Jurors' perceptions of child witnesses with disabilities

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JURORS' PERCEPTIONS OF CHILD WITNESSES
WITH DISABILITIES

by

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ABSTRACT

Jurors’ Perceptions of Child Witnesses with Disabilities

by

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Research has shown that children with disabilities are much more likely to be abused than their non-disabled peers. Moreover, it has been suggested that 50% of child victims of abuse possess a learning and/or emotional disability (NIH, 1999). Although legal professionals rely heavily on the victim to aid in the investigative and judicial process, studies have shown that jurors find children less credible witnesses than adults (Goodman & Bottoms, 1993). It has also been suggested that prosecutors are less likely to prosecute a case that involves a child with a disability (Perry & Wrightsman, 1991). The purpose of the present study was to assess jurors’ perceptions of a child witness with a learning disability, a child witness with emotional disturbance or a child witness with mental retardation compared to a child witness without a disability. It was hypothesized that a child witness with a learning disability, emotional disturbance or mental retardation would be perceived as less credible than a child without a
disability. Results indicated that there was no significant difference found in
witness credibility across groups. The implications of these findings could
include: providing a “catalyst” for further research in the area of child witnesses
with disabilities, helping child witnesses with disabilities prepare for court, and
making the results available to prosecutors who have been reluctant to prosecute
a case involving a child with a disability.
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CHAPTER 1

INTRODUCTION

This chapter introduces the reader to the problem child victims of abuse often face in the judicial system today and the factors that exacerbate this problem. It also describes the rationale, purpose, and research questions that are pertinent to this study.

Statement of the Problem

Crime is a reality in American society today. Every day the newspapers and television programs present this reality in vivid detail. Court dockets are full of victims and their alleged offenders. Prosecuting these perpetrators is often a long, difficult and complicated process. This process can become even more difficult when lawyers attempt to try a case on the testimony of just one witness. Jurors must perceive witnesses to be honest, competent and credible if their testimony is to be given any merit. Though prosecutors are very influential in deciding which cases should be tried and judges determine the punishment to be given, the ultimate responsibility is given to the jurors. They must listen to the facts presented and determine the guilt or innocence of the accused.
In cases of child abuse, determining the guilt or innocence of the accused is of utmost importance. Convicting the guilty in these cases often depends solely on the testimony of the victim; a victim who is a child. Child victims of abuse have been found to be at a disadvantage in the legal system because they are often the only witnesses to the crime, many jurors see children as less credible than adults (Goodman, 1993), and if the child has a disability, prosecutors are less likely to try their case (Perry & Wrightsman, 1991).

Jurors must believe and trust the child's testimony for the abuser to be convicted. Although legal professionals often rely heavily on the victim to aid in the investigative and judicial process, studies have shown that jurors find children less credible witnesses than adults (Goodman, 1993). That perception may seem justifiable when a child's developmental differences manifest themselves in the courtroom (See Review of Literature, Chapter 2). Children may appear timid, confused, or evasive when asked questions in court. These perceptions can cause jurors to see the strongest evidence in the child abuse case (the testimony of the victim) as unreliable and therefore, not trustworthy. Jurors' perceptions of these children put victims of abuse at a disadvantage in the courtroom.

Children who have learning or emotional disabilities have an even greater disadvantage in the legal process than their non-disabled peers. Research suggests that prosecutors are less likely to prosecute a case that involves a child with a disability (Perry & Wrightsman, 1991). This is unfortunate for child abuse victims because the research suggests that as many as 50% of them possess a
learning and/or emotional disability (NIH, 1999). Based on these findings, it could be suggested that many of the reported incidences of child abuse are never tried in a court of law. Child victims with disabilities who are not heard in court are, at least in theory, once again abused. This time, however, they become victims of the legal system that is designed to protect them.

Protecting children from being victims of the system is a problem that must be addressed. Children who have been abused deserve to have their story be heard in court. The problem is that if their case is tried, the characteristics they display in the courtroom may greatly influence jurors' perception of their testimony. Even if the child is accurate in their testimony, many factors (including whether the child is emotionally or learning disabled) may influence the jurors' perception, and ultimately the outcome of the trial.

Rationale

In the American judicial system, jurors play an important role. Though prosecutors are very influential in deciding which cases should be tried and judges determine the punishment to be given, the ultimate responsibility is given to the jurors. They must determine the guilt or innocence of the accused based on the testimony given to them. The perception that the jurors have of witnesses is critical to this process. If 50% of victims of abuse are emotionally or learning disabled (NIH, 1999) and children with disabilities are as much as five times more likely to be abused than their non-disabled peers (Sobsey, 1992; Tobin,
1992), then it is of critical importance in child abuse cases to determine jurors' perception of these populations.

**Statement of the Purpose**

The purpose of the present study is to assess jurors' perceptions of a child witness with learning disabilities, emotional disturbance, or mental retardation since it has been suggested that many victims of abuse have been identified as such. Four vignettes will be used in this study, each providing the same witness testimony to a crime. The only difference between the vignettes will be the description of the witnesses. One witness will be described as a ten year-old child, one will be described as a ten year-old child with a learning disability, one will be described as a ten year-old child who is mentally retarded, and one will be described as a ten year-old child who has been identified as emotionally disturbed. One hundred sixty potential jurors will be randomly assigned to read one of the four vignettes. They will then be asked to rate the credibility of the witness in the vignette that they read.

It is hypothesized that a child with a disability will be perceived as less credible than a witness without a disability. Specifically, a ten-year old child with a learning disability will be perceived as less credible than the ten year old child without a learning disability. A ten-year old child with emotional disturbance will be perceived as less credible than the ten year old child without emotional disturbance. A ten-year old child with mental retardation will be perceived as less credible than the ten year old child without mental retardation. The null
hypothesis for this study states that even if a child has a disability (learning disability, mental retardation or emotional disturbance), that factor will not have an effect on the perception of jurors.

Research Questions

The questions that this study addresses are:

1. Is a child witness with emotional disturbance perceived as less credible than a child witness without a disability?
2. Is a child witness with mental retardation perceived as less credible than a child witness without a disability?
3. Is a child witness with a learning disability perceived as less credible than a child witness without a disability?
CHAPTER 2

REVIEW OF RELATED LITERATURE

The review of related literature is divided into three sections. The first section examines a few of the many ways developmental differences can effect the perception of a child’s testimony. The second addresses the credibility, competence, and accuracy of children’s testimony. Next, jurors’ perceptions of child witnesses are addressed. The specifics of how each of these topics pertains to a child with disabilities is also discussed in each section.

How Developmental Differences May Effect Jurors’ Perceptions of Children’s Testimony

Child witnesses face many challenges. The courtroom atmosphere can be very overwhelming. A child’s unfamiliarity with his or her surroundings is likely to make them feel uncomfortable. The judge, the lawyers, and even the bailiff all speak in “court language,” a vernacular that is often difficult for a child to grasp (Saywitz, Nathanson, & Snyder, 1993). If a child is testifying as a victim of child abuse, they face an even greater challenge because their testimony may be the only evidence to the crime. If a child is misunderstood or confused by questions
that do not account for their age and developmental stage, their testimony can appear to be untruthful and their case unwarranted. Developmental limitations in cognitive abilities may make a child appear untruthful, when in fact they are truthful but their lack of understanding of various concepts, or their apparent difficulty in articulating their memories may play a part in making their testimony appear fictitious (Saywitz, 1988).

A child's understanding of number concepts, for example, may impact jurors' perceptions of their credibility. Knowing how to count and having an understanding of number are two different processes (Piaget & Inhelder, 1973). Knowing how to count relies completely on rote memory; understanding the concept of number relies on cognition. Just because a child can count to ten does not necessarily mean that that child can understand or articulate what ten is. This can be very problematic when children testify. Saywitz (1988) gives this example: When a child is asked to tell the court how many times they were abused and they hold up two hands, it may appear to the audience that the child is answering ten (five fingers on each of two hands). When the lawyer attempts to confirm the assumption of ten, the child holds up two fingers and says “five.” The judge, in an attempt to understand her response, insists that she count to ten, which she does proudly. Everyone in the courtroom (lawyers, jurors and audience members alike) may be confused by the child's testimony. It now appears that because this child can count, she is not telling the truth in response to the original question. Child development experts, however, would understand that young children have trouble understanding and representing numbers. This
child could very accurately respond to a question that clearly identified the unit, (i.e. Did it happen a lot or a little?). This is one of the many ways that a child can be misunderstood in the courtroom.

Another example of developmental limitations in children's credibility involves an understanding of "relationship." Lawyers often establish the facts of a crime by asking questions that involve explaining relationship (Saywitz, 1988). This doesn't become a problem for a child when they are identifying members of their immediate family, but if a young child is asked to explain the relationship between her mother and her grandmother (i.e. "Is that your Daddy's momma or your Momma's momma?"). The child is likely to become confused and their testimony is likely to be viewed as less credible. Research has suggested that young children do not understand kinship relationships in the way that adults do (Elkind; Haviland & Clark; Piaget, 1928).

Another one of the many ways that children's testimony can be discredited in the courtroom relates to their ability to recall and articulate information from their memories in a courtroom setting. Children are expected to remember and articulate vast amounts of information when they are on the witness stand. When asked to describe the accused person, for example, they might not be able to articulate their memories in the way that adults would like for them to. Answering questions and giving details such as, "Describe the person that did this to you," will likely bring an accurate response (Fivush & Hammond, 1991; Saywitz, 1987; Saywitz, et al., 1993; Wells, Turtle & Luus, 1989), but it may not bring the same response that would be expected from an adult. Response such as "He smelled
like tuna fish," or "He had on Nike shoes on, like the ones my brother got for his birthday," are some examples of the possibilities. These details may be accurate, but they do not give the full picture. Much research has been done that suggests that children's memory of past accounts tend to be accurate and truthful, yet incomplete (Fivush & Hammond, 1991; Saywitz, 1987; Saywitz, et al., 1993; Wells, Turtle & Luus, 1989). This is another way that children's testimony is often discredited on the witness stand.

Children with learning disabilities, emotional disturbance and or mental retardation may have other developmental limitations that could affect jurors' perceptions of their credibility. A child with a learning disability involving a language or speech deficit, for example, may display narrative memory skills similar to those of children much younger than their own chronological age (Garnett, 1986; Ripich & Griffith, 1988; Roth, 1986). A child with mental retardation may have had limited exposure to peers and therefore may not have developed a knowledge of and exposure to appropriate social skills. A child with emotional disturbance may display hostility, mistrust and poor social relationships (McGuire & Goldman, 1991). All of these characteristics that children with different disabilities display could play a significant role in their credibility as a witness.

Developmental limitations in children's testimony can play a significant part in the perception of a child as a non-credible witness. Even though their testimony may be accurate (Fivush & Hammond, 1991; Saywitz, 1987; Saywitz, et al., 1993; Wells, Turtle & Luus, 1989), the way it is perceived is of utmost
importance. Important facts may never be given merit, because a child’s testimony was discredited by a misunderstood question or they gave facts that were seemingly irrelevant to the case.

Children as Witnesses

Adults often find children difficult to understand. Their thoughts seem scattered, their logic confusing, and their constant stream of questions unnerving. Children think differently from adults and depending on their age and stage of development, they even think differently from children who are older or younger than they are (Piaget & Inhelder, 1973). Therefore, their testimony will likely be different from an adult’s testimony. If another child in a different stage of development testifies, their testimony will sound different from that child’s. If a child with a disability testifies, the type, level and severity of their disability will likely come across in their testimony possibly making their testimony sound different from a child their own age. Having a different testimony than another doesn’t necessarily denote inaccuracy. The research suggests that children, even though they are often misunderstood, are often honest, accurate and credible witnesses (Saywitz & Snyder, 1996).

Honesty is of utmost importance in a court of law. Every witness is required to take the “oath.” This ensures, at least in theory, that the witness is telling the truth. Lawyers often attempt to establish a child’s ability to tell the truth by asking them to describe the difference between the truth and a lie. Though they are well meaning, the research suggests that there is not a correlation
between this practice and the child's ability to provide accurate testimony (Goodman & Aman, 1988). Even very young children know it is wrong to lie well before they are able to articulate the difference between a lie and the truth (Wimmer, Gruber & Perner, 1985). Even though they may not be able to articulate the definition, research suggests that children know that it is important to tell the truth.

Not only is it important to tell the truth under oath, it is also of great importance to be as accurate as possible. Establishing the facts of a case often involve giving details about different people, places and things. This is very important in child abuse cases as well. Children, even children with disabilities, can provide these details, but questions must be phrased in a way that takes into account their age, developmental stage, and disability (if applicable). Research suggests that children tend to be accurate and truthful in their descriptions, yet incomplete (Fivush & Hammond, 1991; Saywitz, 1987; Saywitz, et al., 1993; Wells, Turtle & Luus, 1989).

Credibility takes in many different factors. Jurors and other members of the courtroom bring in pre-conceived notions and biases that will ultimately affect perceived credibility. How the witness appears in court also affects credibility. In cases of child abuse, the determination of credibility needs to be evaluated before the child ever takes the stand to testify. Child victims of abuse react differently to their trauma. If the child is depressed, angry or feels worthless this will likely come across in their testimony. This does not mean that they can't be found to be credible, but it does mean that the child, parents and the prosecuting
attorney need to consciously address the child's situation. With care and planning, even traumatized children can be perceived as credible.

Children, even children with disabilities, are capable of being honest, accurate and credible witnesses, even though they are not always perceived that way. Though children are not all alike, it is important to note that research suggests that most children tell the truth and tell it accurately. To guard against misunderstandings, lawyers must have an understanding of how to phrase questions in a way that respects the child's age, stage of development, and disability (if applicable). Jurors must also be made aware of these factors, so their perceptions are not skewed.

**Jurors' Perceptions of Child Witnesses**

Many factors play a part in the determination of the outcome of a court case. Ideally, the only factors that should matter are the facts in the case. Race, socio-economic status, sex, age, disability, etc. of the witnesses should not matter in determining the guilt or innocence of the accused unless the case is specifically about one of these things.

Unfortunately, however, many of these factors have been shown to play a part in jurors' perceptions of these witnesses (Whobrey et al., 1981). Research has shown that jurors see women as more trustworthy than men. They have shown male witnesses as more dynamic than women (Whobrey et al., 1981). Research has also shown that race significantly affects jurors' perceptions of witness communication (Whobrey et al., 1981). Children are perceived as less
credible than adults (Goodman et al., 1984, Goodman & Bottoms, 1993). None of these factors should legally play a part in the outcome of a trial. Unfortunately, however, these factors can significantly effect witness credibility and ultimately the guilt or innocence of the accused.
CHAPTER 3

METHODOLOGY

Sample

Potential jurors (those who are currently eligible to serve on a jury) were recruited for this study from students in classes at the University of Nevada, Las Vegas. One hundred seventy students, from nine different classes, volunteered for participation in this study. One hundred seventy eight packets were disseminated; eight participants were deemed ineligible for the study. Four volunteers did not qualify because they were not citizens of the U.S., two were ineligible because they had been convicted of a felony, one had previously been a judge in the court system, and one did not fill out the demographic information.

One hundred, twenty-four females and 46 males participated in this study. The mean age of the participants was 34 years old and their ages ranged from 18 years to 62 years. One hundred twenty six participants claimed to be Anglo, 16 African-American, 12 Hispanic, 8 Asian/Pacific Islander, and 6 other (2 Middle Eastern, 1 Indo European, and 3 did not specify).

Each participant was asked questions to determine their eligibility for jury duty under the rules of Civil Procedures, Article 2094 (this specifies age,
citizenship, and criminal history requirements) and were also asked to read and sign a consent form (Appendix A) that outlined the purpose of the study and the procedures that were required of each volunteer consenting to participate. Each volunteer was informed that they would be evaluating a witness’s account of a past event. They were also informed of all risks, although they were minimal, in participating in the study and were assured that they could withdraw from the study at any time.

**Design**

This study utilized a post-test only, control group design to examine the adult perceptions of child witnesses with a learning disability, mental retardation, emotional disturbance, and non-disabled child witnesses. Each volunteer read one of four vignettes (one a typical child, one a child with emotional disturbance, one a child with mental retardation, and one a child with a learning disability) and rated the credibility of the testimony that was randomly assigned to them. Perceptions of child witness credibility in terms of (1) the guilt or innocence of the “defendant”; (2) the certainty of one’s verdict; (3) the strength of the evidence against the defendant; and (4) the overall credibility of the child witness were compared across conditions.

**Vignette**

Vignettes (adapted from Leippe & Romanczyk, 1987) gave a detailed summary of a court case involving a grocer who was shot and killed during a
robbery of his store (Appendix A). The case summary included a description of
the incident, the arrest, the eyewitness identification, and a point-by point
summary of both the prosecution and defense’s case. The only witness to the
crime was described in one of four ways: (1) his (the grocer’s) 10 year-old son,
(2) his 10 year-old son with emotional disturbance, (3) his 10 year-old son with
mental retardation, or (4) his 10 year-old son with a learning disability.

Rating Scale

This study used a rating scale developed by Leippe & Romanczyk (1987). This scale rates the credibility of subjects who have witnessed an event using an
11-point scale. Credibility is evaluated on several different dimensions. Subjects rate their certainty on the verdict (indicating whether they thought the defendant
was guilty or not guilty); the strength of their conviction of their verdict (1-2 being extremely uncertain, 4-6 moderately uncertain, 7-9 moderately certain, 10-11 extremely certain); the strength of the evidence against the defendant (1-2 being extremely weak, 4-6 moderately weak, 7-9 moderately strong, 10-11 extremely
strong); and the credibility of the eyewitness (1-2 being not at all credible, 5-7 being somewhat credible, and 10-11 being very highly credible).

Procedure

The researcher for this investigation implemented this study at the end or
beginning of each class period in each of the nine volunteered classrooms. The
researcher informed the class that they would be filling out a demographic
questionnaire, reading a testimony of a past event, and answering questions about that testimony. The researcher encouraged the participants to ask any questions they had at any time and also reminded them that their participation was completely voluntary. Each volunteer was then handed a packet containing an eligibility and consent form, one of the four vignettes, and the rating scale. The volunteers were asked to fill out the eligibility form and sign the consent form if they agreed to participate. They were then asked to read the vignette and rate the credibility of the witness testimony. The completion of the reading of the vignettes and the rating scale took approximately 15 minutes.

**Data Coding and Analyses**

All data collected was coded and analyzed using SPSS for Windows. Four One-way Analyses of Variance were conducted to compare the perceived credibility of the four witnesses: 10 year old; 10 year old with emotional disturbance, 10 year old with mental retardation, 10 year old with a learning disability.

**Summary**

This study used a post-test only design that evaluated the credibility of child witnesses with and without disabilities. One hundred seventy eight participants were randomly assigned packets with one of the four conditions: a child with mental retardation, a child with a learning disability, a child with emotionally disturbance and a ten year-old child. These packets contained an
informed consent form, a demographic information form, a summary of a court case and a questionnaire (rating scale). The rating scale evaluated the participants' perceptions of the verdict, the strength of their conviction of the verdict, the strength of the evidence and the strength of the witness' testimony.
CHAPTER 4

RESULTS

This chapter includes the results of the current study, which examined jurors' perceptions of guilt of the accused, certainty of their conviction, strength of evidence and witness credibility. Four One-way Analyses of Variance were implemented to compare ratings across four conditions (learning disability, mental retardation, emotional disturbance, and non-disabled child) on each of the rating scale questions. The results of these analyses are presented in this chapter.

Findings

Descriptive Statistics

To determine the differences across conditions, participants were asked to answer four questions. The first question on the rating scale asked volunteers whether they believed the accused to be guilty or not guilty (undecided was not an option). Overall, 46% found the defendant to be guilty and 54% found the defendant not guilty. Respondents who read a vignette describing a witness without a disability (ND), 45% found the defendant to be guilty. Seventy percent
of the respondents who read a vignette identifying a child witness with a learning
disability (LD) found the defendant to be guilty. Seventy-two percent found the
defendant guilty in the vignette identifying a child witness with emotional
disturbance (ED). When the witness was described as a child with mental
retardation (MR), 65% found the defendant guilty.

The second question on the rating scale asked participants to rate the
certainty of their opinion regarding guilt on an 11-point scale, with 1 being
extremely uncertain and 11 being extremely certain. Overall, the mean score for
certainty on this item was 7.69. The mean for certainty on the vignette with a
child without disabilities was 7.35, on the vignette with a child with a learning
disability the mean score for certainty was 7.80, on the vignette with a child with
emotional disturbance the mean score was 7.68, and on the vignette with a child
with mental retardation the mean for certainty was 7.92.

The third question asked respondents to rate the strength of the evidence
against the accused using an 11-point scale with 1 being extremely weak and 11
being extremely strong. Overall, the mean score on this item was 7.10. The
mean scores varied across conditions: child without disabilities had a mean score
of 6.54, learning disability had a mean score of 7.38, emotional disturbance had
a mean score of 7.20, and mental retardation had a mean score of 7.28.

The fourth question asked the participants to rate the credibility of the
witness using an 11-point scale with 1 being not at all credible and 11 being very
highly credible. Overall, the mean score on this item was 7.82. The mean score
on the vignettes looking at a child without disabilities was 7.28. The mean score
on the vignettes evaluating the child with a learning disability was 8.11. The mean score on the vignettes evaluating the child with emotional disturbance was 8.08. The mean score on the vignettes evaluating the child with mental retardation was 7.80.

Analyses of Variance

Four one-way Analyses of Variance (ANOVA) were conducted to compare the perceived credibility of the four witnesses (10 year old child without disabilities; the 10 year old child with emotional disturbance, 10 year old child with mental retardation, and the 10 year old child with a learning disability) across each of the four questions on the rating scales. Participants’ responses to each of the four questions were entered as the dependent variables.

The first ANOVA was conducted on the responses to question 1 on the rating scale. It examined the guilt or innocence of the defendant. There was a significant main effect of condition, $F(3,169) = 3.15, p<.05$. Post hoc tests indicated that the group which evaluated the testimony of the non-disabled child witness (ND) ($M=1.57$, $SD=.500$), found the defendant to be innocent more often than the groups evaluating child witnesses with a learning disability (LD), emotional disturbance (ED), or mental retardation (MR). Post hoc Bonferroni comparisons were conducted to evaluate the differences. This analysis revealed the greatest differences lie between the ND (Mean difference=.2619) and ED (Mean difference= -.2760) groups. The LD group showed a mean difference of -.2619, and the MR group showed a mean difference of -.2381 when compared to the ND group.
The second ANOVA, conducted on the responses to question 2, examined the certainty of the verdict across conditions. This did not reveal significant differences between the certainty of the verdict by the respondents who read a vignette containing a child witness without disabilities (M=7.36, SD=2.16), a child witness with a learning disability (M=7.81, SD=2.07), a child witness with emotional disturbance (M=7.63, SD=1.79), or a child witness with mental retardation (M=7.97, SD=2.05).

The third ANOVA analyzed the responses to question 3, which looked at strength of the evidence. This analysis did not reveal any significant differences between the strength of the evidence between the respondents who read a vignette containing a child witness without disabilities (M=6.55, SD=2.78), a child witness with a learning disability (M=7.43, SD=2.23), a child witness with emotional disturbance (M=7.14, SD=1.95), or a child witness with mental retardation (M=7.29, SD=2.34).

The fourth ANOVA was conducted on question 4 and examined the strength of the witness testimony. This analysis did not reveal any significant differences between the strength of witness testimony by the respondents who read a vignette containing a child witness without disabilities (M=7.29, SD=2.52), a child witness with a learning disability (M=8.09, SD=2.03), a child witness with emotional disturbance (M=8.02, SD=1.98), or a child witness with mental retardation (M=7.90, SD=2.37).
Summary

A significant difference was found in participants' guilty or not guilty verdict. A guilty verdict was found more often in the cases of child witnesses with disabilities compared to children without disabilities. No significant difference was found in witness credibility ratings, strength of evidence ratings, or in certainty of verdict ratings.
CHAPTER 5

DISCUSSION AND CONCLUSIONS

Discussion

The primary purpose of this study was to assess jurors’ perceptions of a child witness with disabilities (mental retardation, learning disabilities, emotional disturbance) compared to jurors’ perceptions of a non-disabled child witnesses. One hundred seventy people participated in this study and were randomly assigned to one of the four groups (3 experimental, 1 control group). It was hypothesized that a child with a disability would be perceived as less credible than a child witness without a disability.

Results and Conclusions

The current study addressed the research questions of whether a child witness with emotional disturbance would be perceived as less credible than a child without a disability, whether a child with witness with a learning disability would be perceived as less credible than a child without a disability, and whether a child witness with mental retardation would be perceived as less credible than a child without a disability. The results indicated that there was no significant
difference found in any of the witness credibility ratings. A significant difference was found, however, in the analysis of question 1: guilty vs. not guilty. The vignettes that used a child with a disability had a higher rating of a guilty verdict. Over 65% of participants found the defendant to be guilty in the vignettes that used child witnesses with disabilities. The vignette that used a child witness without a disability only found the defendant guilty 46% of the time.

**Limitations of the Study**

A number of plausible explanations for the findings of this study present themselves. First, the knowledge that a child witness has a disability, may not in fact affect jurors' perceptions of the credibility of the witness. One alternate explanation for the results of this study could be that the majority of participants used in the study were teachers, many of whom are special education teachers. Since this study looked specifically at children with disabilities and teachers often have more knowledge and experience with students with disabilities than the general public, this could have had an effect on the outcome of the ratings. Most teacher education programs in special education, for example, continually emphasize the similarities, not differences, between students with and without disabilities.

A second possible alternate explanation for the results of this study could be that participants did not pay attention to the fact that the eyewitness in the investigation was a child with or without a disability. Although the child's disability is stated three times within the vignette and then once in question 4, a
description of the cognitive and behavioral characteristics of the child was not provided. It is possible that the participants did not notice this factor or thought it was of little significance.

A third possible alternate explanation for the findings of the present study could be that the study used a vignette instead of live testimony. Participants may have found it difficult to evaluate the court case when they couldn’t see or hear the witness testimony.

A fourth possible alternate explanation for the findings of the present study could be the “hypothetical” nature of the study. The court case summary was not an actual case, the participants were not actual jurors, and the testimony of the witness was a written summary (participants did not have the benefit of hearing actual testimony). Participants could have found it difficult to rate witness credibility when they hadn’t actually seen the witness testify.

A fifth possible alternate explanation for the findings of the present study might include the gender and education level of the participants. One hundred twenty four females and 46 males participated in this study. Also, all of the participants in this study were college (post-secondary) students with a majority (approx. 65%) being graduate students. Both of these factors (gender and education level), could influence the results of this study.
Implications of the Study For Future Research

Once again, no significant difference was found in witness credibility ratings across conditions. This could mean that jurors’ find child witnesses with disabilities to be as credible as child witnesses without disabilities.

In the future it would be interesting to use a videotaped testimony of the eyewitness. This would make the study more believable and real. Participants could also evaluate characteristics that are unable to be documented on paper, but may significantly affect the credibility rating of the witness (confidence level, believability, etc.).

Another possibility for future research would be to include in the description of the witness the specifics about the child’s disability. Looking at anecdotal comments written on a couple of the surveys gives some insight into this possibility. Participants wrote: “What is the degree or type of learning disability?,” “How severe is the retardation?” If this type of information could be included in a future study, it could yield interesting results.

In the future it would be interesting to conduct this study using participants from fields other than in education. It would be important to know if other populations had similar outcomes.

Practical Implications

Based on the outcome of this study there seems to be no significant difference in jurors’ perceptions of children with disabilities compared to their non-disabled peers. Though this research is limited and is just an initial step, the
implications of this study could be significant. First, the information gained in this study can be used as a catalyst or "spring board" into other studies on child witnesses with disabilities, jurors' perceptions, etc. Second, studies could be conducted that help to prepare children with disabilities for the courtroom. Third, prosecutors who have been reluctant to prosecute a case with a child witness with a disability could be made aware of this information which could ultimately make a difference in the life of a child or many children with disabilities.

**Summary**

The results of this study indicate that jurors do not find children with disabilities to be significantly less credible than children without disabilities. Some of the limitations of this study included the high number of participants who were teachers, the possibility that participants were unaware of the disability, and the hypothetical nature of the study. Future studies might include videotapes of witness testimony and/or more detailed descriptions of the witness's disability. Implications include helping children prepare for court and educating prosecutors about jurors' perceptions of children with disabilities.
APPENDIX I

TABLE 1
### Table 1

**Mean Responses on Rating Scale Questions by Condition**

<table>
<thead>
<tr>
<th>Question</th>
<th>ND</th>
<th>LD</th>
<th>ED</th>
<th>MR</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2.) Certainty</td>
<td>7.35</td>
<td>7.80</td>
<td>7.68</td>
<td>7.92</td>
<td>3.153</td>
</tr>
<tr>
<td></td>
<td>(2.16)</td>
<td>(2.07)</td>
<td>(1.80)</td>
<td>(2.05)</td>
<td></td>
</tr>
<tr>
<td>(3.) Evidence</td>
<td>6.54</td>
<td>7.38</td>
<td>7.20</td>
<td>7.27</td>
<td>1.154</td>
</tr>
<tr>
<td></td>
<td>(2.77)</td>
<td>(2.32)</td>
<td>(1.97)</td>
<td>(2.23)</td>
<td></td>
</tr>
<tr>
<td>(4.) Witness</td>
<td>7.28</td>
<td>8.11</td>
<td>8.08</td>
<td>7.80</td>
<td>1.153</td>
</tr>
<tr>
<td></td>
<td>(2.52)</td>
<td>(2.01)</td>
<td>(2.00)</td>
<td>(2.35)</td>
<td></td>
</tr>
</tbody>
</table>

**Note.** Standard deviations appear in parentheses

ND= Non-Disabled  
LD= Learning Disabled  
ED= Emotionally Disturbed  
MR= Mentally Retarded

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.
I am Darla Cooper, a Masters student in the Department of Special Education at the University of Nevada, Las Vegas.

I am asking for your participation in a research project. The purpose of the research is to gather information about how people react to evidence and testimony about criminal court cases. Your participation will take approximately 10 minutes.

Your participation will consist of reading a report of a court case and answering four questions.

You will receive no compensation for your participation.

Reasonably foreseeable risks are minimal and may include some discomfort in reading the description of the court case. You may withdraw from this study at any time.

The possible benefits of this research are in gaining insights concerning jury decision making in criminal cases.

Your anonymity is assured and all data collected will be kept completely confidential. Records will be maintained in a locked filing cabinet in an undisclosed location at UNLV for at least three years after the completion of the study.

If you have any questions regarding this research, please contact Darla Cooper or Dr. Rebecca Nathanson, my faculty advisor, at 895-1101 in the UNLV Department of Special Education. For questions involving the rights of research subjects, please contact the UNLV Office of the Protection of Research Subjects at 895-2794.

Your participation is strictly voluntary and you may withdraw from participation at any time. Please feel free to ask any questions you may have about the information being provided to you about this study.

By signing below, you are acknowledging your understanding of the information provided and agree to participate in this study.

__________________________  _______________________
Signature of Participant        Date
APPENDIX III

DEMOGRAPHIC INFORMATION FORM
ADULT DEMOGRAPHIC INFORMATION FORM

By choosing to participate in this study you will be agreeing to read a summary of a court case and answer a few questions as if you were a juror.

Participation is strictly voluntary and confidential with little or no benefit to yourself. However, the results could help children in the future. You are free to withdraw yourself from the study at anytime or to stop the researcher to ask questions.

Please provide the following information:

1. Female Male (Circle one)
2. Age __________ (Fill in the blank)
3. What do you do for a living? What is your occupation?
   ____________________________________________________________  ____________________________________________________________
   Yourself Spouse
4. Ethnicity: (Check One)
   □ Anglo (White, non-Hispanic)
   □ African American (Black, non-Hispanic)
   □ Hispanic (Including Cuban, Puerto Rican, non-African American)
   □ Asian/Pacific Islander
   □ Other ______________________ (Specify)
5. Have you ever been convicted of a felony? Yes No
6. Have you ever been a judge in the court system? Yes No
7. Are you a citizen of the U.S.? Yes No
Note. The vignette and rating scale used in the current study were adapted from Leippe & Romanczyk (1987).

INSTRUCTIONS

As part of a research program concerning jury decision making, we are gathering information about how people react to evidence and testimony about criminal court cases. In this study, we would like you to read the following summary of a court case concerning an armed robbery. While reading the case, we would like you to play the role of a juror who is receiving this information in court and will later deliberate about the case with other jurors. As such a juror, it is your responsibility to carefully consider all of the information pertinent to the case. Please read the case report closely and carefully and try to evaluate all of the evidence.
State of New York vs. George Watson

A robbery and murder occurred at a Queens grocery store on July 2, 1995 at approximately 2:00PM. Mr. David Alpert was standing behind the counter of his small grocery store. His son, 10 year-old Michael, was sitting on a chair at the end of the counter reading a book. No one else was in the store. A Caucasian man walked into the store and asked for a pack of Marlboros. Mr. Alpert placed the cigarettes on the counter and took a five-dollar bill from the man. Immediately after Mr. Alpert opened the cash register, the man pulled a gun and demanded the money in the register. Mr. Alpert handed the man $223 and said, “Take the money, but please don’t shoot.” The man took the money and started to walk away. As he neared the door, however, he suddenly turned and said, “You’re a witness.” He fired two shots at Mr. Alpert killing him instantly. He then shot at Michael and hit him in the upper chest as Michael dove for cover behind the counter. The man ran off. Michael lived. The bullet had narrowly missed his heart.

The resident of an apartment on the second floor of the building, heard the gunshots and ran to her front window in time to see the man dashing down the street. This resident, a Ms. Joan Argento (age 48), immediately called the police, who arrived within 10 minutes. Michael was taken to the hospital by ambulance. Ms Argento described what she heard to the police and indicated that she never saw the assailant’s face since he was running down the street by the time she got to her window. She was able to say he was wearing what seemed to be a blue baseball cap, a sleeveless white t-shirt and faded denim jeans. “He was white and average height,” she said.

After taking Ms. Argento’s report, the police checked door-to-door along both sides of the street to determine whether any residents had seen the crime from their homes. (The street was primarily residential; the only other business was a corner gas station.) Since it was a workday, many residents were not at home. Among those who were home, several residents heard the gunshots, but none had seen the assailant. The gas station attendant, though, reported that a man fitting Ms. Argento’s description had entered the gas station about fifteen minutes before the shooting and asked for a pack of Marlboros. The man was smoking a cigarette. The gas station attendant had thought the man was strange because just after he asked for the cigarettes a car with four teenagers pulled into the gas station and when the man saw the car pull up, he abruptly said, “never mind,” and walked away leaving the cigarettes on the counter.

The police had immediately radioed Ms. Argento’s description to other police units in the area. At 4:35P.M., another police unit picked up a man as he left an apartment building (where he resides alone) about a half mile from the scene of the crime. He had on clothing similar to that described by Ms. Argento, but no baseball cap. The man, George Watson had $25 in his possession. A subsequent search of his apartment found $94.

Watson claimed that he was in his apartment during the time the theft occurred. In fact he claimed he was leaving his apartment for the first time that day when the police detained him. His neighbors neither supported nor denied his alibi.

Watson was questioned, photographed, and released. Two weeks latter when the wounded Michael, Mr. Alpert’s son, was well enough, he was interviewed by the police. Michael said he looked at the assailant when he demanded the money from the cash
register. His description of the assailant’s clothes was similar to that given by Ms. Argento. The police presented Michael with a lineup consisting of a picture of six fairly similar men. (Watson, and five other men, whose pictures were taken from police files.) Michael identified Watson.

Consequently, Watson was arrested, charged with murder, assault with intent to kill, and larceny. He was tried for these crimes.

During the trial, the following information and attorney cases were brought out.

The Defendant:

George Watson is 22 years old and unmarried. He dropped out of High School at age sixteen, and since then he has had three jobs at local factories. He is currently unemployed, having been laid off in January, 1995, when the company cut back operations. His former job supervisor indicated in court that Watson had been an unproductive worker who was frequently absent and was known as a loner. Watson was previously convicted for robbery in 1992, and was on probation until January 1, 1995.

The Plea:

George Watson pleaded innocent.

The Prosecution’s Case:

The prosecuting attorney pointed out the following:

1. Michael, the 10 year-old son of the slain Mr. Alpert positively identified Watson as the assailant. He appeared confident of his testimony.
2. Most of the clothing worn by Watson when he was first picked up was the same as that described by Michael, Ms. Argento, and the gas station attendant.
3. The gas station attendant upon being presented with the pictorial police lineup identified Watson as the “strange” man who appeared at the gas station before the crime took place.
4. Watson’s alibi was unsubstantiated.
5. Over half of the amount of the stolen money was found in Watson’s apartment and on his person combined.
6. Traces of the ammonia used to clean the floor of the grocery store were found on the defendant’s shoes. This type of ammonia is not often used in households.
7. Paraffin tests, used to indicate whether an individual had gunpowder particles on his hands due to firing a gun, disclosed that there was a 50-50 possibility that the defendant had fired a gun during the same day.
8. Watson smokes.

The prosecution asked for a guilty verdict.
The Defense’s Case

Watson’s lawyer pointed out the following:

1. The only direct evidence in the case was the eyewitness testimony of a **10 year-old child**. The lawyer pointed out that memories are very susceptible to distortion and suggestion, and that it would be wrong to sentence someone to life imprisonment on the word of just one witness. He also pointed out that witnessing his father’s death must have been extremely traumatic for Michael, which may have reduced even further his ability to remember accurately.

2. Besides Michael’s testimony, the lawyer noted, all the other evidence was purely circumstantial.

3. Watson, the defendant, stated he was a victim of mistaken identification.

4. Lots of men wear the clothing that the killer was reported to have worn, and Watson did not have a baseball cap on when first apprehended.

5. The gas station attendant never saw the crime. He simply swore that he had seen Watson at the gas station before the crime. This is circumstantial.

6. Watson has an alibi that he swore to.

7. Only $119 was found in Watson’s apartment and on his person combined.

8. The ammonia traces on Watson’s shoes could have been obtained at his girlfriend’s apartment building where the hall floors are regularly washed with a type of ammonia, the type of which could not be determined.

9. Watson swore he did not fire a gun on the day of the crime.

The defense demanded acquittal. Despite the fact that the crime was outrageous, his client, he said, “was innocent and the case against him was built on a mistaken identification and circumstantial evidence.”

Note. The information appearing in bold throughout this section was changed according to condition (Non-Disabled, Learning Disabled, Emotionally Disturbed, or Mental Retardation). It did not appear in bold during the study.
APPENDIX V

RATING SCALE
Please answer the following questions as if you were a juror in this case:

1. In your opinion, Watson is ___________ of murder. (check one)
   
   ______ Guilty
   
   ______ Not Guilty

2. How certain are you of this opinion regarding guilt? (circle appropriate number)
   
   1 2 3 4 5 6 7 8 9 10 11
   extremely moderate moderately extremely uncertain uncertain certain certain

3. How strong is the evidence against Watson? (circle appropriate number)
   
   1 2 3 4 5 6 7 8 9 10 11
   extremely moderate moderately extremely weak uncertain certain certain

4. How credible was the eyewitness identification and testimony of Michael Alpert, the 10 year-old child? (circle appropriate number)
   
   1 2 3 4 5 6 7 8 9 10 11
   not at all somewhat very highly credible credible credible

Note. The information appearing in bold throughout this section was changed according to condition (Non-Disabled, Learning Disabled, Emotionally Disturbed, or Mental Retardation). It did not appear in bold during the study.
REFERENCES


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