE DOE?

From page 40

- Briere, John. 1992. *Child abuse trauma: Theory and treatment of the lasting effects*. Newbury Park, California: Sage Publications.
- Brown, Daniel, Alan W. Schefflin, and Charles L. Whitfield. 1999. Recovered memories. *The Journal of Psychiatry and Law* 27: 5–156.
- Brown, Peggy. 1999. Presentation at the West Virginia Psychology Conference, Marshall University, Huntington, West Virginia.
- Ceci, Stephen J., and Maggie Bruck. 1993. The suggestibility of children's recollections: An historical review and synthesis. *Psychological Bulletin* 113: 403–439.
- . 1995. *Jeopardy in the Courtroom*. Washington D.C.: American Psychological Association Press.
- Ceci, Stephen J., and Mary L.C. Huffman. 1997. How suggestible are preschool children? Cognitive and social factors. *J. American Academy of Child and Adolescent Psychiatry* 36: 948–958.
- Ceci, Stephen J., Elizabeth F. Loftus, Michelle D. Leichtman, and Maggie Bruck. 1994. The possible role of source misattributions in the creation of false beliefs among preschoolers. *International Journal of Clinical and Experimental Hypnosis* 42: 304–320.
- Cioffi, Frank. 1998. *Freud and the question of pseudoscience*. Chicago: Open Court.
- Colapinto, John. 2000. *As Nature Made Him: The Boy Who Was Raised As a Girl*. New York: HarperCollins.
- Corwin, David L., and Erna Olafson. 1997. Videotaped discovery of a reportedly unrecalable memory of child sexual abuse: Comparison with a childhood interview videotaped 11 years before. *Child Maltreatment* 2: 91–112.
- Courtois, Christine A. 1992. The memory retrieval process in incest survivor therapy. *Journal of Child Sexual Abuse* 1: 15–30.
- Crews, Frederick C. 1998. (Ed.) *Unauthorized Freud: Doubters Confront a Legend*. New York: Viking.
- Curtiss, Susan. 1977. *Genie: A Psycholinguistic Study of a Modern-day "Wild Child"*. New York: Academic Press.
- Ekman, Paul. 1997. Expressive behavior and the recovery of a traumatic memory: Comments on the videotapes of Jane Doe. *Child Maltreatment* 2: 113–116.
- Herman, Judith L., and Emily Schatzow. 1987. Recovery and verification of memories of childhood sexual trauma. *Psychoanalytic Psychology* 4: 1–14.
- Horner, Thomas M., Melvin J. Guyer, and Neil M. Kalter. 1993a. Clinical expertise and the assessment of child sexual abuse: An empirical study of mental health experts. *Journal of the American Academy of Child and Adolescent Psychiatry*, 32(5): 925–933.
- . 1993b. The biases of child sexual abuse experts: Believing is seeing. *Bulletin of the American Academy of Psychiatry and the Law* 21(3): 281–292.
- Kayzer, Wim. 1997. *A Glorious Accident*. N.Y.: W.H. Freeman and Co. (Originally published in The Netherlands by Uitgeverij Contact. 1995.)
- Kendall-Tackett, K.A., Linda M. Williams, and David Finkelhor. 1993. Impact of sexual abuse on children: A review and synthesis of recent empirical studies. *Psychological Bulletin* 113: 164–180.
- Lindsay, D. Stephen. 1997. Jane Doe in context: Sex abuse, lives and videotape. *Child Maltreatment* 2: 187–192.
- Loftus, Elizabeth F. 1997. Creating false memories. *Scientific American* 277(3): 70–75.
- McNally, Richard J., and John E. Calamari. 1989. Obsessive-Compulsive disorder in a mentally retarded woman. *British Journal of Psychiatry* 155: 116–117.
- McNally, Richard J., Karen L. Cassidy, and John E. Calamari. 1990. Tjajinkyofu-sho in a Black American woman: Behavioral treatment of a "culture-bound" anxiety disorder. *Journal of Anxiety Disorders* 4: 83–87.
- Merkin, Daphne. 1997. The mystery of Dr. B. *New Yorker* March 24: 76–80.
- Moscovitch, Morris, Gordon Winocur, and M. Behrmann. 1997. What is special about face recognition? Nineteen experiments on a person with visual object agnosia and dyslexia but normal face recognition. *Journal of Cognitive Neuroscience* 9: 555–604.
- Neisser, Ulric. 1997. Jane Doe's memories: Changing the past to serve the present. *Child Maltreatment* 2: 123–125.
- Ogden, J.A., and Suzanne Corkin. 1991. Memories of H.M. In W.C. Abraham, M.C. Corballis, and K.G. White (eds.). *Memory Mechanisms: A Tribute to G.V. Goddard*. Hillsdale, New Jersey: Erlbaum.
- Pollak, Richard. 1997. *The Creation of Dr. B: A Biography of Bruno Bettelheim*. New York: Simon and Schuster.
- Putnam, Frank W. 1997. Commentary. *Child Maltreatment* 2: 117–120.
- State of Rhode Island v. Quattrocchi*. 1998, March 24. Case: NO. P92-3759 Hearing testimony of Dr. Daniel Brown. Providence Superior Court.
- Rymer, Russ. 1993. *Genie: An Abused Child's Flight From Silence*. New York: HarperCollins.
- Sacks, Oliver. 1990. *Awakenings*. New York: HarperPerennial.
- Schooler, Jonathan W. 1997. Reflections on a memory discovery. *Child Maltreatment* 2: 126–133.
- Schreiber, Flora Rheta. 1974. *Sybil* (2nd edition). New York: Warner Books. □