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Do Jurors Get What They Expect? Traditional versus Alternative Forms of Children's Testimony

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Abstract

This study examined prospective jurors' expectancies for the verbal and nonverbal behavior of a child testifying in a sexual abuse case. Community members ($N = 261$) reporting for jury duty completed a survey in which they described their expectancies for how a child alleging sexual abuse would appear when testifying and their beliefs about discerning children's truthfulness, testimony stress, and fairness to trial parties. Within this survey, we varied the child's age (5, 10, or 15 years old), type of abuse alleged (vaginal fondling or penetration), and whether the abuse actually occurred (yes, no) between participants across five different testimony conditions (traditional live in-court, support person present, closed-circuit television, preparation, and videotape) within each participant. Participants expected a child providing traditional testimony to be more nervous, tearful, and fidgety; less confident, cooperative, and fluent; and to maintain less eye contact and provide shorter responses than when the child provided alternative forms of testimony. Participants believed it was easiest to determine a child's truthfulness and fairest to the defendant when the child testified live in court, but that this form of testimony was the most stressful and unfair to the child. Expectancies and beliefs differed within the alternative forms of testimony as well. Negative evaluations of children's alternative testimony may be the result of expectancy violation; namely, jurors expect differences in children's verbal and nonverbal behavior as a result of accommodation, but those differences actually do not occur.

Keywords

child witness; verbal and nonverbal behavior; expectancy violation; support person; closed-circuit television; preparation; videotape

Testifying in court can be stressful for any witness, particularly for child victims of physical or sexual abuse (Goodman et al., 1992; Quas et al., 2005). Several features of traditional trial proceedings (exposure to unfamiliar personnel and procedures, multiple interviews containing complex vocabulary, describing intimate abuse details in open court, confronting the accused) may make children reluctant to testify (Goodman et al., 1992; Sas, 1991) and may decrease the accuracy of their testimony (Goodman et al., 1998; Saywitz & Nathanson, 1993). If children are unwilling to testify about abuse or are inaccurate when doing so, it becomes increasingly difficult to prevent these crimes and the drastic toll they exact on children's physical and mental health.

Evidentiary and Procedural Innovations for Children

Various evidentiary and procedural innovations have been introduced over the past two decades to help enable child victims to testify in child abuse proceedings (Hall & Sales, 2008; McAuliff & Kovera, 2002; Sandler, 2006). At the federal level, for example, the Victims of Child Abuse Act of 1990 (§3266) amended the Federal Rules of Criminal Procedure, extending special accommodations to children such as allowing the presence of a support person during the child's testimony or closing the courtroom (Whitcomb, 1992). Most state legislatures also have enacted statutes permitting the use of innovative procedures, such as videotaped or closed-circuit television (CCTV) testimony, in trials involving alleged child abuse victims. These modifications constitute a broad spectrum of alternatives to traditional testimony that are designed to reduce the stress associated with appearing in court and to increase the accuracy of children's testimony.

Despite the widespread availability of innovations, we know little about jurors' views regarding the use of such procedures in child abuse cases. Instead previous research has focused on the frequency with which courts have implemented innovative procedures (Hafemeister, 1996; Sigler, Crowley, & Johnson, 1990) and their efficacy (Cashmore, 1992; Davies & Noon, 1991; Davies, Wilson, Mitchell, & Milsom, 1995; Murray, 1995; Plotnikoff & Woolfson, 2000; Saywitz, Synder, & Nathanson, 1999). Social scientists have not entirely overlooked the issue of how alternative testimony procedures influence jurors' perceptions in cases involving children. Early research examining reactions to videotape (Swim, Borgida, & McCoy, 1993), CCTV (Lindsay, Ross, Lee, & Carr 1995; Ross et al., 1994) and hearsay testimony (Golding, Sanchez, & Sego, 1997) revealed that mock jurors' perceptions of defendants and children generally do not vary as a function of testimony mode. However, these studies relied exclusively on college student samples and held child demeanor and testimony constant across the various testimony conditions. Consequently, we do not know whether the results generalize to actual jurors or whether accommodations alter children's behavior and testimony in ways that in turn influence jurors' perceptions and decisions.

One experiment improved upon these limitations by including jury-eligible community members and by randomly assigning children to testify either live in court or outside the courtroom via CCTV (Goodman et al., 1998). Children described an earlier play session in which an unfamiliar male confederate had them place stickers on their clothing (defendant innocent condition) or exposed body parts (defendant guilty condition). There was no evidence that the use of CCTV biased mock jurors against the defendant. More striking, however, were the results pertaining to mock jurors' impressions of children who testified live or via CCTV (reported in Tobey, Goodman, Batterman-Faunce, Orcutt, & Sachsenmaier, 1995). They perceived CCTV testifiers to be less believable, less accurate in recalling the event, more likely to have made up the story, less likely to have based their testimony on fact than fiction, less attractive, less intelligent, less confident, and less stressed than children who testified live in court. Similar effects emerged in a second study in which mock jurors rated children who testified about a staged interaction with a stranger using CCTV as being less detailed, less confident, and less forthcoming than children who testified live (Landström & Granhag, 2010). That study also included a videotaped testimony condition and those children were seen as more defensive and less confident, involved, thoughtful, straightforward, natural, eloquent, pleasant, and forthcoming than children testifying live.

These experiments illustrate a perplexing dilemma that faces courts and professionals who contemplate the use of alternative testimony procedures with children. Despite the ability of certain accommodations to reduce children's stress and increase their accuracy, mock jurors tend to evaluate accommodated children more negatively on a variety of dimensions. Why

might this occur? Some researchers have suggested that a vividness effect could be at play (Landström & Granhag, 2010). According to the vividness effect, observers pay more attention to, evaluate more positively, and better remember testimony that is “emotionally interesting, concrete, and imagery provoking, and proximate in a sensory, temporal, or spatial way” than testimony that lacks these features (Nisbett & Ross, 1980, p. 45). Essentially jurors respond more favorably to live testimony because it is more vivid in many ways than videotape or CCTV testimony broadcast on television monitors. Whereas the medium of testimony is central to the vividness effect explanation, we were interested in examining a second possibility that focuses more on children's behavior while testifying. Perhaps accommodating children changes their verbal and/or nonverbal behavior in ways that negatively affect jurors' perceptions.

To our knowledge, only one experiment has systematically examined this issue. Kovera and colleagues (1997) surveyed attorneys to determine what typical behaviors are exhibited by prepared versus unprepared child witnesses. They used attorneys' responses to develop a trial simulation in which an actress portrayed the child witness as either prepared (the child made eye contact, sat still, and responded confidently) or unprepared (the child looked down, fidgeted, and responded hesitantly). When mock jurors were reminded (via effective expert testimony) that children who are abused may be confused and uncertain, they were more likely to convict the defendant when the child appeared unprepared versus prepared. No such differences emerged when mock jurors did not receive expert testimony.

Based on the existing empirical evidence that (1) mock jurors evaluate children more negatively when courts accommodate children and (2) certain accommodations may alter children's testimony behavior, we wanted to explore one theoretical explanation that might account for these outcomes: expectancy violation.

Expectancy Violation Theory

Expectancy violation theory (EVT; Burgoon & Hale, 1988) posits that people approach social interactions expecting others to engage in certain verbal and nonverbal behaviors. Expectancies are based largely on social norms and past experience, but they also include the known idiosyncrasies of others. In essence, people expect behaviors that they consider to be typical and feasible for a particular setting, purpose, and set of participants. Expectancy violations attract attention and result in an interpretation/evaluation process in which people assess the meaning of the expectancy violation, assign it a positive or negative valence, and react accordingly. EVT predicts that people will react more favorably to positive expectancy violations than they will to negative expectancy violations. Indeed, findings from studies by Burgoon and her colleagues (Burgoon, 1993; Burgoon & Hale, 1988; Burgoon & LePoire, 1993; Burgoon & Walther, 1990) have supported this prediction.

Expectancy violations can affect people's attitudes and decision-making processes in legal settings as well (Ask & Landström, 2010; Feldman & Chesley, 1984; Salekin, Ogloff, McFarland, & Rogers, 1995). Yet only one published study to date has directly examined the effects on mock jurors' perceptions of expectancy violations committed by a child witness. In that study, Schmidt and Brigham (1996) hypothesized that participants would react unfavorably when a child used a communication style that violated age-appropriate stereotypes. College students viewed a child witness of various ages (5, 10, or 15 years-old) who engaged in a powerful or powerless communication style while testifying. The child's powerful communication style was characterized by confident responses, direct eye contact, and a lack of hesitancy when answering questions. In contrast, children displaying the powerless communication style were more fidgety, maintained less eye contact, and used

more nonfluencies and hesitations. Mock jurors rated the powerless 15-year-old witness as the least truthful and least intelligent of all the child witnesses.

Building on this preliminary evidence, we explored the role of EVT in explaining why mock jurors evaluated children more negatively when they provided alternative forms of testimony. Unlike Schmidt and Brigham, who assumed that mock jurors hold certain expectancies for children's testimony behavior (confidence, eye contact, fluency), we assessed the exact nature of jurors' actual expectancies for a child's verbal and nonverbal behavior while testifying. We reasoned that if accommodations serve their intended purpose (i.e., reducing stress and increasing accuracy), they should result in a child who is less nervous, fidgety, or tearful and more confident, cooperative, or fluent than when accommodations are not used. Although this outcome certainly is desirable from the child's standpoint, it may violate jurors' expectancies and consequently lead to more negative evaluations. For example, jurors may expect child victims to be somewhat nervous, fidgety, tearful, unconfident, uncooperative, and not very fluent when testifying at trial. Viewing an accommodated child who violates these expectancies may create feelings of doubt or skepticism. Jurors may misattribute the more relaxed and confident demeanor of the accommodated child to other sources, such as coaching from a parent or suggestive and leading questioning from a law enforcement officer. In this sense, an accommodated child's behavior that exceeds jurors' expectancies could lead to negative consequences for the child because jurors expect one thing and get another.

A second possibility also exists. Even though jurors may expect a child providing traditional testimony to be nervous, tearful, unconfident, and not very fluent, they may modify their expectancies based on the knowledge that a particular child was accommodated before (preparation) or during trial (support person, CCTV). They may expect the child to be calm, tearless, confident, and fluent as a result of the accommodation. If true, then jurors' expectancies could be violated in the opposite direction described above for a child who remains nervous, tearful, unconfident, and lacks fluency despite accommodation. Experiments have documented the ability of certain accommodations to reduce stress at statistically significant levels compared to traditional testimony; however, those comparisons were relative in nature and children's stress levels remained fairly high in both conditions (Goodman et al., 1998; Landström & Granhag, 2010). Should a similar outcome occur in actual cases, then children using accommodations may be disadvantaged compared to children who do not. Classic attribution theory (Heider, 1958; Kelley, 1972) asserts that people consider a variety of factors (or causes) when making attributions about others based on their behavior. People are less likely to make dispositional inferences about others' behavior when other plausible explanations for the observed behavior exist. Whereas jurors who view traditional testimony may apply the discounting principle and attribute the child's stress or impaired testimony performance to situational factors such as testifying in court or having to face the defendant, it is more difficult for jurors to do so when the child is accommodated because accommodations can attenuate (preparation or support) or eliminate (CCTV) these situational factors. Once stripped of plausible situational explanations, jurors may instead make dispositional inferences about the child's behavior; one possible inference is that the child is lying.

Jurors' Beliefs about Alternative Testimony Procedures

We also wanted to learn prospective jurors' beliefs about how alternative testimony procedures might affect different participants in the trial process. Specifically, we wondered whether jurors believed that the different forms of testimony would influence (1) their ability to discern the child's truthfulness, (2) the amount of stress experienced by the child, and (3) the fairness to the child and defendant. Scant research has examined whether mock

jurors' ability to discern children's truthfulness varies as a function of testimony format. However, adults in a study by Landström and Granhag (2010) viewed children's live, videotaped, or CCTV statements about an event that was either experienced or imagined. No significant differences emerged between observers' rates of accuracy across the three conditions. These null effects were consistent with earlier work (Orcutt et al., 2001), in which jurors' ability to detect children's deception did not vary as a function of viewing the testimony live or via CCTV.

With respect to the ability of accommodations to reduce children's stress, one survey found that prosecuting attorneys viewed preparation and the presence of a support person in court as "particularly useful" whereas they viewed videotaped and CCTV testimony as "useful" (Goodman et al., 1999). Ninety percent of judges responding to another survey believed that allowing a child to testify on an adult's lap effectively minimized the child's trauma compared to 83% and 79% who felt the same about the use of videotape and CCTV, respectively (Hafemeister, 1996). Victim witness assistants share attorneys' and judges' optimism for the ability of support person use to reduce children's stress, particularly when the support person accompanies the child to trial and provides pretrial preparation (McAuliff, Nicholson, Amarilio, & Ravanshenas, in press). Quasi-experimental work on children in actual trials who provided traditional versus prepared (Sas, 1991; 1993), videotaped (Davies et al., 1995), or CCTV testimony (Cashmore, 1992; Davies & Noon, 1988; Murray, 1995) showed that the vast majority of legal professionals believed the innovations effectively reduced children's stress. Finally, experiments in which researchers randomly assigned children to testimony conditions have found that mock jurors rated children testifying via CCTV as being less stressed than children testifying in open court (Goodman et al., 1998) and that children's self-reports of stress while providing videotaped testimony were lower than children testifying live or via CCTV (Landström & Granhag, 2010).

Whether traditional or innovative testimony is considered "fair" to children and defendants depends in part on the operational definition of fairness. When participants rate fairness directly, they report that the use of videotape (Swim et al., 1993) and CCTV (Lindsay et al., 1995) is fair to the defendant. Victim witness assistants reported that the presence of a support person at trial probably does not prejudice jurors against a defendant (McAuliff et al., in press). Other studies have measured fairness more indirectly by examining whether verdicts or perceptions of either party differ simply as a function of testimony format. Few differences were present in these studies either (Eaton, Ball, & O'Callaghan, 2001; Lindsay et al., 1995; Ross et al., 1994; Swim et al., 1993) and when differences did emerge, they tended to favor defendants. For example, Swim et al. (1999) found that mock jurors were less likely to convict a defendant when the alleged child victim provided videotaped (30%) versus live in court (48%) testimony. Most recently, Eaton et al. (2001) compared children's live, videotaped, and CCTV testimony and found that mock jurors rendered guilty verdicts more often when the child testified live versus via videotape or CCTV. Unlike these experiments, where children's testimony and demeanor was held constant across testimony conditions, Goodman et al. (1998) randomly assigned children to testify live or via CCTV and did not find any evidence that the use of CCTV biased mock jurors against the defendant.

In sum, viewing children's traditional versus innovative forms of testimony appears to have little if any effect on mock jurors' ability to detect children's truthfulness and their perceptions of fairness to children and defendants; however, mock jurors and various legal professionals do believe that innovative procedures reduce children's stress compared to traditional testimony.

Overview

We designed the present study to address three primary research questions. First, what types of verbal and nonverbal behavior do prospective jurors expect children to exhibit when testifying? Second, do these expectancies vary as a function of the means by which children provide testimony? And third, do prospective jurors' beliefs about discerning children's truthfulness, children's stress, and fairness to children and defendants vary across different forms of testimony? To answer these questions, we constructed a survey in which we manipulated several variables to assess their potential impact on prospective jurors' expectancies and beliefs.

Method

Participants

Two hundred sixty-one U.S. citizens (M age = 42 years) reporting for jury duty in South Florida volunteered to participate in a study about juror decision-making. Most participants were White (69%), married (54%), had children (62%) and reported a gross family income of \$60,000 or less (66%). Twenty-seven percent of participants indicated their highest level of educational achievement was some high school or a high school diploma and 57% indicated their highest level of education was some college or a college degree. Most jurors (72%) had not served on a civil or criminal jury before. An approximately equal number of men and women participated in exchange for a meal voucher at a restaurant located in the courthouse complex (n s = 122 and 137, respectively; two participants did not identify their sex).

Stimulus Materials

Survey—Each survey included a description of a female child who claimed to have been sexually abused. The description of the child varied on three dimensions: the child's age, the type of abuse alleged, and whether the alleged abuse actually occurred. Specifically, the survey described the child as 5, 10, or 15 years old. Half of the descriptions indicated that she claimed that the defendant had fondled her; the other half stated that she alleged the defendant had vaginally penetrated her. Orthogonal to these manipulations, we also varied whether participants were informed that the alleged abuse did or did not actually occur. We instructed participants to consider how a child witness fitting this description would typically behave if he or she testified in five different testimony conditions: traditional live in-court testimony, support person present during testimony, prepared testimony, videotaped testimony, or closed-circuit television testimony.

We introduced each of the five testimony conditions by providing a brief paragraph that described each procedure and how it is used at trial. The paragraph describing the procedure for traditional live in-court testimony was as follows:

In this procedure, all persons involved in the trial remain in the same courtroom. The child is sworn in under oath and sits alone in the witness stand (usually at the front of the courtroom) in full view of the defendant, judge, attorneys, and jury. The child is questioned directly by the prosecuting attorney and then cross-examined by the defendant's attorney. The defendant, judge, attorneys, and jury view the child face-to-face during his or her live testimony.

We modified this basic description to suit each of the four alternative testimony conditions. See Table 1 for these complete descriptions.

Dependent Measures—Participants provided their expectancies for the child's verbal and nonverbal behavior in the different testimony conditions using a series of relevant 7-point bipolar adjective pairs. We averaged across ratings for the different adjective pairs to form five composite variables of how nervous, tearful, confident, rehearsed, and fidgety participants expected the child to appear when testifying and one for how fluent the child's speech would be. The adjective pairs used for these six scales and their final reliability coefficients appear in Table 2. We also used three single adjective pairs to measure expectancies for the child's cooperativeness, level of eye contact, and response length in the different testimony conditions.

Next participants used a series of four 7-point, Likert-type scales to indicate their beliefs about their ability to determine the child's truthfulness, the stressfulness of the child's testimony, and the fairness to the child and defendant in each of the five testimony conditions (1 = Not at all, 4 = Neutral, 7 = Extremely).

Prospective jurors concluded their participation by providing demographic information about their gender, age, jury eligibility, racial/ethnic identity, history of jury service, and previous involvement in legal proceedings (civil or criminal, plaintiff or defendant).

Procedure

Upon their arrival at the courthouse, the Chief Administrative Judge welcomed community members and provided a brief overview of what jury service would entail. At the conclusion of the orientation, the experimenter made an announcement inviting prospective jurors to participate in a study about juror decision making. Those who wished to participate reported to a lounge adjacent to the jury assembly room. After providing informed consent, participants received the stimulus and dependent measures. They did not confer with one another at any point during the study. After completing the study, participants were debriefed, given the opportunity to ask questions, and then offered the meal voucher as a token of appreciation for contributing to the research.

Design

Our study consisted of a 3 (Child Age: 5, 10, or 15 years old) $\times$ 2 (Abuse Type: fondling or penetration) $\times$ 2 (Allegation Veracity: True or False) $\times$ 5 (Testimony Condition: live, support person, CCTV, preparation, or videotape) mixed-factorial design. Child Age, Abuse Type, and Allegation Veracity were between-participants manipulations and Testimony Condition was a within-participants manipulation. We randomly assigned participants to the conditions while attempting to balance the number of men and women in each condition. We presented the testimony conditions to participants in five different orders. Each testimony condition appeared in one of five possible positions across the different presentation orders.

Results

Overall Data Analytic Strategy and Preliminary Findings

We analyzed the data using a series of Child Age $\times$ Abuse Type $\times$ Allegation Veracity $\times$ Testimony Condition four-way mixed-model ANOVAs. Tukey's HSD tests were used for all follow-up comparisons. We only report the main effects that emerged as a function of our Testimony Condition manipulation because our primary research questions focused on whether prospective jurors' expectancies and beliefs about children's behavior vary across different forms of testimony. None of these main effects were qualified by significant interactions with any of the other manipulated variables except for the tearful, testimony stressfulness, and fairness to child dependent measures (see Footnotes ^{1, 2, 3}).

A significant main effect of Testimony Condition emerged on all nine of the dependent measures of jurors' expectancies for children's testimony behavior (see Table 3 for all *F* tests and means) and all four of the dependent measures of jurors' beliefs about truth determination, testimony stressfulness, and fairness to trial parties (see Table 4 for all *F* tests and means). Next we describe the follow-up comparisons for the Testimony Condition main effect on each dependent measure.

Jurors' Expectancies for Children's Testimony Behavior

Nervous—Compared to all other conditions, participants expected the child to be the most nervous when providing traditional live in-court testimony and the least nervous when using a support person or CCTV. These latter two means were not significantly different from one another, but both were lower than participants' expectancies for the child's nervousness in the prepared testimony condition. Participants expected the videotaped child to be less nervous than the traditional testifier, but no other differences involving videotaped testimony were statistically significant.

Tearful¹—Participants expected the traditional testifier to be the most tearful compared to all other conditions and the least tearful when testifying with a support person or via CCTV. Expectancies for the child's prepared and videotaped testimony fell between these two extremes but did not significantly differ from one another. The ratings of the child's expected tearfulness in the support person and videotaped conditions were not statistically different.

Confident—Participants expected the child testifying with a support person or via CCTV to be the most confident, followed by the prepared and videotaped child. Expectancies for the child's confidence in the traditional live in-court condition were the lowest and significantly different from all four forms of alternative testimony.

Rehearsed—Participants expected the child to appear the most rehearsed in the support person and preparation conditions and the least rehearsed in the CCTV condition. They expected the videotaped child to appear less rehearsed than the supported child, but no different than the prepared or CCTV child. Expectancies for how rehearsed a traditional testifier would appear did not differ from any of the alternative testimony conditions.

Cooperative, Fidgety, Eye Contact, Fluent Speech, and Response Length—The pattern of effects was the same across all five dependent measures: Participants expected the traditional testifier to be less cooperative, more fidgety, maintain less eye contact, exhibit

¹This main effect was qualified by a statistically significant Child Age $\times$ Allegation Veracity $\times$ Testimony Condition interaction, $F(8, 988) = 2.02, p = .04, \eta_p^2 = .02$. When the child's allegation was false, the Child Age $\times$ Testimony Condition interaction was not statistically significant. When the child's allegation was true, this two-way interaction was statistically significant. Among participants in the true allegation condition, the pattern of nervousness effects in the 5 and 10 year-old child conditions mirrored that of the main effect means. In the 15 year-old child condition, however, only the difference between the traditional live in-court testimony and support person conditions was significant: Participants expected the 15 year-old child to be more nervous when testifying in a traditional manner than when accompanied by a support person.

²This main effect was qualified by a statistically significant Child Age $\times$ Abuse Type $\times$ Testimony Condition interaction, $F(8, 976) = 2.30, p = .02, \eta_p^2 = .02$. When the alleged abuse was penetration, the Child Age $\times$ Testimony Condition interaction was not statistically significant. When the alleged abuse was fondling, this two-way interaction was statistically significant. For participants in the fondling condition, the pattern of stressfulness effects in the 10 and 15 year-old child conditions was identical to that of the main effect means. In the 5 year-old condition, however, the pattern of effects changed such that the difference between CCTV testimony and every other testimony condition was statistically significant.

³This main effect was qualified by a statistically significant Child Age $\times$ Testimony Condition interaction, $F(8, 972) = 2.59, p = .01, \eta_p^2 = .02$. The pattern of effects for participants' fairness ratings in the 5 and 10 year-old child conditions mirrored that of the main effect means; however, in the 15 year-old child condition, the differences between the perceived fairness of prepared versus live and videotaped testimony were no longer statistically significant.

less fluent speech, and provide shorter responses than when the child testified using a support person, CCTV, preparation, or videotape. None of the differences between any of the four alternative testimony conditions were statistically significant.

Jurors' Beliefs about Truth Determination, Testimony Stressfulness, and Fairness to Trial Parties

Truth Determination and Testimony Stressfulness²—Participants believed that they were best able to determine whether traditional testifiers were telling the truth, followed by prepared children, and the least able to do so when children testified with a support person present or via CCTV. Participants' beliefs about their ability to discern the truthfulness of the child's videotape testimony differed only from the live in-court testimony condition. They also believed it was most stressful for children to provide traditional testimony, followed by prepared testimony, and that support person and CCTV testimony were the least stressful. Participants believed children's videotape testimony was less stressful than traditional testimony; no other differences involving videotape testimony were statistically significant.

Fairness to Child³ and Defendant—With respect to the child, participants believed that live in-court testimony was the least fair and that support person, CCTV, and videotape testimony were the most fair. Fairness ratings for the child in the preparation condition fell between these two sets of means and differed from all four conditions at a statistically significant level. In contrast, participants indicated that traditional live in-court testimony was fairer to the defendant than children's prepared or videotaped testimony. No other differences were statistically significant.

Discussion

We began by considering two EVT-based explanations for why mock jurors evaluate child witnesses more negatively when courts accommodate children. The first explanation stated that a child's testimony may exceed mock jurors' expectancies causing them to be more skeptical because they expect a child victim to be nervous, but accommodations reduce or eliminate this behavior. The second explanation stated that perhaps mock jurors overestimate the calming effects that accommodations have on children and their testimony. If accommodated children remain nervous, they may fail to meet mock jurors' expectancies and be viewed negatively as a result. In fact, this second outcome might be even more detrimental than the first because accommodations may attenuate or eliminate one potential explanation for children's expectancy violating behavior, namely that the child is testifying live in court, which can be an extremely stressful experience for any witness.

Jurors' Expectancies for Children's Testimony Behavior

To shed light on these potential explanations, we began by measuring what expectancies prospective jurors hold for children's verbal and nonverbal behavior when providing different forms of testimony. Jurors' expectancies do in fact vary as a function of children's testimony condition. In general, participants in our study expected a child providing traditional live in-court testimony to be more nervous, tearful, and fidgety, and less confident and cooperative than a child providing alternative forms of testimony. They also expected the child to maintain less eye contact, to be less fluent, and to provide shorter responses when providing traditional versus accommodated testimony.

Do jurors get what they expect when courts accommodate children in actual cases? In one study, researchers, legal professionals, law enforcement personnel, families of the victims, and victims rated children who testified in court or via CCTV (Cashmore, 1992). Children's

behavior changed very little as a function of CCTV use. CCTV children appeared less anxious during their direct examination compared to children who testified in court. During cross-examination, CCTV children appeared more fluent than children in one of the two samples in which CCTV was not used. Yet no differences between children testifying in court versus CCTV emerged for children's confidence, cooperativeness, ability to answer questions, amount of detail provided, or concentration during the direct or cross-examination of the child. Trained observers in a similar study noted few differences in the behavior of traditional versus accommodated testifiers other than that CCTV children were less tearful during cross-examination than children who testified in court (Murray, 1995). Again, observers did not note any differences in children's composure, confidence, concentration, cooperation, or fluency for children providing traditional versus alternative forms of testimony.

Participants in our study expected a child providing alternative testimony to be more confident and cooperative, to provide longer responses, and to be less fidgety than a child providing traditional testimony, but research indicates these changes simply do not occur. Thus, accommodated children's behavior may violate jurors' expectancies. It would also appear jurors' expectancies regarding accommodated children being less nervous, less tearful, and more fluent than traditional testifiers may or may not be violated in actual cases given the mixed results of previous studies (Cashmore, 1993; Murray, 1995). Differences for children's nervousness only emerged for cross-examination in one study (Cashmore, 1993). Differences for children's fluency only emerged in one of the two non-CCTV samples included in Cashmore's study and no such differences were noted in Murray's sample. Finally, Murray observed differences involving children's tearfulness but only during cross-examination.

Prospective jurors may hold expectancies that are violated on a more intuitive level as well when courts accommodate children. For example, participants in our study did not expect accommodated children to appear any more rehearsed or less spontaneous than children testifying in a traditional manner. When courts use accommodations, attorneys or other court personnel help familiarize the child with the alternative procedure. This process varies widely from one jurisdiction to the next, ranging from a simple explanation of the alternative procedure to a more detailed demonstration in which children practice using the alternative procedure. Efforts to familiarize children with accommodations may lead children to appear more rehearsed and less spontaneous than those who do not use accommodations, especially when children receive more extensive forms of preparation. By practicing these techniques and simulating the question/answer format of courtroom testimony, children may become more rehearsed and violate jurors' expectancies.

Up to this point we have focused exclusively on differences in prospective jurors' expectancies for children's behavior as a function of traditional versus accommodated testimony. What about the pattern of effects across the different forms of alternative testimony? These too suggest that jurors may hold unrealistic expectancies regarding the effects of different accommodations on children's testimony. Even though participants in our study expected videotaped children to appear more tearful and less confident than CCTV children, raters observed no such differences in the demeanor of children testifying via CCTV and videotaped testimony (Davies et al., 1995). There is also a general trend in the differences that emerged between accommodations on the nervous, tearful, and confident dependent measures. At one end of the continuum, participants expected the child to be the most nervous, most tearful, and least confident when providing traditional live in-court testimony. At the other end, participants expected the child to be the least nervous, least tearful, and most confident when testifying with a support person or CCTV. Participants'

expectancies for the child's prepared and videotaped testimony fell somewhere in between these two extremes.

One potential explanation for this pattern of effects is the degree to which an accommodation is perceived to protect or serve as a buffer between the child and the accused. When CCTV is used, the child is physically removed from the defendant's presence and testifies from a remote location outside the courtroom. When a support person is used, the child testifies in the courtroom in the defendant's presence but is accompanied on the witness stand by the support person while testifying. In contrast, preparation and videotaped testimony (at least as described in our survey) place the child in the defendant's presence without any sort of protection or buffer in ways that are more similar to traditional testimony but with the additional provisions of a courtroom tour, meeting the judge/attorneys, asking questions (via preparation) or testifying in a smaller, more intimate environment than open court (via videotape). If jurors use the degree of unprotected physical confrontation with the accused as a heuristic cue when estimating the effects of different testimony conditions on children's behavior, this outcome would be consistent with research indicating that confronting the defendant is one of the most stressful components of children's testimony (Goodman et al., 1992; Sas, 1991), but at odds with the defendant's constitutional rights and deeply-rooted legal jurisprudence concerning the value of confrontation in court (e.g., *Maryland v. Craig*, 1990).

Jurors' Beliefs about Truth Determination, Testimony Stressfulness, and Fairness to Trial Parties

Participants' beliefs about their enhanced ability to determine children's truthfulness when viewing live versus CCTV or videotaped testimony were largely unsupported by previous research. Studies comparing children's live testimony to videotaped testimony (Landström & Granhag, 2010) and live testimony to CCTV testimony (Landström & Granhag, 2010; Orcutt et al., 2001) failed to find significant differences in adults' ability to detect children's truthfulness as a function of testimony condition. Participants seemed particularly optimistic about their ability to determine children's truthfulness in the live condition (average rating of 5.75 on a 7-point scale) given that adults generally perform just slightly above chance levels on this task (see Vrij, 2002, for a review).

Prospective jurors' beliefs about the ability of certain accommodations to decrease children's stress are more in line with the empirical literature. Participants believed that all forms of alternative testimony would be less stressful for children than testifying live in court. This finding is consistent with the views of judges (Hafemeister, 1996), prosecuting attorneys (Goodman et al., 1999), and victim witness assistants (McAuliff et al., in press) regarding the ability of support persons, CCTV, and videotape to reduce children's stress while testifying. These views also are consistent with the results of experimental and quasi-experimental research comparing children's traditional versus prepared (Sas, 1991; 1993), videotaped (Davies et al., 1995), and CCTV testimony (Cashmore, 1992; Davies & Noon, 1988; Goodman et al., 1998; Landström & Granhag, 2010; Murray, 1995). More difficult to assess, however, are participants' beliefs that certain accommodations are more effective than others at reducing children's stress while testifying. Prosecuting attorneys (Goodman et al., 1999) and judges (Hafemeister, 1996) agree with jurors that support person use decreases children's stress more effectively than does CCTV, but no experimental studies have compared these two accommodations. To our knowledge, only one study has randomly assigned children to different alternative testimony conditions (CCTV versus videotape), and no differences in children's self-reported stress emerged between the CCTV and videotaped conditions (Landström & Granhag, 2010).

Participants believed that traditional testimony was the least fair to children compared to all other forms of testimony. In contrast, they believed that traditional testimony was the most fair to defendants compared to prepared and videotaped testimony, but no less fair than support person or CCTV testimony. As a whole, these beliefs generally are not supported by research. Recall that studies asking participants to rate fairness directly failed to reveal differences as a function of testimony condition (Lindsay et al., 1995; Swim et al., 1993) and neither did experimental work using more indirect measures (Eaton et al., 2001; Lindsay et al., 1999; Ross et al., 1994; Swim et al., 1993). Some sort of “buffer heuristic” could be producing the effects seen for participants' expectancies regarding children's nervousness, tearfulness, confidence and their beliefs about children's stress, with those viewing a higher degree of unprotected physical confrontation with the accused as more unfair to the child. Participants' belief that traditional testimony is the fairest to defendants is consistent with legal precedent and the defendant's constitutional right under the Sixth Amendment to confront his accuser.

Limitations

Certain limitations must be acknowledged. We manipulated testimony format within- as opposed to between-participants. A within-participants design increases power and decreases the error variance associated with individual differences, but carry-over and contrast effects may also arise. To minimize this possibility, we counterbalanced the order of the testimony conditions across participants. Separate analyses with order as an independent variable failed to reveal any significant interactions with testimony condition or any of the other independent variables. If carry-over or contrast effects were present in our study, they did not appear to systematically influence participants' expectancies or beliefs.

Our data reflect expectancies and beliefs that participants expressed after reading the brief testimony condition descriptions we provided. We based these descriptions on a review of relevant legislation and case law (McAuliff & Kovera, 2002), but wide variability exists across states and even within jurisdictions with respect to children's testimony and how innovations are defined and implemented. Our descriptions reflect what we considered to be prototypical examples of the different testimony formats and they may vary in some ways from those used in actual cases. For example, our support person condition described the support person sitting next to the child on the stand, but a recent national survey found that this occurs only rarely or sometimes (McAuliff et al., in press). We do not know whether participants' expectancies and beliefs in our study generalize beyond the testimony conditions they read. Also, because our survey described a female victim, our data cannot speak to whether or how prospective jurors' expectancies for testimony behavior might vary based on the child's gender or other witness characteristics.

To some degree, the conclusions we have drawn about what jurors expect versus actually observe when children testify are only as valid as the research to which we compare our data (Cashmore, 1993; Murray, 1995). These studies of the effects of accommodation on child witness behavior are quasi-experimental. As a result, children were not randomly assigned to traditional versus innovative testimony conditions and researchers cannot entirely rule out the influence of confounding variables. Attorneys may be more likely to use accommodations in cases involving severe abuse or when children are extremely reluctant to testify. If so, then it is difficult for researchers to disentangle how these factors influence children's behavior apart from the format of their testimony. Another complicating factor was that our survey included a large number of highly specific behavioral items (smile/frown, timid/brave, fearful/fearless, still/restless), whereas studies examining children's actual testimony included a fewer number of behavioral items and these tended to be more general (observer ratings of children's stress, confidence, happiness). Our conclusions will

require updating as the dependent measures used in real-world and laboratory research on children's innovative testimony continue to evolve.

Future Directions and Conclusion

Like others in the field (e.g., Schmidt & Brigham, 1996), we believe that expectancies for children's behavior can play an important role in understanding jurors' evaluations of children and their testimony. Accommodations are widely available and can lead to beneficial effects in abuse cases by reducing children's stress and increasing their accuracy. However, researchers must continue to explore how accommodations may alter children's verbal and nonverbal behavior in ways that violate jurors' expectancies because such violations may cause jurors to evaluate children negatively and diminish the impact of trial testimony. At a broader level, our data suggest that children who do not appear nervous, tearful, or fidgety or who appear confident, maintain eye contact, and speak fluently may be at risk for violating jurors' expectancies no matter what form of testimony they provide. Using a simulation paradigm to systematically vary the presence or absence of these expected behaviors will allow researchers to adopt a preferable a priori approach—*predicting* differences based on known expectancies—versus a less desirable post hoc approach—*explaining* differences based on suspected expectancies. Simulation studies will also help improve our knowledge of how jurors react to expectancy violations involving behaviors other than children's crying, which has been documented in previous research (Golding, Fryman, Marsil, & Yozwiak, 2003; Regan & Baker, 1998).

Last but not least, incorporating more objective measures of specific behaviors related to stress, fear, and intimidation will help improve our knowledge of how these states manifest themselves in children providing traditional versus accommodated testimony. Some child witness researchers have moved in this direction by collecting physiological data (Saywitz, Nathanson, Snyder, & Lamphear, 1993; Yim, Quas, Cahill, & Hayakawa, 2010), but measures of more overt behaviors such as a child's eye contact, tearfulness, fidgeting, response latency, and response length also are needed if we truly wish to understand the effects of expectancy violation on jurors' evaluations of child witnesses in laboratory and real-world settings.

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Table 1
Descriptions of Alternative Testimony Conditions Provided to Participants

Alternative Testimony Condition	Description
Live In-Court Testimony with Support Person Present	In this procedure, all persons involved in the trial remain in the same courtroom. The child is sworn in under oath and testifies from the witness stand (usually at the front of the courtroom) in full view of the defendant, judge, attorneys, and jury. However, unlike traditional live, in-court testimony where the child sits alone in the witness stand, a person (e.g., a family member or someone appointed by the court) is seated next to the child to provide emotional support while the child testifies. The child is questioned directly by the prosecuting attorney and then cross-examined by the defendant's attorney. The defendant, judge, attorneys, and jury view the child face-to-face during his or her live testimony.
Closed-Circuit Television (CCTV) Testimony	In this procedure, the child is sworn in under oath and sits in a room outside the courtroom. The prosecuting and defense attorneys, who are also present in the outside room, question and cross-examine the child just as they would if the child were testifying in the courtroom. A live simulcast of this process is transmitted to the defendant, judge, jury and others who remain in the courtroom. These individuals view and hear the child's testimony on a video monitor screen, similar to a television. Because the child remains in a room outside the courtroom, the defendant, judge, and jury do not view the child face-to-face during his or her live testimony.
Live In-Court Testimony with Preparation	In this procedure, before the trial, the child participates in special procedures designed to prepare the child for his or her upcoming court appearance. These procedures can include a tour of the courtroom, a meeting with the judge and attorneys in the case, and an opportunity for the child to ask any questions he or she has about testifying in court. When the child later testifies at trial, all involved persons remain in the same courtroom. The child is sworn in under oath and sits alone in the witness stand (usually at the front of the courtroom) in full view of the defendant, judge, attorneys, and jury. The child is questioned directly by the prosecuting attorney and then cross-examined by the defendant's attorney. The defendant, judge, attorneys, and jury view the child face-to-face during his or her live testimony.
Videotape Testimony	Videotape testimony can take one of several forms when used in court. One of the most common forms is the videotaped deposition. In this procedure, the child is sworn in under oath and interviewed in a room outside of the courtroom before the actual trial begins. The defendant and both attorneys are present in the room with the child and other observers such as the judge also may also be present. The child is questioned and cross-examined by the attorneys just as he or she would be when testifying in court, however this process is videotaped. Later at trial, the child's videotaped testimony may be played to replace the child's live, in-court testimony. All persons present during the child's original testimony view the child face-to-face; however, at trial jurors view and hear the child's videotaped testimony on a video monitor screen, similar to a television.

Table 2
Adjective Pairs and Reliability Coefficients for Composite Variables Used to Rate
Participants' Expectancies for Children's Testimony Behavior

Composite Variable	Cronbach's Alpha	Adjective Pairs
Nervous	.86	
		Calm/Nervous
		Relaxed/Anxious
		Uncomfortable/Comfortable (R)
Tearful	.86	
		Happy/Sad
		Smile/Frown
		Tearful/Tearless (R)
Confident	.80	
		Confident/Intimidated (R)
		Fearless/Fearful (R)
		Timid/Brave
Rehearsed	.91	
		Coached/Natural (R)
		Rehearsed/Spontaneous (R)
Fidgety	.78	
		Fidgety/Motionless
		Still/Restless (R)
Fluent speech	.81	
		Hesitant/Fluent
		Rapid/Slow speech rate (R)
		Stuttering/Steady speech

Note: Adjective pairs followed by (R) were reverse scored for inclusion in composite variables.

Table 3
Means and Repeated-Measure Effects of Testimony Condition on Participants' Expectancies for Children's Testimony Behavior

Dependent Measure	Means (SD)				Repeated-Measures Effects of Testimony Condition			
	Live	Support Person	CCTV	Preparation	Videotape	F	df	p
Nervous	5.75 ^a (1.14)	4.60 ^b (1.51)	4.58 ^b (1.50)	5.12 ^c (1.34)	4.85 ^{b, c} (1.49)	46.29	4, 988	.0001
Tearful	5.75 ^a (1.14)	4.68 ^{b, c} (1.23)	4.62 ^c (1.22)	5.00 ^d (1.18)	4.85 ^{b, d} (1.18)	70.68	4, 988	.0001
Confident	1.83 ^a (1.26)	2.72 ^b (1.36)	2.71 ^b (1.31)	2.32 ^c (1.30)	2.43 ^c (1.29)	33.64	4, 980	.0001
Rehearsed	4.36 (1.52)	4.55 ^a (1.45)	4.23 ^b (1.45)	4.49 ^{a, c} (1.47)	4.32 ^{b, c} (1.44)	4.81	4, 972	.001
Cooperative	4.75 ^a (1.59)	5.12 ^b (1.43)	5.05 ^b (1.47)	5.08 ^b (1.40)	5.03 ^b (1.45)	4.54	4, 988	.001
Fidgety	5.13 ^a (1.40)	4.55 ^b (1.37)	4.67 ^b (1.28)	4.78 ^b (1.40)	4.66 ^b (1.47)	11.55	4, 980	.0001
Eye contact	2.84 ^a (1.70)	3.38 ^b (1.77)	3.47 ^b (1.79)	3.29 ^b (1.78)	3.31 ^b (1.80)	7.30	4, 972	.0001
Fluent speech	2.92 ^a (1.27)	3.72 ^b (1.28)	3.73 ^b (1.30)	3.52 ^b (1.27)	3.65 ^b (1.36)	31.10	4, 984	.0001
Response length	2.70 ^a (1.52)	3.39 ^b (1.61)	3.41 ^b (1.59)	3.30 ^b (1.63)	3.35 ^b (1.62)	14.02	4, 984	.0001
								.05

Notes: Means sharing unique superscripts within each row were statistically significant at $p < .05$. Nervous, tearful, confident, rehearsed, fidgety, and fluent speech were all 7-point composite variables derived from adjective pairs described in Table 2. Eye contact, cooperative, and response length were single-item adjective pairs. Larger values correspond with higher levels of each respective dependent measure.

Table 4
Means and Repeated-Measures Effects of Testimony Condition on Participants' Beliefs about Determining Children's Truthfulness, Testimony Stressfulness, and Fairness to Trial Parties

Dependent Measure	Means (SD)				Repeated-Measures Effects of Testimony Condition				
	Live	Support Person	CCTV	Preparation	Videotape	F	df	p	η_p^2
Ability to determine child's truthfulness	5.75 ^a (1.14)	4.60 ^b (1.51)	4.58 ^b (1.50)	5.12 ^c (1.34)	4.85 ^{b, c} (1.49)	46.29	4, 988	.0001	.16
Testimony stressfulness	6.05 ^a (1.28)	4.80 ^b (1.70)	4.57 ^b (1.68)	5.52 ^c (1.49)	4.87 ^{b, c} (1.65)	53.16	4, 976	.0001	.18
Fairness to child	3.77 ^a (1.78)	4.92 ^b (1.57)	5.03 ^b (1.56)	4.24 ^c (1.76)	5.08 ^{b, d} (1.44)	42.63	4, 972	.0001	.15
Fairness to defendant	4.94 ^a (1.57)	4.75 (1.58)	4.87 (1.50)	4.63 ^b (1.57)	4.64 ^b (1.54)	2.97	4, 964	.02	.01

Notes: Means sharing unique superscripts within each row were statistically significant at $p < .05$. 1 = Not at all, 4 = Neutral, 7 = Extremely.