

False accusations of sexual abuse as a mean of revenge in couple disputes

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Abstract

Objectives. In forensic-psychiatric evaluations on a minor presumed victim of sexual abuse, one may come across "false positives" and "false negatives". The aim of this study was to examine the phenomenon of false sexual abuse as revenge by one ex-partner against the other, and to offer recommendations about how to avoid this risk.

Materials and Methods. The authors examined 75 technical consultations and expert testimonials in which intrafamilial sexual abuse of a minor was reported.

Results. Twenty two (30%) were found to be baseless and result of conflict, revenge of one partner upon the other. Of these 22, 5 involved men who accused their ex-wives and/or live-in partners. The remaining 17 cases involved charges by women against their ex-husbands, and/or live-in partners.

Conclusions. Charges of abuse represent not only an instrument of protection of one's own children, but also a weapon of revenge against an ex-partner, putting these minors into the role of victims. *Clin Ter* 2014; 165(2):e119-124. doi: 10.7471/CT.2014.1694

Key words: child interview, false accusations, parental alienation syndrome, sexual abuse

Introduction

The most reliable criteria on which to make the diagnosis of sexual abuse is a history of sexual abuse disclosed by a child depending on the his/her age and on disclosure spontaneity (1). Once a family member express concern for sexual abuse, the probability of maltreatment or sexual abuse is likely to increase consistently but no population data exist to estimate such probability (2). Unfortunately children do not always say the truth and interviewing a minor presumed to have been victim of sexual abuse is always a challenge for forensic investigators.

Sometimes a history of sexual abuse may merely be the result of honest mistakes, while at other times, they are intentionally false due to manipulation and exploitation (3-9). The following four situations are mainly at risk of false positives and false negatives: a) ex-married couples

may turn to false accusation of sexual abuse in order to discredit the partner in the eyes of family members, judges, and friends; b) epidemic or group hysteria as when a group of parents, in good faith, turn to charges of sexual abuse against the teachers of the school where their child is studying or against the priests of the church he/she is attending to; c) inappropriate techniques of interviewing, as when the examiner is unable to avoid questions that contain already the answer when collecting the history from a child (10, 11); d) an intentional false accusation of sexual abuse by the minor against one of his/her parent as an instrument of revenge against a previous punishment or in order to stay with the accusing parent, to conceal a sexual relationship or because of his/her own leader character.

The child has the cognitive potential to construct false accounts, and therefore to complicate a forensic investigation on sexual abuse (12, 13). In fact, charges of sexual abuse may not only serve as a tool for the defense, but also as an instrument of offense in the hands of adolescents and adults capable of exploiting falsehoods for their own purposes.

False accusations may occur in several other cases not only when separation and divorce are particularly bitter or when one of the parents is aware of his/her partner untruthfulness (14), but also when the adult, in good faith, reports sexual abuse that has never took place based on concerning physical signs (i.e. abrasions and bruising of genitalia, congenital anomalies, perianal Crohns and lymphangioma, etc.) (12, 15), recognized in daily childcare activities (i.e. washing, dressing, and bathing the child).

Moreover, false accusations can occur when a concerned parent observes anxious or sexualized behavior in his/her child, thus leading to suspicion of sexual abuse, for instance after a period of time spent with the non-custodial parent, such as when the child begins to exhibit symptoms of regression, fear, depression, and an increased desire for physical contact. In such cases, the custodial parent may take these manifestations as a sign of sexual abuse, while they actually may be simply the effect of a forced and prolonged separation from the other parent (16). Child custody is often a serious point of contention after a separation or a divorce and sexualized behavior can be possible indicators of sexual abuse (17). However, some authors (18) have already warned

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on the limited diagnostic value of such behavior symptoms and the risk of false positive errors.

Under such circumstances, it is extremely difficult to make an accurate retrospective diagnosis of sexual abuse. A study on 165 cases of sexual abuse presumed during separation and divorce proceedings (19) found 33% of the sample to be false. Benedek and Schetky (17) reported 18 cases in which minors were evaluated for suspected sexual abuse in legal disputes that involved custody procedures. In this sample, 10 cases (55.5%) were found to be baseless or blatantly false. Because few and confuse data are available in Italy, the phenomenon of false accusation has been investigated on a selected group of minors alleged to be victim of sexual abuse in order to better identify the most common reasons and causes.

Materials and Methods

Seventy five interviews of minors and expert witnesses requested by judicial authorities carried out from 2003 to 2009 were examined. All cases were dealing with marital unrest in which intrafamilial sexual abuse of a minor was reported. Only 26 investigations (20.6%) out of total 75 were performed with help of police enforcements for videorecordings, environmental research, search-warrants, phone interceptions, etc.. In each case a psychiatrist and/or a psychologist has been recruited as a forensic expert for taking the history from the child and decide on the admissibility in court of his/her testimony. Among these 26 investigations we have selected 22 cases in total (29.3% of the analyzed sample) in which there was no physical or medical evidence of sexual abuse. For child interviews, the National Institute of Child Health and Human Development (NICHD) protocol (18, 19). was applied in order to enhance the quality of information provided by the alleged victims. In fact, this well structured protocol for professionals conducting forensic interviews with suspected child sexual abuse victims is specifically enriched by open-ended questions to prevent errors in response (20, 21).

Twenty five minors were totally involved in these 22 investigations: 19 cases included only one minor while the other three included simultaneously two minors each. The distribution by age and gender of the 25 minors is reported in Table 1. The minors suspected to be victim of sex abuse were mainly females (19 out of 25 totally) while only 6 were males.

The reasons of the couple dispute can be summarized in one or both of the partner's new relationship, revenge for presumptive infidelity of the ex-partner during the life in common, physical and sexual abuse or past economical or patrimonial conflicts (Fig. 1). In many cases there was an overlapping in the reasons of contrast.

Table 1. Distribution by age and gender of the minors involved in the 22 cases.

| Age range (y) | Males | Females |
|---------------|-------|---------|
| 2-4 | --- | 6 |
| 5-10 | 5 | 7 |
| <18 | 1 | 6 |



Fig. 1. The reasons of the couple dispute in the considered population.

In five investigations out of 22 (22.7%) men accused their ex-wives and/or live-in partners. These men had an age ranging between 40 and 45 years old. The remaining 17 cases out of 22 (77.2%) were charges promoted by women (with age ranging between 35 and 40 years old) against their ex-husbands and/or live-in partners. In 13 charges, among these 17 cases, the complaint was sustained not only by the lady but also by other family members. Every charge was associated with pronounced conflict in the couple. All the 22 cases were finally ruled out the sexual abuse and were classified as false accusations. No clinically relevant psychiatric disorder was found in both the minors and their conflicting parents, at the time of the investigation. A retrospective analysis of these false accusations has been conducted in order to better identify their reasons and causes.

Results

In all of the 22 cases examined, the forensic expert reported clear signs of suggestibility or influence on the minor, due to the following reasons: interference of social/cultural (TV-news) or intra-family factors, contamination of child memory by his/her own fantasy because of misunderstandings or errors in the interpretation of acts and adult behavior, no clear idea of sex, previous erroneous technical interviews, a mean to gratify the custodial parent. The unreliable testimony of the child and therefore the false accusation was confirmed in 10 cases out of 22 (45.4%) by the Judicial Authority based also on results of investigation performed by Police Enforcement (i.e. video-tapes, environmental research, phone interceptions, etc.) well matching the final opinion of the expert. In 12 cases of out 22 (54.5%) the Judicial Authority declared the weakness of the case, basing the decision only on the expert testimony and without other circumstantial evidence; therefore, there was no charge for sexual abuse.

Regarding the criminal expression of the sexual abuse, worth of mentioning is the fact that this was not associated with other forms of physical abuse or neglect, which is not corresponding to the general experience in the field and the case studies reported in the literature (22, 23). Therefore, the hypothesis of a psychological type of violence and abuse against the child cannot be totally excluded. With this regard, the 5 men who accused the former partners of sexual abuse

reported that the ladies obliged their children to assist to sexual acts with other men, to view pornography, and in two cases to have involved children in sexual activity with other partners. The 17 women who accused their former partners reported in 12 cases episodes of penetration, cunnilingus, fellatio fondling, masturbation, in 5 cases the men were accused to have obliged their own children to assist to sexual acts with other women or to view pornography.

Discussion

Examiners may come across both “false positives” (false conclusions that sexual abuse has occurred) and “false negatives” (false conclusions that no sexual abuse has occurred) when taking the history. Over-diagnosing child sexual abuse (false positives) is considered to be a more serious concern than failing to identify true victims (false negatives) (24). However, false positives as well as false negatives represent a dangerous problem because of the catastrophic consequences related to the wrongfully conviction of innocent alleged abusers (false positives) and to the missing child protection of true victims (false negatives). The tremendous impact of child sexual abuse for victims and abusers can include a wide range of psychiatric disorders from post-traumatic stress disorders to depression, from self-destructive behaviors to drug dependence or alcoholism (23.) Kuehnle and Connell (21) already emphasized on specificity (capability to prevent false positives in order to assure that children are not erroneously identified as sexual abuse victims) and sensitivity (capability to prevent false negatives in order to assure that true victims of sexual abuse are identified and not missed) of child sexual abuse. Recently different articles have focused on several controversies and contested issues among which, in particular, the diagnosticity of “hard” evidence (medical or physical signs, videotapes of abuse or suspect’s confession, photographic or DNA evidence) compared to the “soft” evidence (children’s statement or behavior) or the diagnosticity of the evaluation interview (24). Against the superiority of the “hard” evidence, really uncommon in forensic assessments, some authors (1, 24) have recently demonstrated that the child’s simple and spontaneous disclosure of genital touch can be highly probative of sexual abuse also based on a Bayesian approach. In this respect, it is mandatory to implement an appropriate and effective technique for investigating the child because only a good interviewing can prevent or reduce significantly false negatives or false positives. For example, open-ended questions such as those inserted in the NICHD protocol increase the accuracy of the evaluation since it is well known that errors in response to suggestive questions may be more frequent (19). In this respect, the NICHD investigative interview protocol is widely appreciated because it increases significantly the diagnosticity of child’s disclosures (18, 19, 23). An estimate error rate of 24% in investigative decisions has been calculated by Herman (20) but other authors (22) have found this estimate to be unreliable.

Children’s reports are often doubted because the hypothesis is that a parent is influencing the child to make a false claim of abuse. Evaluations of child abuse in cases where the accusations arise in a climate of conflict between

partners should be carried out as soon as possible. Not only should the child be evaluated, but also the parents in order to prevent false positives and to make sure the accusations do not become chronic.

Ex-married couples may turn to charges of sexual abuse as an efficient way of attacking the ex-partner by discrediting him or her in the eyes of family members, judges, and friends. In such litigations, one of the main reason for false accusation can be the custody of the child or, in other words, to be recognized as the official and only caretaker of the child. This revenge strategy may very well fall into the category of Parental Alienation Syndrome (PAS) (25). PA is a syndrome that is not widely accepted or empirically validated by the scientific community. For some authors it would be a serious mistake to adopt PAS as a formal mental illness because of the lack of research supporting it as a diagnosis (26). For some other authors (27) there is a vast body of clinical and empirical literature documenting the existence of PAS and its negative consequences for children.

However, it is not uncommon that, after long and drawn out legal proceedings, the charges are ultimately unconfirmed. But even with such an outcome, the parent-child relationship will probably have been most seriously and permanently compromised. Children in such cases may consciously, or unconsciously become involved in the conflict, and are at risk of ultimately internalizing the manipulating parent’s point of view (28) When carrying out child abuse evaluations it is recommended to always consider that the charges may be baseless, particularly when one of the parents has filed the charges during the separation phase, or when child custody is being determined. In other cases, the accusations may be the result of misunderstandings by the minor, or the result of involuntary instigation by the accusing parent. It is also possible that false accusations are the work of a child who independently launches charges at the target parent (28). In our study 10 (45.5%), out of 22 cases in which there was no physical evidence of sexual abuse, were confirmed by the Judicial Authority on the basis of further investigations (videotapes, phone interceptions, environmental research, etc.).

In cases where accusations of intrafamilial sexual abuse are not supported by any evidence, the negative impact that a false positive has on the accused parent, as well as on the entire family, must not be underestimated. In a representative case, after the divorce, the missing of two young brothers for several months was enough for the Judicial Authority to arrest the father indicted for kidnapping, homicide, and concealment of the bodies. The father was finally released after 4 months of wrongful imprisonment, few months later the recovery of the bodies. The two young brothers were victims of an accidental fall from a low-medium height with entrapment of the child in a cold and dark underground environment with no exit (29).

Several studies (30-32) demonstrate that among the most frequently observed consequences of false positives there are affective, social, and economic trauma (e.g. the person under investigation loses his job; economic hardship for the entire family); transfer to another city; the need for intervention by social services; social stigmatization; the loss of significant relationships (e.g. friends and relatives); and emotional difficulties such as depression, insomnia, and anxiety.

On the other hand, risk factors for abuse should be considered when the child spontaneously reports abuse (33, 34): in such cases, the account of events is spontaneous, but wavering, unclear, and followed by retractions (35-37) there is an apparent fear of the authorities, or the person who records the information; the overall story is solid (38), and the basic story remains the same; the child appears to be anxious and upset (39, 40) disclosure of sexual abuse is accompanied by affectivity proportionate to the situation (41), or noticeable suffering (36, 37); the child may even appear to act in a seductive or regressive manner (36, 37). The terminology used by the minor is age appropriate (34), although in other times it may not (e.g. when the child is younger).

Further investigation is also warranted when even though the child is confused and frightened, he demonstrates the ability to confront the situation (36, 37). (especially in children older than 6 years of age); the child has an adequate ability to observe and record the incident, with sufficient memory to independently hold onto the recollection of the event, and he is able to recount the memory of the incident (36, 37, 42, 43).

According to Bernet (27, 33, 37) it is improbable that an instigating parent would prompt the child to remember such details.

When a fighting couple is in the process of separation or divorce, not only they must manage the actual separation itself, but they also have to face a series of other "divorces" that involve emotional, economic, legal, social and psychological issues, not to mention parental roles. In such a climate, there may be many reasons that prompt the ex-partners to engage in and out war on a multitude of fronts that result in mutual feelings of anger, hard feelings, and a desire for revenge. Hostility is often a factor to be considered as when there is anger and jealousy toward the ex-partner's new relationships, or when a partner feels the need to have decisional powers regarding the future relationship with the ex-partner: retaliation by the other partner may lead into the need to appear superior, or to feel like the "favorite" parent. At other times there is the inability or refusal to rationalize the consequences of the separation, with each parent laying blame and responsibility for the breakup on the other, or for the other's inability to separate out personal relationship from parenthood.

In our study we found that the main reasons of the couple dispute were represented by a one of the partner's new relationship, revenge for infidelity, physical and sexual abuse or for past economical or conflicts. Data from ISTAT (Italian National Institute of Statistics) reveal that in 2011, 13.1% of separations (13.541 out of 88.797), and 14.5% of divorce proceedings (16.490 out of 53.806) happened in a contentious manner, with prolonged litigation (an average of 873 days for separations, and 632 days for divorces). At least one minor is involved in approximately a half of separations and one third of divorces (44). Other contributing factors that couples in conflict experience include: seeking support from outside sources, such as mediation; clear and deliberate intentions to punish the non-custodial ex-partner who has reacted to the separation with complete disinterest, or who shirks his responsibilities (e.g. economic) to either the child, or the ex-partner; attacking the ex-partner's social standing and character in addition

to creating social-relational, and economic hardship. In the end, accusations of abuse may be the quickest way to push the undesired ex-partner away, consequently suspending any relationship that he or she has with the minor child, and legally gaining exclusive custody of him/her. These strategies end up compromising parent-child relationship. Situations of marital conflict may be a sort of "alarm bell" that require the attention of a specialist who is qualified to carry out a child abuse evaluation.

Technical consultants who are called upon to work with separated and conflicted families today are increasingly involved in court cases that follow a characteristic pattern: one parent is accused of sexual abuse or serious maltreatment, resulting in that parent being turned out; all ties to the child are suspended; the investigative and judicial processes, which often last for years, come to an end, with the abuse charges being unconfirmed. Although the parent is found to be innocent, the parent-child relationship is irreparably damaged. However, if sexual abuse of a child is recognized immediately, and it is seen as a valid reason to award primary custody to the non-abusive parent, emotional abuse may manifest itself in a subtler way making the case much more difficult to evaluate objectively.

It is important to keep in mind that PAS is a form of violence perpetrated against minors. One parent who alienates the other commits a form of abuse that Gardner (25) defines as "emotional". Not only does this result in the permanent alienation of a loving parent, but it may also culminate in psychiatric disorders. The estranged parent who forces his or her child into a situation of continual denigration and denial of the other parent destroys a fundamental psychological bond. A charge of sexual abuse is not only an instrument of protection for one's own children, but it is also a weapon of revenge against an ex-partner that paradoxically results in the victimization of the minors.

Assessing the validity of the child's report of abuse or the diagnostic value of inappropriate or precocious sexual interactions, without any hard evidence of abuse, highlights the need for a careful interpretation and caution in the final evaluation. Hard corroborative evidence is available only in a minority of cases while children's statements and behaviors are often the only tool available (22, 45, 46). The examiners must be aware that erroneous evaluations of child sexual abuse may easily destroy the lives of child and adults (21, 47, 48).

More efforts have to be made in order to increase the accuracy of the evaluators and minimize the risk of false positive and negative errors.

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