

The Effect of Fear on Children's Eyewitness Testimony

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Abstract

As a child testifies against an offender, fear is to be expected, when additional fear is added from the interview/ trial process, negative effects begin to emerge. The key understanding of this paper is to determine what effects added fear has on the child's testimony, as well as their well-being and ways to reduce the additional fear. By assessing what aspect of the testimony gives the child added fear and makes them feel uncomfortable is the first step to identifying ways to adapt techniques that best suit the child in question. Asking particular questions, surroundings in the interview room, placing the child in court, and facing the offender are all aspects which add fear and anxiety on a child witness. Knowing this, we can then look at ways to protect the child in both the interview and in the courtroom. Adapting simple questions as well as letting the child play during the interview will reduce fear. In the courtroom, allowing the use of pre-recorded testimonies as well as live links will eliminate face-to-face contact with the offender, thus reducing fear. Once the effects of additional fear and ways to reduce it have been assessed, I will then take you through positive and negative long-term effects of the added fear on a child witness.

Many violent crimes happen in the presence of children or to them directly. In order to put a criminal behind bars, a witness needs to testify, and in many cases, the witness is a child. Under the appropriate circumstances, majority of children are capable of giving a reliable eye-witness testimony. I am interested in researching the emotions of a child witness, more specifically additional fear that a child experiences during the testimony process. Children are usually nervous, anxious, and not fully aware of what is happening, which suggests that interviews and courtroom testimonies need to be carried out with more care and patience. The process of child eye witness testimonies can have a lasting effect on the child if not done properly. I will be looking at aspects and techniques of one-on-one and courtroom testimonies. This research will indicate the amount of fear and anxiety a child has in response to those techniques and how the fear experienced may foreshadow long-term effects brought on by the process. This paper aims to determine what particular aspects of the trial experience may induce added fear on the child, as well as ways to avoid. I will also be looking at techniques developed to ensure the amount of added fear is reduced significantly by looking at the interview process as well as the courtroom testimony. I will then discuss potential long-term effects the child may experience.

What to expect from a child witness; characteristics

Typically, testifying as a child is a distressing event in itself; it is more emotional when the child was the victim, as opposed to a bystander (Cooper, Quas, & Cleveland, 2014). Cooper and colleagues (2014) noted that monitoring the child's emotional reactions during testimony at any stage is important. The authors believed that in most cases, children are not entirely sure what is happening around them and they experience extreme emotional distress. A study by Goodman and colleagues (2000) found that 65% of child abuse victims were obviously

extremely distressed on the stand in front of family, strangers and the defendant (Cooper, et. Al., 2014; Bidrose, & Goodman. 2000). Most research suggests that testifying in front of the defendant would be the most stressful, and next to that would be testifying in front of a jury.

What a jury expects emotionally from a child witness. A jury is permitted to take a witness' emotional reaction while testifying into account when deciding their verdict. Cooper and Colleagues (2014) point out that although the child's reaction on the stand have not yet been thoroughly investigated in regards to portraying the truth, jurors are still assessing the emotional response of the child to make their ultimate decision. What is curious; however, is that every child reacts differently to fear; therefore, the way that fear affects a particular child during testimony is interesting. Some children do not convey distress on the stand; perhaps they have been coached not to cry or have recited the same story so many times that they are habituated to the responses they receive. This suggests that the emotional connections to the case no longer upsets or bothers the child to the extent it did originally. It is unclear why some children, when faced with the fear of the courtroom, act as though they are emotionless, but in doing so, they could jeopardize the case in question (Cooper, Quas, & Cleveland, 2014).

Looking at the lack of research on emotional responses on the stand, it seems unfair to judge a child based on how he or she reacts when scared. Perhaps the gender and age of the child while testifying affects the way he or she conveys their emotional response. Cooper and colleagues (2014) suggest that girls are expected to be very emotionally expressive on the stand and are rewarded for such behavior. Boys, however, are met with negative responses for showing too much emotion. As a child ages, her or she is expected to express their emotions reliably; therefore, the younger the child, the more emotional outbursts are expected in a given situation (Cooper et al., 2014).

In the English justice system, it is not uncommon for children as young as five years old to be called as witnesses. Marchant (2013) discussed the vulnerability of children under the age of five in regards to giving a testimony. It is in these cases that protection plans such as pre-recorded testimonies, or privacy screens are most beneficial to reduce stress and fear on a child. The Lord Chief of Justice states that the young age of a child should not disqualify them as a witness; it should be because of their lack of emotional capability to give the testimony itself. (Marchant, 2013).

Marchant (2013) states that the age of the child witness affects how reliable their testimony is and unreliable testimonies are not due to questioning techniques that have not been adapted to a child's capability. Interrogators sometimes classify children as the hardest individuals to question due to their responses being influenced by fear. I will now discuss how types of questioning adapted to the witness can reduce the amount of fear the child experiences, which in turn may result in a reliable testimony.

One-on-one testimony techniques used with a child witness

Types of questioning techniques and their emotional effects on a child witness. When a child is a witness, alterations need to be made to better assess what the child actually knows. Keeping the child calm and stress-free is the best way to obtain a reliable testimony. The more fear that a child feels while giving details regarding the case in question, the more inaccurate the facts may possibly be (Krahenbuhl, Blades, & Eiser, 2009). The authors ran a study to determine if question repetition had an effect on correct answers given by children. They found that when questions were being repeated, the overall average of correct answers decreased. This finding was true across both genders in children ages 4-9. It is not hard to imagine the feeling a child gets when being interviewed by a police officer, or individual with higher authority, on a

traumatic event the child has experienced. Once the interviewer begins to ask questions answered previously, the child may think it is due to the first answer being considered incorrect (Krahenbuhl, Blades, & Eiser, 2009). When a child knows they are correct but an adult continues to tell them they are wrong it may add distress and fear to the child's current emotional state. Perhaps the reasoning behind the decrease in correct answers in the performed study was due to the emotions (mainly fear) felt by the child.

Krahenbuhl, Blades & Eiser (2009) performed a second study to determine if the questions being asked repetitively were done so in the same interview or in multiple interviews. They found that there were a higher number of correct answers in the re-asked questions when they were in the same interview; maybe because children who have just said the answer he or she believed to be true and were confident in the original answer. When asked a few days later, the child may forget the exact answer and experience doubt. This feeling of doubt would then begin to scare the child, influencing him or her to give a different answer. Overall, Krahenbuhl et al., (2009) found that the older the child, the more accurate the answers were and the younger the child, the more the original answer would change.

One finding that Poole & White (1993) did have which supported the idea that the additional fear the child has, in turn affects testimony credibility, was based on the negative effects of suggestible questions. When a child is asked a question, and the interviewer gives responses such as 'are you sure?', 'is that all?', 'was there violence?' etc., the child feels like his or her answer is not sufficient and s/he feels swayed to add or subtract information that may or may not have occurred. The pressure this puts on a child adds fear that the child had forgotten the facts or they are incorrect, which in turn increases incorrect answers, no longer making them a credible witness.

Repetitive and suggestible questions are methods regularly used on adults to obtain the truth. What interviewers need to understand is that interviewing a child is a much harder and time consuming task. Hughes-Scholes & Powell (2013) discussed proper techniques that should be adapted in order to reduce fear and distress in the child, therefore obtaining correct, reliable information. It is important to remember children are vulnerable, therefore, they may not be willing to give all the information they know for a number of reasons. The child may have limited communication skills, feels embarrassed, the offender is someone close to them and they want to protect them, they may not want to get in trouble for what they say, or perhaps they are trying to hide abuse. No matter the reason, the proper adjustments need to be made so the child feels comfortable instead of being afraid to share (Hughes-Scholes & Powell 2013).

Strategies that help the child witness reduce fear and anxiety. When interviewing a child witness, it is important to ensure they do not feel scared or pressured. Hughes-Scholes & Powell (2013) write that the goal is to ensure the child can explain what happened on their own. To aid this process, excluding or finding other ways to word suggestive, or leading questions is a necessity. If a child suffered abuse, open ended questions do not tend to get full answers. By using this approach, the authors said the interviewer is required to encourage a more detailed response from the child. This can be achieved by asking questions which ask for more information but at the same time, not pushing the child in one direction or the other. Pushing may elicit an emotional reaction and intimidate the child which is what they need to avoid.

As mentioned previously, Marchant (2013) suggested that perhaps the age of the child was not the reason they were afraid, perhaps the techniques used in questioning were the reason for some additional fear. He suggests strategies that may help keep the child from being afraid, while also ensuring that they feel safe. First of all, he talks about adjusting the questioning

process to fit the child. This means introducing pictures or aids to help the child explain their experience. Creating a child-friendly environment will also reduce the added fear a child may experience. Some options could include: bringing in smaller furniture, providing toys for them to play with, and having an accessible bathroom. It has been seen that when a child is interviewed in a familiar setting, fear is reduced and their credible answers increase. The child should be in control, taking short breaks when they want and going as slowly as possible. This strategy removes any additional pressure on the child. Using simple words and adapting to their specific needs such as helping them understand is critical to keeping them stress free. Another important strategy (for reducing fear) which Marchant (2013) highlighted, is the practice of separating the child from the parent or guardian. It is intended to reduce additional fear the child may have about judgment from their parent/ guardian as well as allowing them to speak freely. Obviously, in all cases, this method is not beneficial; sometimes the child has reduced fear by being near the parent/guardian. This separation needs to be done correctly as to not upset the child, letting them know where the parent is and making them accessible if needed. This strategy is important because children seek the approval of their parents. Merely observing the parent or guardian's facial expression as they answer a question is a form of 'coaching'. Coaching plays a big role in perceptions received by observers in a courtroom setting. Courtroom testimonies are believed to be the most stressful form of questioning for a child and the obstacle within the courtroom elicits additional fear in other ways which one-on-one questioning may not.

Courtroom testimony techniques used with a child witness to reduce fear

Placing a child on the stand is always risky in regards to credibility, emotional stability, and the child's physical safety. A child would be at their most vulnerable standing in front of family, friends, strangers and the offender. There are many aspects to courtroom testimonies

which need particular adaptations to keep a child from becoming distressed. Some adults believe that coaching is one way to decrease the child's nerves and to limit the child from straying from their story.

The effects that coaching has on the child's emotional stability. It is very obvious to other individuals in the courtroom when a child has been coached. Bidrose & Goodman (2000) described the characteristics of a coached child as including lack of nervousness, no or limited emotional responses, and use of adult language. It is very unlikely that a child on the stand would be emotionless and well versed. When coaching has been spotted, the testimony as a whole is then in question. If the child is speaking as though reading from a script, who is to say they are not reciting what an adult wants them to, as opposed to what actually happened. This attempt to prepare the child so he or she do not get scared and testify with the wrong information may backfire and the testimony could be dismissed. The jury are then left to decide if the coaching was to protect the child or if the child is in fact lying. The fear the child may experience while on the stand is what pushes adults to make these types of decisions, for the wellbeing of the child.

In isolated situations where children cannot convey their emotions during a courtroom testimony, a jury may then think coaching occurred when it in fact has not. As mentioned earlier, a jury relies heavily on the emotional responses of the child to make their verdict. If the jury finds the defendant 'not guilty' due to assumptions of coaching, the child may then be faced with a different fear for their own personal safety (Cooper, Quas, & Cleveland, 2014). If a child is old enough to be aware that their testimony may lock the offender away or set him free, the child may lie on the stand out of fear; this action may also get the testimony thrown out. Cooper, Quas and Cleveland (2014) believed that in a situation where spontaneous lying on the stand may occur, coaching the child is perhaps a weighted risk. In this case however, coaching would

include working on emotional reactions, and reciting the speech in the child's chosen words. This would eliminate suspicion of adult tampering as well as doubt that the child's emotional reactions are not acceptable. This would be an act of protection on behalf of the concerned adults. There are courtroom protection acts which have been put in place specifically to help the child avoid situations where coaching seems like a last resort.

Ways to protect the child witness emotionally. In 1988, child witness protection acts began for the purpose of developing ways to keep the child from becoming distressed during a courtroom testimony. It was in this act that the introduction of 'live links' revolutionized the courtroom. Graham (1992) discussed the benefits of live links and their ability to protect the child and not adding any additional fear. A live link is a television set up in the courtroom with a live feed to a camera in another room. The child gives their testimony in a separate, stress free setting where an interviewer asks them the questions the court would have. This approach gave an effective solution to maximize the amount of reliable testimonies children give; simply by eliminating the face to face contact with the offender.

Pre-recorded video tapes were also favoured as a way to distance the child from the trial as much as possible. This approach, as described by Graham (1992) allowed the recording to take place before the trial and be played when appropriate. This meant the child did not need to be at the court house that day, and also did not have to think about the offender and other individuals in the next room. This approach was a fantastic way to ensure the least amount of additional fear possible was felt by the child, thus potentially protecting them from long term effects.

In 544 child witness cases, only three percent of the judges were opposed to the live links or videotaping solutions used to protect the child. Although small, it is unfair for some children

to not feel as protected as others (Graham, 1992). The author discussed another protection strategy which is sometimes used during a courtroom testimony. Using a screen in the courtroom allows the child to be hidden from the court, as well as the court hidden from the child. This approach, like the previous ones, eliminates the face to face contact which should decrease some the child's fear and anxiety. This strategy however, does not remove the child from the court, and the child is still going to have a level of additional fear knowing everyone is watching the screen (Graham, 2013). Long-term effects may still result from this type of protection however it is not as likely to happen as it would be in cases with children with no protection at all.

Global news, Alberta (2014) released an article recently which discussed developments which have been emerging in Canada regarding courtroom protection. They story of a little girl and her brother who were allowed to bring a trauma dog into the courtroom for support in a sexual assault case has been making a lot of noise. The law allows a person to be there to help support a child however, the judge had no issue with granting permission for the children to have a trauma dog with them. The lawyers agreed that the main priority is to keep a stable and calm environment for the children and if the dog's presences helped achieve that then why not. Using trauma dogs to aid victims and witnesses is a popular trend in the United States but in Canada it is a new approach, the public are hopeful that this will be a new addition to the legal systems in Canada (Fiest, 2014).

Long-term effects of fear on the child as a result of testimony

As with most traumatic, stressful and upsetting things in life, having to testify about a personal experience may give a child long lasting effects. In some cases the child may experience advantageous effects while other children may experience disadvantageous effects.

The type of questioning, techniques, and protection the child received during their testimony could help determine if the long-term effects (if any) are positive or negative.

Advantageous long-term effects on a child after testifying. A study done by Natali, Marucci, & Mastroberardino (2012) found that when a child closes their eyes to recall information from memory, they retrieve more information than children that do not close their eyes. The study ran for eight days for memory recall and it was determined that eye closure did in fact increase free recall. This suggests that if a child is testifying and consistently closing their eyes to remember specific events and details, it is possible that they will have a sharper free recall than other children. When the child was able to block out their fear of the situation and focus on their memories, they were practicing free recall in pressured situations, which would help them in the long run (Natali, Marucci, & Mastroberardino, 2012).

There are a limited number of studies that have been conducted to determine if the added fear experienced by the child during the trial stages may lead to positive long-term effects. On the negative side, there are far more disadvantageous long term effects on children.

Disadvantageous long term effects on a child after testifying. Previously discussed in the study by Krahenbuhl, Blades, & Eiser (2009), two years after questioning, it was seen that recall accuracy decreased; information that appeared to be important to the child at the time no longer seemed important to them. Perhaps this was due to the traumatic experience which the brain was trying to block out to make life easier for the child. One hypothesis by McWilliams (2014) is that if the event in question was traumatic enough, it may be possible for the child to develop Post Traumatic Stress Disorder. It is suggested that if the situation were severe enough and, the child had extreme amounts of fear and stress throughout the entire process than PTSD

may possibly occur. Little research has been done in this area; however it has been seen that when a child has been maltreated during testimony, they could potentially suffer disassociation. The disassociation could occur not only to the offender but also towards other family members who were in some way involved (positively or negatively) (McWilliams, 2014).

Conclusion

Throughout this paper, there have been many aspects of a child eye-witness testimony introduced and explained. Knowing who can testify as well as the age and gender allows specialists to adapt all sections of the trial sequence to ensure the safety and comfort of the child. When the child does not experience added fear the chances of acquiring a reliable testimony increases. The best way to achieve the most reliable information while keeping the child's well-being in mind is to determine the types of questioning used during the one-on-one interview and adapt the techniques, as well as the surroundings to the particular child. Once the child gets through the interview and moves into the courtroom to testify, protection plans should be put in place. The use of pre-recorded testimonies, trauma dogs, etc. can reduce stress and added fear on the child, allowing them to give a good, truthful testimony as well as reducing risk of negative long-term effects. If the child in question experiences any maltreatment, they could be subject to negative or positive long-term effects. The positive effects are limited which is why it is so important to ensure additional fear is reduced, avoiding negative long-term effects is a priority.

Overall, the conclusion can be drawn that the amount of added fear a child has towards any type of testimony, reduces their credibility and may negatively harm their well-being. This is why protecting the child witness must be a priority in all justice systems. Reducing the fear of a child will increase the chances of normal cognitive development as well as a happy child.

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