"He Said, She Said": A Psychological Perspective on Historical Memory Evidence in the Courtroom

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Abstract

Canadian courts are hearing an increasing number of allegations based on historical incidents. In most cases, complainants or witnesses report remembering the alleged offense continuously since its occurrence. In other cases (e.g., R. v. François, 1994), a witness reports that his/her memory was "recovered" after being blocked from conscious awareness for a lengthy period. Both continuous and delayed historical memory cases pose difficulties for legal decision-makers given the typical absence of corroborating evidence. Without clear guidelines for the assessment of allegations based on historical incidents, judges and juries may rely upon questionable assumptions about memory to assess the credibility of the allegation. A large body of psychological research on applied memory is relevant to the understanding and evaluation of such historical memory evidence. A review of this research indicates that the central details of most distant emotional/criminal experiences are recalled vividly and often accurately over time. However, some level of peripheral distortion can be expected for such events. In addition, amnesia for traumatic events may occur in rare cases. Conversely, completely mistaken memories for historical experiences also can occur. Guidelines are presented to assist in the evaluation of allegations based on historical events.

Imagine being a juror in a trial that is based on a middle-aged woman's allegation that her neighbour sexually assaulted her after giving her a ride home 40 years earlier. She recounts a vivid and emotional memory of the accused person attacking her and comes across as a confident witness. As in many sexual assault cases, the defendant denies the allegation and there is no other evidence to corroborate either testimonial. Additionally, the defense team points to inconsistencies in the complainant's testimony relating to dates and locations. How would you evaluate the evidence in this case? Noting the factual errors, some jurors might be skeptical. However, others might view the testimony as highly credible and consider the errors to be minor and the result of the passage of time. A factor that might further complicate decision-making is the complainant's report that her memory of the incident was only recently "recovered."

There are parallels between the above hypothetical scenario and many civil and criminal cases heard in Canadian courts, such as the case involving the former premier of Nova Scotia, Gerald Regan (R. v. Regan, 1999, 2002). In 1995, Regan was charged with 18 counts of sex-related offenses against 13 women, dating back to the 1950s, 60s and 70s. The complainants were 14-24 years of age at the time of the alleged incidents, which ranged from sexual touching to rape. Mr. Regan was acquitted on some of the original charges and the Crown recently decided not to pursue prosecution on any remaining counts. The Regan case and similar "historical" cases have sparked a furor over the ability of judges and jurors to accurately assess the credibility of such allegations. Historical cases are those in which the incidents in question occurred years or even decades ago. Because of the complexity of the evidence therein, historical cases create significant challenges for the court system (e.g., Van Koppen & Crombag, 1999). In light of the difficulties in prosecuting or defending cases based on allegations of historical abuse, some legal experts, such as Regan's defense counsel (E. Greenspan), have called for a statute of limitations in Canada regarding sexual assault allegations. Others have argued that crime victims are being treated unfairly by a legal system that does not give sufficient credence to historical claims. It is beyond contention that some allegations of historical abuse are based in fact. For example, Jack Ramsay, the former justice critic in the Reform Party of Canada, was recently convicted for a sexual offense that occurred three decades earlier, in the absence of any physical or eyewitness evidence (R. v. Ramsay, 2000). Following the complainant's report, Ramsay admitted to both the complainant and to the police...
that he had indeed done "something inappropriate" with the complainant.

The judicial handling of historical cases has often been inconsistent (Porter, Birt, Yuille, & Hervé, 2001). This inconsistency reflects the difficulty in assessing the accuracy and credibility of memories for events from the distant past. However, there is now a wealth of psychological research that may facilitate the assessment of such allegations. We think that such work can assist triers of fact in their evaluations of historical memory evidence and reduce inconsistencies in the manner in which such cases are handled. In this paper, we attempt to clarify some of the major issues surrounding historical memory evidence and provide general guidelines for the assessment of such evidence. In our view, the most pertinent issues include: the accuracy of memory for emotional events from the distant past, the level of memory distortion that might be expected for such experiences, and the validity of allegations based on delayed or "recovered" memories.

The Increasing Presence of Allegations of Historical Abuse in the Courtroom

The problem of sexual abuse and violence has never been so clear. Approximately one in eight males and one in four females report having been sexually victimized in childhood (e.g., Finkelhor, Hotaling, Lewis, & Smith, 1990) and 10 to 25% of women report an adulthood rape experience (e.g., Koss, 1993). According to the Canadian Violence Against Women Survey (Johnson, 1996), 39% of Canadian women report having been sexually assaulted at some point from the age of 16. In the case of both children and adults, sexual victimization is often clinically traumatic and significantly more so than many other negative emotional events (e.g., Foa & Rothbaum, 1998). Traditionally, sexual violence was a "hidden" crime in that most victims chose not to report their experiences for long periods (if ever) for a host of reasons, such as embarrassment, fear of the perpetrator, fear of being disbelieved, or fear of being blamed for the incident. In fact, most victims of sexual assault still do not report a recent sexual assault experience (e.g., Kennedy & Yuille, 1999). Nonetheless, the number of allegations of historical abuse coming before North American courts has been steadily increasing as more people have chosen to report earlier victimizations.

Unlike most American states, Canada has no statute of limitations to forestall the prosecution of historical offenses. Therefore, Canadian legal decision-makers face the highly complex task of assessing the credibility of allegations that may go back decades. Complicating this task is the fact that corroborating information is usually absent in historical abuse cases. In fact, memory reports usually represent the evidence (e.g., Porter & Yuille, 1995, 1996), with one person claiming that an event happened and the other denying its occurrence. In such cases, the credibility of the witness and the accused becomes central to the issue of guilt. The Supreme Court of Canada (R. v. W. (D.), 1991) has outlined general instructions for the trier of fact to follow in such "he said-she said" cases where credibility is an issue. These instructions call for the trial judge to instruct the jury that the rule of reasonable doubt applies to the issue of credibility. Essentially, triers of fact must acquit if they are not convinced beyond a reasonable doubt of the guilt of the accused on the basis of the balance of the evidence that they accept as credible. The Supreme Court has specifically addressed the issue of witness credibility in cases of alleged child sexual abuse characterized by limited corroboration. As summarized by Justice McLachlin in R. v. W. (D.), (1992), statements made by adults and children are subject to the same standard of proof in court. Justice McLachlin recommended a "common-sense" approach to evaluating witness credibility. In the context of discussing the credibility of children's statements in the court, Justice McLachlin argued that,

Every person giving testimony in court, whatever age, is an individual, whose credibility and evidence must be assessed by reference to criteria appropriate to her mental development, understanding and ability to communicate. But I would add this. In general, where an adult is testifying as to events which occurred when she was a child, her credibility should be assessed according to criteria applicable to her as an adult witness. Yet with regard to her evidence pertaining to events which occurred in childhood, the presence of inconsistencies, particularly as to peripheral matters such as time and locations, should be considered in the context of the age of the witness at the time of the events to which she is testifying. (p. 134)

Because the standard of proof is so high in uncorroborated historical cases, obtaining a conviction can prove difficult. As a result, some prosecutors may be reluctant to proceed with the charge, as was the case with the many of the allegations in the Regan case (see R. v. Regan, 2002). Traditionally, it was unusual for courts to convict in a sexual abuse case in the absence of corroboration, especially in historical cases (e.g., Yuille, 1988). However, this legal trend was problematic and had the consequence of actively discouraging crime victims from disclosing offenses. North American courts began to recognize that sexual assault victims often remain silent about the incident.
for a lengthy period, if they report it at all, and that there is often no corroborating evidence. This was recognized explicitly by the Supreme Court of Canada as noted in R. v. W. (R.), (1992). Accordingly, the Canadian and U.S. legal systems have adopted a more liberal and informed approach to deal with allegations of historical abuse. This changing perspective encouraged people to report historical crimes and brought many guilty perpetrators to justice, as reflected by the steadily increasing number of sexual assault convictions in Canada for the past decade (e.g., Moiink & Belcourt, 1997; Porter, Fairweather, et al., 2000).

The growing number of allegations regarding historical incidents has led some to fear that, in addition to increasing the number of guilty individuals who will be convicted of their crime, there will be an increase in the number of false convictions. In fact, a number of cases have arisen in both Canada and the U.S. that greatly complicate the courts’ decision-making regarding allegations of historical abuse. These cases firmly establish that not all reports of alleged historical crimes are accurate (e.g., Lindsay & Read, 1994; Loftus, 1993b; Porter, Vuille, & Lehman, 1999). Some complainants have based their reports on memories “recovered” in the context of questionable and suggestive psychotherapy approaches (e.g., Loftus, 1993b, 1997b) or highly leading police interviews (e.g., Bruck, Ceci, & Hembrooke, 1998; Kassin & Ceci, 1996), only to later discover that their memories were mistaken. For example (see Loftus, 1997b), in a 1992 case from Missouri, Beth Rutherford “recovered” memories of her father regularly raping her between the ages of 7 and 14 years and that her mother had helped hold her down during the incidents. She also recalled being impregnated twice and being forced to abort the fetus with a coat hanger. However, a subsequent medical examination revealed that she was a virgin. The daughter sued the church counselor who had helped her “retrieve” the memory and received a $1-million settlement in 1996. In Canada, the bizarre nature of certain recovered historical memory reports has not necessarily negatively affected their impact on the court. For example, Donna Cole (pseudonym) recovered memories of being sexually abused by her father at the age of 18 months (“False memory’s victims,” The Globe and Mail, May 9, 1998). She claimed that her father placed both she and her brother in a roasting pan in the oven, butchered and buried a female hitchhiker, and raped the family dog after slititng its belly. Based on her testimony, her father was convicted. Such cases led to the development of an intense debate on the validity of allegations based on recovered or “delayed” memories (e.g., Prout & Dobson, 1998).

A number of psychological, legal, and psychiatric organizations have provided statements regarding their guarded attitude toward the issue of repressed memories. In its official statement on recovered memories, the Canadian Psychiatric Association concluded that memories recovered in adulthood were of such questionable reliability that they should never be accepted without corroboration (Blackshaw, Chandarana, Garneau, Mersky, & Moscavillo, 1996). Further, questioning the accuracy recovered memories in the Canada courtroom, the Canadian Psychological Association (1998) recommended to the Federal Justice Minister (A. McLellan) that a full judicial inquiry be conducted into all Canadian convictions stemming from recovered memory evidence. However, this recommendation was ultimately rejected. The American Medical Association (see Anonymous, 1995) has stated that it is difficult to establish the veracity of an accusation of child abuse based solely on recovered memories, and further, that there is still no reliable scientific means by which to determine whether a recovered memory is true or false. The American Psychological Association (Alpert, et al., 1996) also stated that there were still gaps in the knowledge of what produced accurate or inaccurate recollections of childhood abuse, but noted that most victims of child sexual abuse continuously remember at least a portion of what happened to them. In addition to completely mistaken historical memories, some allegations have been intentionally fabricated (e.g., Vuille, Tymofievich, & Marxsen, 1995). The Nova Scotian government recently awarded various sums of money to former residents of the Shelburne School for Boys following claims by residents of historical abuse by staff. Many of these claims are now being investigated as probable false allegations. Monetarily inspired false claims of historical abuse are a concerning issue for civil court proceedings, as well as criminal proceedings when the accused is arrested for the alleged incident.

Some have suggested that the debate over recovered memories may be nearing resolution (e.g., Read, 1999). Nevertheless, recovered memory evidence continues to appear in Canadian legal cases, as evidenced from a recent large-scale study (Read & Connolly, 1999) and from the first-hand experience of an author of this paper as a psychological consultant to the courts. The courts’ difficulty in evaluating the validity of allegations of historical abuse is clear from inconsistencies between courts in the handling of such cases and in the statements made by judges (see Porter et al., 2001).
Continuous Memories for Historical Incidents

In a substantial majority of historical cases (e.g., Read & Connolly, 1999), complainants report having always been able to recall the incident(s) since it occurred but consciously chose to delay disclosure. In such cases, the key issue surrounds normal memory functioning and the accuracy of continuously held memories of the distant past (see Tulving & Craik, 2000 for an extensive review of memory functioning and processes). Empirical data suggest that most individuals experience a period of “infantile amnesia,” in which they are unable to recall events from before 3-4 years of age (Brewin & Andrews, 1998; Loftus, 1993a; Pillemer, 1998). Following the development of the capacity to form episodic memories, many factors can interfere with the manner in which these memories are encoded, stored, and later retrieved, reflecting the malleable nature of memory (Loftus, 1993b; Schacter, 1995, 1999). There is evidence that memory errors occur as a consequence of the normal decay of memory, the failure to encode certain information due to lack of attention, source monitoring errors, confusion of related memories, directed or motivated forgetting, and retrospective recall biases tied to our current knowledge and beliefs (e.g., Hyman & Loftus, 1998; Schacter, 1999, 2001). Extensive lab-based research also indicates that memory can be distorted by the presence of misinformation or suggestion introduced after the original experience (e.g., Loftus, 1993b; Schacter, 1995, 1999, 2001; Schoeler, Gerhard, & Loftus, 1986). In general, autobiographical memories typically contain minor errors but major errors will also occasionally be present (Hyman & Loftus, 1998).

In order to evaluate the quality of memory over long periods of time, researchers have tested the accuracy of memory for public events (e.g., natural disasters and public tragedies). Studies with follow-up periods of less than a year tend to find consistent memory reports from the initial reporting to the follow-up period (e.g., Pillemer, 1984), while those with longer follow-up periods (i.e., close to three years) indicate that memory can become greatly distorted with time (e.g., Bohannon & Symons, 1992). For example, when memories for the Challenger explosion recorded a day after the event were compared with memories three years later, 40% were inconsistent (Neisser & Harsch, 1992). In a similar study, Schmolck, Buffalo, and Squire (2000) had a large sample of participants complete a questionnaire about their personal memory for the O.J. Simpson verdict three days after it was delivered. The same students were asked to describe aspects of this memory again at 15 and 32 months later. Results indicate that after 15 months, only 11% of the memories contained major errors or distortions relative to the initial report. However, more than 40% of these memories contained significant distortions by 32 months. Although some criticisms of this study have been raised (see Horn, 2001; Squire, Schmolck, & Buffalo, 2001), it suggests that memory for personally nontraumatic events can become greatly distorted with time.

Many or most historical cases involve personally traumatic memories of sexual incidents. Some have argued that sexual incidents may be recalled in a fundamentally different manner than other events (for an overview of this controversy see Shobe & Kihlstrom, 1997). For example, Koss, Figuerdo, Bell, Tharan, and Tramp (1996) compared the characteristics of memories for rape with other intense unpleasant experiences and pleasant events. They found that rape memories were less clear and vivid, less visually detailed, and were associated with less re-experiencing of the original physical sensations, emotions, and thoughts than nontraumatic memories. To better understand the differences between traumatic and other emotional memories, Porter and Birt (2001) asked 306 adults to provide detailed accounts of two life experiences: their most traumatic experience and their most positive emotional experience. The traumatic experiences ranged from violent sexual assaults to witnessing the death of a family member. Results indicated that traumatic and nontraumatic memories differed phenomenologically (e.g., vantage point) and qualitatively (e.g., trauma was recalled in more detail). However, both types of emotional memories were recalled with a high level of vividness/clarity. The majority of participants reported having continuous memories of the traumatic and positive event. In addition, the level of reported postevent traumatic symptoms had no apparent negative impact on the quality of the memories. In fact, events associated with the highest levels of self-rated trauma symptoms were thought about and discussed more often than other negative memories. Further, in contrast to Koss et al. (1996), memories for sexual assault were recalled more vividly than other memories for violence. Severe traumatic experiences were associated with higher levels of dissociation, suggesting either that one’s proneness to dissociation results in a higher severity of trauma or that a highly traumatic experience results in dissociative symptomatology (see also Foa & Rothbaum, 1998). Although the above study did not address the accuracy of the memories, it appears that traumatic and positive memories are usually continuously recalled in vivid detail.

Only a small number of studies have examined the accuracy of details for emotional experiences over long periods of time (e.g., Terr, 1979; Wagenaar &
Groenwed, 1990; Vuille & Cutshall, 1986). These studies suggest that highly emotional memories are consistent over time and often enduring. Vuille and Cutshall (1986) examined the memories of 13 eyewitnesses four to five months after they had witnessed a murder and attempted murder. Results indicated that the witnesses’ memories were accurate, detailed, and resistant to the effect of misinformation. Similarly, Terr (1979) investigated the memories of 25 children, 5-14 years of age, who had been kidnapped on a school bus, driven around for 11 hours, and then buried underground in a tractor-trailer. After 27 hours, part of the roof collapsed and the children dug their way to freedom. These children had intact and detailed memories of the incident after 13 months (Terr, 1979). In a follow-up study, Terr (1983) found that the children’s memories for the event remained detailed four years later. In a very important investigation of the consistency in memory over a much longer period of time, Wagenaar and Groenwed (1990) compared the memory reports of 78 World War II concentration camp survivors from the trial of Marinus De Rijke in the 1980s with statements given to Nuremberg investigators soon after the war. The survivors’ often traumatic memories were accurate and detailed despite the passage of time. Specifically, the accounts of the camp, camp registration numbers, malicious treatment, daily routine, labour, housing, and main guards were “remarkably consistent” over four decades.

Despite the general consistency of continuous emotional memories, some degree of peripheral memory distortion is to be expected over time. To give a familiar example, more than half of childhood memories—including emotional memories—are recalled through an “observer” perspective from which people can see themselves in the mental image (Nigro & Neisser, 1983; Porter et al., 1999; Robinson & Swanson, 1993). Given that the event was not originally experienced from such a perspective, it is clear that the memory image was altered or changed with time. Southwick, Morgan, Nicaulou, and Charney (1997) examined the consistency of memory for combat-related traumatic events in veterans of the Gulf War. They found that 61% of respondents changed their answers to two or more items on a 19-item questionnaire inquiring about aspects of their traumatic experiences at one month and two years after the war. In Wagenaar and Groenwed (1990), some details provided by the concentration camp survivors (e.g., names, dates) had been forgotten. Specifically, information that was peripheral or not directly relevant to the traumatic experiences may have been forgotten or had become distorted in memory over time. The authors concluded that the intensity of the experiences was not necessarily a safeguard against some forgetting. Other studies also have shown that memories for traumatic experiences are often well retained, with central and critical details remembered better than the event’s peripheral details (e.g., Thompson, Morton, & Fraser, 1997). Thus, despite the general consistency of traumatic memories over time, there is evidence that some individuals can recall aspects of them very differently from their objective reality.

Generally, the best recalled information tends to be central to the event, meaningful to the rememberer (witness/victim), and thought about in the years since the incident (e.g., Christianson & Engelberg, 1999; Porter & Birt, 2001). Despite this scientific understanding of distant memories, defense lawyers have successfully challenged the credibility of allegations by identifying such “flaws” in historical memory reports. These errors may actually represent a normal degree of peripheral distortion. In the Regan case, the defense counsel created reasonable doubt by highlighting problems with the complainants’ memories for dates and locations, which may have had little true relevance to the credibility of the allegations in question. However, the Supreme Court of Canada has recognized that such peripheral information may be less salient in witnesses’ recollections and should not necessarily negatively influence the credibility of a witness’s testimony (e.g., R. v. W. (R.), 1992).

**Recovered Memories in the Courtroom**

In a subset of historical cases, complainants report that they “recovered” the memory after experiencing a period of forgetting since the event (e.g., Knapp & VandeCreek, 1997; Melchert, 1999; Porter, Birt, Vuille, & Lehman, 2000). That is, they report uncovering a traumatic memory that they had previously not recalled, or at least not recalled for an extended period of time (e.g., Loftus, 1993b, 1997a; Porter et al., 1999; Read & Lindsay, 1997). Using archival data, Canadian researchers (Read & Connolly, 1999) examined a sampling of more than 1,200 cases of sexual assault from the 1980s and ’90s and found that evidence for recovered or delayed memories emerged in as many as 5% of sexual assault cases.

One of the first American cases involving historical recovered memory evidence was Tyson v. Tyson, supra (1986) in the Supreme Court of Washington. This case was the first in which an abuse victim asserted the “delayed discovery” rule. Tyson claimed to have blocked all memory of her childhood abuse (age 3 to 11) until she entered therapy at the age of 26. The Supreme Court ruled that the statute of limitations would apply. However, Judge Pearson dissented, argu-
ing that a triggering event (therapy) had finally made the complainant aware of the abuse and the defendant’s guilt (i.e., the statute of limitations should apply beginning with the time of the awareness, not the incident itself). Since the Tyson case, a number of judges have cited Pearson’s dissent and applied the delayed discovery doctrine. For example, in *DeRose v. Carswell* (1987) the court explicitly left the possibility open for the discovery rule to be applied to cases in which complainants allege repressing memories of sexual assaults. A California court stated in *Evans v. Edelman* (1990) that, “it has been widely recognized that the shock and confusion engendered by parental molestation, together with the parents’ demands for secrecy, may lead a child to deny or block the traumatic events from conscious memory” (p. 608). Interestingly, a recent study by Coleman, Stevens, and Reeder (2001) found that potential jurors also gave credence to the possibility of the repression of painful events and in the subsequent accurate recovery of these memories.

Several Canadian courts have also explained the validity in the recovery of repressed memories. In *R. v. R.J.H.* (2000) two sisters claimed that they had been sexually abused by their father in childhood, but that they had no memory of the abuse until it was triggered years later. Justice Hood of the B.C. Supreme Court indicated that although the issue of recovered memories should be approached with caution, he was satisfied that the two complainants had experienced a valid recovery of their memory. He also stated that he felt each complainant’s “recovered memory is credible or reliable and true...and have all the features of actual personal experiences” (paragraph 181). *R. v. O’Dell* (2001) also provided a recent example of a Canadian court’s attitude toward claims of recovered memories. The male complainant testified that a Catholic priest had sexually abused him over a period of four to five years in the 1980s. The complainant explained that the events had been “blocked” from his conscious memory and that he had not recalled the abuse for over a decade. The trial judge concluded (based on expert testimony) that the imperfect retrieval of memory and “element of subsequent denial” had been the result of traumatic amnesia. The trial judge’s decision was subsequently upheld by the Court of Appeal for Ontario (see also *R. v. S.C.H.*, 1995).

Reflecting the inconsistency of the court’s handling of recovered memory cases, other courts have rejected such evidence. For example, in a well-known recovered memory case from the United States, George Franklin received a life sentence for murder based on the testimony of his daughter who reported repressing a repressed memory in which she witnessed him sexually assault and murder her childhood friend (MacLean, 1993). The appellate court later overturned the conviction. Some American courts have also rejected outright the validity of recovered memories (e.g., *Jane Doe et al. v. Joseph Marshel*, 1996). A recent Canadian case highlighted the reluctance that some courts have with allegations that are only supported by claims of a repressed memory. In *Justice v. Doucet* (2000), a woman, after receiving therapy, recalled memories of violent sexual abuse by her father that had occurred over 20 years earlier. Regarding the validity of the woman’s claims, the Manitoba Court of Appeals judge stated that “given the nature of the allegations, the passage of time and the caution urged by experts in the area as to the acceptance of evidence with respect to such events without corroborating evidence, I believe that the evidence...falls short of proving... that the events stemming from her recovered memories did occur” (paragraph 22). The judge also expressed concern over the methods that had been used by the woman’s therapists to recover her memories.

The case of *R. v. François* (1994) further exemplifies the difficulties that have occurred with legal decision-making based on recovered memory evidence in Canada. In this case, François was convicted of repeatedly raping a 15-year-old girl in 1985. The only evidence at trial was the complainant’s testimony that she had “blocked out” the sexual assaults until her memory returned in a flashback years later. The flashback occurred during a period when she was being interviewed by police and children’s aid workers in connection with the wardship proceedings concerning her son. The complainant had been told that part of the process of regaining custody of her son might involve admitting traumatic things that had happened to her. According to the complainant, the police suggested that if she thought long enough about her past, she might remember something in a flashback. She testified that the flashbacks occurred while she was concentrating on what the police told her. When François appealed his conviction to the Supreme Court of Ontario, it was upheld. Justice B. McLachlin rationalized that:

It was..., for the jury to determine, on the basis of common sense and experience, whether they believed the complainant’s story of repressed and recovered memory, and whether the recollection she experienced in 1990 was the truth. The jury’s acceptance of the complainant’s evidence concerning what happened to her cannot, on the basis of the record, be characterized as unreasonable. In sum, the verdict was not illogical or speculative or inconsistent with the main body of evidence. (p. 829)
On appeal to the Supreme Court of Canada, François’ conviction was set aside, but this case provides a compelling example of the problems that can arise when recovered memories for historical crimes are an issue.

The comments of Justice McLachlin in R. v. François (1994) reflect a belief in jurors’ ability to appropriately determine the credibility of recovered memory testimony based on “common sense.” In reality, the jury had been asked to act as experts on a very complex psychological issue. In our view, the common sense of the jurors may not have adequately assisted them in appropriately evaluating the validity of the recovered memory testimony. The difficulty with relying on the common sense of the trier of fact in judicial decision-making was demonstrated by Yarmey (1986) in his test of the standards outlined by the U.S. Supreme Court (Neil v. Biggers, 1972) for the assessment of eyewitness accuracy. Counter to some of the court’s “common sense” standards for determining eyewitness accuracy, he found that the accuracy of the witness’ prior description of the accused and the witness’ level of certainty at the time of confrontation were not important predictors of eyewitness accuracy. In his recent review of the role of eyewitness experts in the courtroom, Yarmey (2001) concluded that many of the difficulties that arise with eyewitness testimony are counterintuitive and contradict the common sense beliefs held by lay persons, police officers, and attorneys about eyewitness memory. We think that issues surrounding allegations based on historical memories cannot adequately be understood via common sense. In both R. v. Marguard (1993) and R. v. Mohan (1994), the Supreme Court of Canada has ruled that expert testimony can be admitted as evidence in situations where the issue at hand is beyond the experience and knowledge of the trier of fact. It seems clear that informed expert testimony on historical memory may assist the triers of fact in formulating their judgments.

Studies Relevant to the Recovered Memory Controversy
A number of studies have found that some childhood abuse victims assert no recollection of the abuse when asked about it in adulthood (e.g., Herman & Shatzow, 1987; Widom & Morris, 1997; Widom & Shepard, 1996). For example, Bräåre and Conté (1993) found that of 450 adult clinical patients who related their sexual abuse histories, 59% identified some period in their lives before the age of 18 when they had no recall of their sexual abuse. In the best known study cited as evidence for abuse-related amnesia, Williams (1994) examined the memories of women known to have been abused about 20 years earlier. When interviewed about their sexual abuse histories as adults, 38% of the women failed to mention the documented episodes of sexual abuse. Of those who recalled the abuse, 16% reported a period when they had no recollection of the abuse. Further, the prevalence of amnesia does not appear to depend on whether the abuse was physical, sexual, or emotional (Melchert, 1996, 1999).

Much controversy has arisen around the interpretation of such research findings pertaining to abuse-related amnesia (e.g., MacMartin & Yarmey, 1998). Some explanations range from ordinary forgetting to a disinclination to speak about the experience with researchers (e.g., Loftus, Garry, & Feldman, 1994; Schooler, Bendiksen, & Ambadar, 1997; Williams & Banyard, 1997). Some have argued that the failure to report a distant emotional memory is indicative of repression of the original memory for the traumatic experience (e.g., Holdsworth, 1998; Lazo, 1995). The concept of repression sometimes is evoked in forensic settings as an explanation for failures to recollect emotional events from childhood. Like Freud’s concept of repression, the modern psychodynamic view argues that repressed material can continue to exert psychological effects over the course of the life span. A goal of therapy, therefore, is to recover the memory and bring it into consciousness (Earleywine & Gann, 1995). At this point, however, there have been no empirical studies that demonstrate the recovery of repressed memories from childhood (e.g., Holmes, 1990; Loftus, Joslyn, & Polage, 1998; Pope & Hudson, 1995). In addition, the theoretical basis of repression is weak and unconvincing (Porter & Marxsen, 1998). The unconscious processes involved in retaining a repressed memory and the potential recoverability of the original memory have not been validated. Further, there is no evidence that repressed memories are “stored” completely intact or more intact than continuous memories. Rather, research suggests that memories are malleable and reconstructed from a person’s current remembering context (e.g., Loftus, 1996; Porter et al., 2000). Nevertheless, the questionable validity of the concept of repression does not negate the possibility that an individual can have a delayed memory in which the cause of the delay is unknown or poorly understood (see Schacter, 1999). Some researchers and organizations have suggested that some children may “forget” an event that would be viewed as a sexual assault by an adult (fondling, non-violent touching) because it is not viewed by the child at the time as being a traumatic experience or violation (e.g., Alpert et. al, 1996; Blackshaw et. al, 1996). However, it is possible that these events may be triggered in the future and recalled (accurately or inaccurately) by the individual. For example, Blackshaw et.
al (1996) stated that "children who have been sexually abused in early childhood may be too young to accurately identify the event as abusive and to form an explicit memory. Thus, without intervening cognitive rehearsal of the memory, such experiences may not be reliably recalled later in adult life" (p. 306).

Many of the ordinary aspects of day-to-day life are forgotten within hours or days (e.g., Schacter, 1999). Surprisingly, however, even more significant events in life may be routinely forgotten. For example, Read (1997) reported that 60% of a large sample of adults reported a prior period of limited or no memory for at least one personal event or experience in their past. Although many of these "forgotten" experiences were relatively trivial events for which normal forgetting would be expected, 23% were much more significant, repeated or drawn-out events, such as sports camps and music lessons. Read and Lindsay (2000) interviewed participants about a set of 11 potentially significant nontraumatic childhood events (e.g., summer camps, high school graduation, family reunion, extended trip). They asked participants whether there was ever a period of time when they remembered less of the event than now and whether there was ever a period of time in which they had no memory for the event. For at least one event, 47% of participants reported partial "amnesia" and 28% reported complete "amnesia." Thus, nontraumatic but significant life events are associated with periods of forgetting as well.

Motivated forgetting or suppression is another more common source of memory impairment. Unlike the supposed unconscious act of repression, this process involves an active and conscious attempt to forget specific incidents or aspects of experiences that are unpleasant (e.g., Brewin & Andrews, 1998). Although attempts at motivated forgetting vary in their success and sometimes paradoxically lead to an incident being remembered more persistently (see Schacter, 1999; Wenzlaff & Wegner, 2000), it is possible to succeed at actively forgetting particular experiences over time. For example, Porter and Birt (2001) found that of those participants who reported a failure to recall a traumatic event for an extended period of time (5% of 306 participants), most indicated that they had consciously forced the memory out of their minds rather than "repressed" it. Conscious suppression of a memory is a more plausible explanation for the failure to recall an event than repression.

In the legal system, the term amnesia often is used informally as if it were a normal aspect of human memory rather than a pathological condition. For example, in a case in Arizona, amnesia was confused with everyday forgetting: "everyone is amnesic to some degree" (State v. McClendon, 1968). However, this use of the term confuses its formal meaning, established in decades of experimental and clinical research. Two classes of amnestic disorders have been distinguished in clinical literature, organic and disso- ciative. Organic amnesia includes a large class of amnesic syndromes associated with a wide variety of neurological conditions, including alcoholic Korsakoff’s syndrome, Alzheimer’s disease, head trauma, strokes, and some brain tumors (see Kopelman, 1987). Individuals suffering from organic amnesia may experience anterograde amnesia, which is characterized by an inability to learn and retain new information, and/or varying degrees of retrograde amnesia, which is a deficit in the ability to recall events that occurred prior to the onset of the amnesic condition (e.g., Schacter, 1995). Retrograde amnesia is more commonly seen, for example, in the motor vehicle accident victim with mild head injury who is unable to remember the events immediately preceding the injury. There are also forms of organically based temporary or transient amnesia, such as those induced by drug or alcohol intoxication or by epileptic seizures (e.g., O’Connor & Morin, 1998).

Of particular interest is the more controversial class of amnesic syndromes known as dissociative, functional, or psychogenic amnesia. As described in the DSM-IV (APA, 1994), dissociative amnesia is characterized by an inability to recall important personal information in the absence of an organic pathology. In addition, the extent of the memory loss must be too great to be explained by ordinary forgetfulness. Of the five types of dissociative amnesticis, the most common is localized (or circumscribed) amnesia (APA, 1994). This type is characterized by a failure to recall all events occurring during a circumscribed period, which usually includes the first few hours following a profoundly disturbing event. Less common is selective amnesia, which is the failure to recall some, but not all, of the events during a circumscribed period of time. This type is most likely to be associated with the failure to recall childhood sexual abuse. In general, dissociative amnesia can occur at the time of the traumatic experience and last from minutes to days (Bremner & Marmar, 1998; Schacter, Wang, Tulving, & Freedman, 1982). Although amnesia is categorized as a specific dissociative disorder, episodes of dissociative amnesia are also associated with Post-traumatic Stress Disorder and Dissociative Identity Disorder. These two disorders are typically diagnosed in individuals with a history of childhood sexual abuse (e.g., Herman, Perry, & van der Kolk, 1989; Landecker, 1992; Peterson, Prout, & Schwartz, 1991; Ross, 1989). There seems to be sufficient evidence to support the validity of dissociative
amnesia (see Brown, Schellin, & Hammond, 1998), but the cognitive mechanisms responsible for the condition remain unclear.

In summary, the issues related to the recall of negative or traumatic events are complex. Although not infrequently faced with such issues, North American courts have yet to develop a consistent approach for evaluating recovered memory reports. As noted above, in R. v. Francois (1994), the judge asserted that jurors should rely on their own common sense to evaluate previously blocked traumatic memories. Considering the complexity of the issues, it is doubtful that common sense can be sufficient to assess these cases. Expert evidence on memory may assist the trier of fact in rendering judgments (e.g., Yarmey, 2001). According to the Supreme Court of Canada (R. v. Marquard, 1993), an expert cannot ultimately comment on the credibility of a witness, but expert testimony regarding recovered memory allegations can be beneficial if the findings and conclusions meet the same standards that were established in R. v. Mohan (1994). That is, expert evidence can be admissible if it is relevant, necessary to help the trier of fact understand some issue of the case, given in the absence of any exclusionary rule, and provided by a properly qualified expert.

*Missaken Memenies for Historical Events*

Long before the contemporary recovered memory debate, many philosophers and, later, psychologists observed that memories were sometimes highly inaccurate or even completely mistaken (see Loftus, 1993b; Porter, Birt, et al., 2000). William James discussed his own capricious "false memories" on several occasions (e.g., James, 1892/1961). For many years Jean Piaget described a vivid childhood memory of his attempted kidnapping only to later discover that the event was not real. His nanny admitted that she had concocted the kidnapping story and experienced guilt over the watch she received as a reward for supposedly saving him (Piaget, as cited in Loftus & Ketcham, 1994). In considering this incident, Piaget later stated, "I...must have heard, as a child, the account of this story, which my parents believed, and projected it into the past in the form of a visual memory" (p. 531). In the past decade, numerous other anecdotes of mistaken identifications and memories from legal contexts have been described (see Loftus, 1993b). There have also been cases in which people have recalled perpetrating crimes of which they were innocent (Ofshe, 1992; Ofshe & Watters, 1994; Porter & Yuille, 1995; Rubin, 1996). Nevertheless, more solid and confirming evidence of memory distortion and false memory creation can be obtained from empirical research findings.

The first mistaken or "false" memory study with adults was Loftus’ now-famous shopping mall study (Loftus, Coan, & Pickrell, 1996; Loftus & Pickrell, 1995). With the agreement of the participants’ family members, Loftus and Pickrell (1995) tried to convince 24 adults that at the age of five they had been lost and were eventually rescued by an elderly person. The participants were provided with brief descriptions of three real events along with the one false event of being lost in a shopping mall. Parental report was used to corroborate the veracity of the real event. Participants were then encouraged to write as much detail for each event as possible and were interviewed about the events on two subsequent occasions, one and two weeks later. One quarter of participants incorporated the false information into their memories over the course of the interviews.

The next series of related studies were aimed at determining whether mistaken memories could be induced for events other than the common childhood experience of getting lost. Hyman, Husband, and Billings (1995) forwarded questionnaires to participants’ parents to obtain information about a variety of positive and negative childhood experiences (e.g., getting lost, eventful birthday, loss of a pet). Participants were then presented with brief descriptions of the true events provided by their parents, plus one of two false events contrived by the experimenters (i.e., a clown at a birthday or an overnight visit to the hospital). Over the two interviews of the first experiment, 20% of participants incorporated information about the false event into their memories. Their second experiment was an extension of the first and employed different false childhood events (i.e., causing an embarrassing scene at a wedding reception, evacuation of a grocery store, or causing a minor car accident), an additional interview, and increased conformity demands. Consistent with the first experiment, 25% of participants incorporated false information into their memory reports (see also Crombag, Wagenaar, & van Koppen, 1996). Thus, memories for several different types of relatively innocuous historical childhood events could be successfully implanted or created in susceptible individuals.

Despite the evidence that memories can clearly be implanted in susceptible individuals, the validity of mistaken memories for emotional childhood events continued to be questioned (e.g., see Brown et al., 1998). Pezdek and colleagues (e.g., Pezdek, Finger, & Hodge, 1997; Pezdek & Hodge, 1999) argued that the illusory memory studies described above may not generalize to forensic contexts. They argue that studies utilizing more plausible events (e.g., getting lost in a
views, the interviewers attempted to implant the memory for the false event using encouragement, context reinstatement, guided imagery, and instructing daily recall attempts. Results indicated that 26% of participants “recovered” a complete memory for the false experience and another 30% recalled some aspects of the experience without fully accepting all the suggested details. This study provided convincing evidence that, in suggestive contexts, some individuals can be led to recall what would have been stressful childhood events, but which never occurred.

During the 1990s, an increasing number of adults claimed to have forgotten and later recovered memories, while others (“retractors”) have claimed to be the victims of wrongful memories implanted by psychotherapists (de Rivera, 2000; Lindsay & Read, 1994). In addition, litigation concerning recovered memories of childhood abuse is steadily rising (Knapp & VandeCreek, 1997). The importance of informing clinicians of the potential problems of recovered memory therapy in creating false memories has been highlighted (e.g., Courtois, 1997; Knapp & VandeCreek, 1997). There has been increasing concern over the validity of memory reports in both forensic and therapeutic settings given that various approaches used in those contexts have been implicated as potentially contributing to memory distortion and creation. For example, repeated exposure to false information characterizes questioning techniques used in some criminal interviews and interrogations (e.g., Kassin, 1997) and suggestive techniques continue to be used in some psychotherapeutic contexts (e.g., Lindsay & Read, 1995; Poole, Lindsay, Bull, & Memon, 1995).

The memory recovery technique known as guided imagery appears to increase both the likelihood of false memory induction, as well as remembering a previously forgotten but true event (e.g., Hyman & Pentland, 1996). Brown et al. (1998) reviewed 12 studies that used guided imagery. These studies yielded an 11-96% gain in new information about the target event without a significant increase in memory error rate. However, four studies that combined the use of guided imagery with the inclusion of misinformation about the content of the event showed a substantial increase in the memory error rate. A survey of British and American psychotherapists (Poole et al., 1995) indicated that 71% of therapists reported using various suggestive techniques such as hypnosis, dream interpretation, age regression, and guided imagery to help clients recover memories of sexual abuse. Therapists also listed a wide variety and largely inconsistent set of behavioral symptoms as potential indicators of child sexual abuse. In addition, 25% of
respondents reported a constellation of beliefs and practices that suggested a focus on memory recovery in their therapeutic practice. Given the extensive use of suggestive memory recovery techniques that have been implicated as potential contributors to the implantation of memories for false events, Poole et al.'s (1995) study suggests that implanted memories might not be an uncommon occurrence in some therapeutic contexts. It should be noted that a more recent survey of 1,008 psychologists indicates that professionals are more aware of the risk of mistaken memories. Gore-Felton et al. (2000) found that psychologists were less accepting of a client's claim of childhood sexual abuse if the memory was not continuous, allegedly occurred before the age of 2 years, was vague, and when the perpetrator was described as female. Knapp and VandeCreek (2000) provided useful guidelines and considerations for psychologists in dealing with client allegations of childhood sexual abuse.

Overall, the cumulative result of the psychological research on the question of whether mistaken memories can occur indicates that the answer is clearly yes. Given such strong empirical evidence, the next goal has been to find a means of accurately discriminating true from false memories in the absence of corroborating information. A number of empirical studies have identified differences between these two types of memories and may eventually help distinguish them in practice (e.g., Loftus & Pickrell, 1995; Payne, Neuschatz, Lampinen, & Lynn, 1997; Pezdek et al., 1997; Porter et al., 1999). A recent review by Pezdek and Taylor (2000) suggested that there is a pattern of differences between mistaken memory reports and true memory reports. They concluded that mistaken reports tend to contain less information related to the perceptual or sensory detail of the event, are described with more words, and tend to be held with less confidence by the rememberer. Similarly, Porter et al. (1999) compared true, fabricated, and implanted false childhood memories for emotionally laden events using a detailed coding procedure, referred to as the Memory Assessment Procedure, which examines a number of content and phenomenological features of memories. They found that implanted memories tended to contain fewer details, were less coherent, clear, and vivid, and were recalled less confidently compared to true and fabricated ones. A strong trend was also noted for implanted memories to be described from a “participant” perspective (own eyes), whereas most true reports were described from an “observer” perspective (like watching a video). On the other hand, implanted and true memories were similar on several content features (e.g., sensory elements), which made them difficult to identify without a careful analysis. Consistent with Porter et al. (1999), others have found implanted memories to contain fewer words, details, less clarity, and have lower confidence ratings compared to true reports (Loftus & Pickrell, 1995; Pezdek et al., 1997). Collectively, these results suggest that implanted memories may be distinguishable from true and fabricated memories on several content, phenomenological, and individual difference factors.

Despite the strong need to differentiate historical memories based on real experiences from those based on false experiences, little research has been conducted to determine how accurately such reports can be identified. Schoeller, Clark, and Loftus (1988) had participants judge the credibility of true and distorted memories of an auto accident and found that the accuracy in the judgments was greater (but only slightly) than chance. Similarly, Qin and Goodman (2000) examined the ability of adults to detect completely mistaken and true memories by viewing videotaped accounts of true and implanted childhood memories. Participants identified implanted (59%) and true (64%) memories at greater than chance levels. However, based on the high false alarm rate, Qin and Goodman concluded that their participants had a limited ability to distinguish true and mistaken memory reports. Consistent with the Qin and Goodman findings, Campbell and Porter (2002) found that 60% of their participants were able to correctly identify experimentally induced false memories relative to 53% who accurately identified true memory reports. Additional research is required to better understand the process by which these judgments are made.

Knowledge of the individual difference factors related to an increased susceptibility of memory distortion or creation could significantly improve the ability of professionals to identify cases of mistaken memories in practice. Some evidence suggests that individuals susceptible to mistaken memories are significantly more dissociative, introverted, and more imaginative than those not susceptible (Hyman & Billings, 1998). Porter, Birt, et al. (2000) were able to accurately discriminate 82% of individuals susceptible to implanted memories from those not susceptible by means of the level of extraversion associated with the interviewer responsible for the mistaken memory induction and the level of dissociative traits associated with the rememberer. Rememberers' level of introversion also was found to be associated with degree of susceptibility to false memories. Further investigation is required to understand the role these factors (as well as other potential factors) play in the level of susceptibility.
Practice

Based on this review, we argue that there are four primary considerations in the credibility assessment of historical allegations, whether the memory has reportedly been continuously held or recently “recovered.” These guidelines should be used by trained professionals with an extensive and current understanding of the literature regarding continuous memory, recovered/repressed memory, false memory, and fabrication in memory. As mentioned earlier, the Supreme Court of Canada (R. v. Marquad, 1993) has indicated that an expert witness cannot comment on the ultimate credibility of a witness. However, the expert can provide information to police investigators and lawyers as a consultant during investigations or the charge approval process. The expert can provide useful and empirically valid information about memory and the assessment of memory credibility that will help the trier of fact interpret and evaluate the specific evidence before them. Professionals in the disciplines of law and psychology could potentially serve as such experts pending detailed training in memory-related issues. In the courtroom, psychological or psychiatric testimony concerning the general conclusions described above would prove useful to inform legal decision-making.

Guideline 1: The first guideline concerns the evaluation of the context in which the memory was recalled. The use of suggestive questioning during interviews and interrogations or the use of suggestive therapeutic techniques to recover a memory (e.g., guided imagery, hypnosis) should raise suspicions about the validity of the allegation in question. An examination of therapy notes, police interview tapes/notes, and interviews with the complainant would be useful. Although a memory recovered through the use of suggestive techniques should not automatically be considered invalid, the possibility that the memory is illusory or significantly distorted increases as the memory recovery context becomes increasingly more suggestive. Similarly, the context in which the complaint was first made must be assessed. Memories that are recalled in a spontaneous manner and in the absence of potential secondary gain are less likely to be illusory. As such, it is important to gather information about the circumstances that led the complainant to make his or her complaint to the authorities.

Guideline 2: The second guideline is concerned with evaluating the content of the memory. As discussed above, content differences have been found between real and mistaken memories. Although more research is required to validate its utility, an empirically based guide to assessing the credibility of historical memory reports is the Memory Assessment Procedure (Porter & Birt, 2001; Porter et al., 1999). This tool may assist trained experts in structuring their evaluation of memory content. As reviewed above, historical memories tend to remain vivid for the central details of the event, while less personally significant peripheral information (times, dates, locations) may become distorted with time. It is reasonable to expect some decay in the memory, while the key details should remain consistent with time. A related important component to the evaluation of historical memories is the determination of whether the memory has been continuously held by the complainant versus not recalled for an extended period of time and later “recovered.” Even if the complainant has a continuous memory of the alleged incident, the context in which the allegations were made to the authorities should be examined to identify possible distorting factors.

Guideline 3: The potential for mistaken memories appears to be higher in individuals with a greater susceptibility to suggestion in general and with a tendency towards dissociation. Specially trained psychological consultants could evaluate the susceptibility of the complainant to suggestion, particularly if sources of suggestion are apparent in the case. Determining whether previous allegations have arisen with the particular complainant in a suggestive context will help establish a history of suggestibility. This aspect of the assessment may also be assisted through the use of standardized tests to measure some of the characteristics previously noted to be associated with suggestibility, such as dissociation. In particular, high scores on the Dissociative Experiences Scale (Carlson & Putnam, 1993) are strongly associated with the susceptibility to memory distortion. Measures of introversion and imaginativeness may also be helpful (e.g., Porter, Birt, et al., 2000).

Guideline 4: Finally, and not surprisingly, it is important to seek corroboration of the alleged event. An essential aspect of the evaluation process should focus on gathering information that either refutes or supports the claim based on the historical memory. Interviews with potential witnesses (e.g., family members) and review of official records that may document evidence of abuse is essential. Corroboration will add credibility to the memory and lack of it may raise doubts about the allegations.

In summary, if the historical memory for a serious criminal incident has been continuous, the credibility analysis should focus on the context of the disclosure,
the memory content, and an evaluation of any potential sources of contamination of the memory (suggestion). Often, the major central details of the experience will be enduring and vivid. At the same time, errors pertaining to peripheral details (such as times and dates) are to be expected. In the case of a recovered memory, an analysis of the context in which the memory was recovered should also be conducted. The presence of suggestive interrogation and therapeutic practices involved in the memory recovery process should be carefully evaluated as a potential source of distortion or the creation of a mistaken memory. The relevance of each of these factors will vary from case to case. In conclusion, we argue that, ultimately, allegations of historical abuse cannot be properly evaluated without a sound understanding of the current psychological knowledge of dissociative amnesia, traumatic memory, and mistaken memories.

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Résumé

Les tribunaux canadiens entendent un nombre croissant d'allégations qui reposent sur des incidents qui se sont produits dans le passé. Dans un grand nombre de cas, les plaignants ou les témoins disent se souvenir constamment de l'infraction alléguée, et ce, depuis le moment où elle s'est produite. Dans d'autres cas (p. ex., R. v. François, 1994), un témoin rapporte qu'il/elle a «recovered» la mémoire d'un événement ancien après que celui-ci eut été, pendant une longue période, bloqué ou devenu inaccessible à la mémoire consciente. Ces deux cas, qui supposent à la fois la présence d’une mémoire continue et d’une mémoire différée en ce qui a trait aux événements passés, posent des difficultés aux décideurs juridiques car ni l’une ni l’autre n’est appuyée par une preuve corroborante. Sans directives claires s’appliquant à l’évaluation des allégations qui reposent sur des incidents passés, les juges et les jurys doivent invoquer des postulats contestables au sujet de la mémoire pour évaluer la crédibilité d’une allégation. Une grande part des travaux de recherche en psychologie se consacrant à la mémoire appliquée peut permettre de comprendre et d’évaluer l’evidence d’une telle mémoire des événements passés.

Un examen de ces travaux de recherche indique que, au fil du temps, il est possible de se rappeler avec vivacité et souvent, avec précision, les détails principaux d’expériences affectives/ criminelles survenues il y a très longtemps. Cependant, on peut s’attendre à divers degrés de distorsion périphérique par rapport à ces événements. De plus, l’oubli d’événements traumatisants peut se produire dans quelques cas rares. Réciproquement, des souvenirs totalement erronés d’événements passés peuvent aussi surgir. Pour finir, des balises pouvant guider l’évaluation des allégations qui reposent sur des événements passés sont présentées.

References


Science, 34, 217-229.
Justice v. Doucett mbc59 (2000), M.C.A. [Online]. Available at: www.canlii.org/ml/cas/mbca/2001/mbc59.html


Psychological Science, 11, 39-45.
Taking the middle line: Can we accommodate both fabricated and recovered memories of sexual abuse? In M. Conway (Ed.), False and recovered memories (pp. 251-292). Oxford: Oxford University Press.
Memory distortions develop over time: A reply to Horn. Psychological Science, 12, 182.
State v. McClendon, (1968), 199 Conn. 5, 12, 505 A.2d 685, 656, 657 n.1 (DC Cir.).