

RECOUNTING DISCLOSURES OF SEXUAL ABUSE

Submitted by the Child Witness Institute

| KEY CONCEPTS | |
|-----------------------------|------------------------------------|
| Child Abuse | Child Sexual Abuse |
| Disclosure | Child Abuse Accommodation Syndrome |
| Stages of Disclosure | Recanting |
| Factors Affecting Recanting | Reducing the Risk of Recanting |

1. Introduction

Recantations of child sexual abuse pose significant challenges for the criminal justice system. It is therefore important to understand the explanations provided for what causes them to happen. In order to understand recanting, however, it is also important to understand it within the broader context of disclosure because it typically represents a denial of abuse post-disclosure.¹

2. Disclosure of abuse

In order for a perpetrator to successfully accomplish a crime, he or she must ensure that any victims of or witnesses to the crime remain silent. Silence and secrecy are, therefore, fundamental elements of most crimes, especially sexually violent crimes. This is no clearer than in regard to the crime of child sexual abuse. In order for a child abuser to have continued access to his or her victim, the child must remain silent. For the child to break this silence and disclose abuse, he or she requires a tremendous amount of courage and time.

The effect of this silence and secrecy often mean that if children disclose abuse, in particular sexual abuse, their disclosures are complicated and often haphazard. Disclosure is defined as the gradual process of informing someone about an abusive incident.² Disclosure, therefore, is a gradual process towards the discovery of truth, comprising an integral interaction between the individual child and the person to whom the child discloses. The victim is dealing with multiple issues during this process, including, *inter alia*, fear of any consequences of the disclosure, such as, threats from the offender, negative familial and/or societal reactions and disbelief. In addition, the criminal justice system itself can be intimidating and confusing to a child witness, which can impact on the child's willingness and capacity to share their experience of abuse. Child development and trauma impact can also contribute to a child being confused about the abuse or dissociating from it resulting in confused and or missing details.³

¹ Malloy, L.C and Mugno, A.P. 2015. Children's Recantation of Adult Wrongdoing: An Experimental Investigation. Elsevier. (Accessed on 18 January 2021).

<https://www.sciencedirect.com/science/article/pii/S0022096515003045>

² Jones and McQuistan (1988:145)

³ Müller, K.D. and Hollely, K.A. 2009. **Introducing the Child Witness**. 2nd Edition. Printridge: Port Elizabeth

These factors contribute towards the child victim providing minimal and often confusing reports of abuse. One theory that tries to explain the haphazard and confusing nature of some children's disclosure is the Child Abuse Accommodation Syndrome.⁴ This syndrome defines the typical stages a child victim passes through in their attempt to inform others of the abuse, including:

- Secrecy – the child typically tells no one about the abuse, either in response to threats by the abuser or for fear that no one will believe them;
- Helplessness – many children do not resist the perpetrator's advances because they do not have the skills and resources to do so;
- Entrapment and accommodation – this stage relates particularly to children for whom the abuse is an ongoing occurrence. The child learns to adjust their life to cope with and survive the abuse. This can include suppressing memories of the abusive incidences or distorting their perceptions of what is happening;
- Delayed, conflicting and unconvincing disclosure – some children either reach a point where they can no longer cope with abuse or some non-verbal behaviour alerts others to the fact that a child could be experiencing abuse. A child may provide a purposeful/intentional report of the abuse, tentative hints that they are being abused or accidental indications based on their behaviour and/or verbalization; and
- Retraction/recantation – once it is known that abuse has taken place, the response of others will affect whether the child stands by the disclosure or retracts it.

Recanting or retracting allegations of sexual abuse can cause significant problems for the child because it results in the child returning to the first stage of syndrome and, as such, they are vulnerable to continued abuse. It also causes difficulties for the criminal justice system as it results in conflicting evidence, which raises doubt as to the veracity of the original disclosure.⁵ It is, therefore, essential that criminal justice system role-players understand that recanting does occur and why it happens.

3. Recanting a report of abuse

Recantation refers to the withdrawal of an original statement or disclosure. Recantation of child sexual abuse allegations can occur at various stages of the criminal justice process, including during the investigation and prosecution of child sexual abuse cases. Recantation may derail a case pre-trial, during the trial, or even subsequent to a verdict being rendered. By understanding what enhances the risk of recantation, it may be possible for legal and social service professionals to target these cases for additional support and more appropriately tailor interventions.

The prevalence and causes of recanting in cases of child sexual abuse have been debated in recent years.⁶ Some researchers argue that recantation is rare and related to how well

⁴ Summit, R. C. 1998. *The child sexual abuse accommodation syndrome* in APRI **Finding Words**. Conference Proceedings. November 1998

⁵ Malloy, L.C., Mugno, A.P., Rivard, J.R., Lyon, T.D. and Quas, J.A. 2016. **Familial Influences on Recantation in Substantiated Child Sexual Abuse Cases**. *Child Maltreat*. August 21(3): 256–261

⁶ Ibid

allegations of child sexual abuse are diagnosed. Others argue, however, that it is not rare and is affected by children's vulnerability to external influences. The latter even argued that recantation rates are no lower in cases where there is corroborative evidence.⁷ In general, it is estimated that approximately 23% of child sexual abuse cases result in a recantation.

Predicting whether a child is likely to recant is difficult. However, it would appear from recent studies that a significant influencing factor is the way the child is treated after their initial disclosure. Negative social reactions of others appear to have an impact on the increased rate of recantation.⁸

3.1 Factors affecting recantation

A child victim of sexual abuse may recant for a number of reasons. The research shows that the most common of these include the following:⁹

3.1.1 Family belief and disbelief

The reaction of family members to a child's disclosure of sexual abuse can have a significant impact on the risk of recantation. This is especially so in cases of intrafamilial abuse. Children who have at least one family member, other than the non-offending parent/caregiver (such as a sibling, grandparent, and aunt/uncle) who believes the allegation are less likely to recant. Conversely, when at least one family member responds with disbelief, the rate of recantation increases significantly. Higher predictors of recantation in intrafamilial abuse include:

- Younger child victims;
- Abuse perpetrated by a parent figure; and
- Lack of support from the non-offending parent or caregiver.¹⁰

Family responses are argued to be one of the most significant factors affecting recantation. In some cases, family members may even put pressure on the child to withdraw a statement, especially where the perpetrator is the family breadwinner.

3.1.2 Contact with the perpetrator

Children who continue to have some form of contact with the perpetrator at the time of their disclosure, such as seeing them in the community or being in the same house, are more likely to recant than children who are immediately removed from that context. This is further exacerbated when a perpetrator increases pressure, through threats and/or coercion, on the child to retract any earlier disclosures of abuse. Younger children are more at risk of being manipulated by perpetrators who have the ability to justify their actions by minimising the incident or explaining to others that the child misunderstood what

⁷ Ibid

⁸ Ibid

⁹ Ibid

¹⁰ Esposito, C. undated. **Child Sexual Abuse and Disclosure: What Does the Research Tell Us?** Office of the Senior Practitioner. New South Wales Family and Community Services. Australia

happened. Younger children do not have the developmental capacity to understand what has happened or the skills and resources to withstand the pressure used by the perpetrator.

Another factor to consider is that, in some cases, child victims may continue to feel loyalty to and love for the perpetrator, especially where the perpetrator has treated the child well despite the abuse. When the child realises that their disclosure can lead to the conviction and incarceration of the perpetrator, they may recant in order to stop this from happening. In many cases, children have often only wanted the police to come and tell the perpetrator to stop with the abuse, but not to arrest them and take them away.

3.1.3 Societal attitudes

Society often views recantations as a sign that children lie about being sexually abused. This affects the general perception of society towards children's allegations of abuse, which may be met with disbelief. A societal disbelief in allegations of child sexual abuse can result in higher rates of post-disclosure recantation.

3.1.4 The criminal justice process

It is widely acknowledged that children have difficulty navigating the criminal justice process after a disclosure of abuse.¹¹ Some of the ways in which the process can increase the risk of recantation include:

- Role-players (police, social workers, prosecutors, presiding officers, lawyers) are not always skilled to work with child victims of sexual abuse and may, therefore, not approach these cases with the necessary sensitivity, nor do they understand the impact of abuse on the child and the resultant fear, guilt and sense of responsibility for the abuse;
- Legal interventions, such as harsh cross-examination and insensitive investigative and interviewing techniques, may cause the child to recant in order to escape this treatment; and
- Lack of support for the child as they navigate the criminal justice process.

¹¹ Ibid 3