



Interrogative Suggestibility in People with Fetal Alcohol Spectrum Disorder (FASD): Neurocognitive and Behavioral Challenges

By Erin J. Watts and Jerrod Brown

Abstract

Fetal alcohol spectrum disorder (FASD) is the result of prenatal alcohol exposure. FASD is characterized by deficits in adaptive functioning, social skills, learning capacities, emotion regulation, memory, attention, and communication abilities. As a result of these deficits, individuals with FASD may be prone to interrogative suggestibility. This is consistent with Gudjonsson and Clark's (1986) model, which proposed that interrogative suggestibility is more likely to occur in individuals who experience: (a) a greater sense of uncertainty about the subject matter, (b) stronger interpersonal trust with the interrogator, and (c) an increase in one's expectations that he or she should know the "correct" answer to the questions being asked. Failing to account for the unique needs of individuals with FASD in the criminal justice system may result in miscarriages of justice.

Introduction

Fetal alcohol spectrum disorder (FASD) presents a unique challenge to criminal justice and legal professionals, particularly in regards to interrogative suggestibility (Brown et al., 2011; McLachlan et al., 2014). Interrogative suggestibility is defined as "the extent to which, within a closed social interaction,

people come to accept messages communicated during formal questioning as a result of which their subsequent behavioural response is affected” (Gudjonsson & Clark, 1986, p. 84). The risk for interrogative suggestibility is pronounced in FASD, which is precipitated by prenatal exposure to alcohol and characterized by lifelong adaptive, behavioral, cognitive, neurological, and physical deficits.

Gudjonsson and Clark (1986) proposed a model that stipulates the likelihood of suggestibility increases as a function of three interacting elements. Specifically, suggestibility increases as the person experiences: (a) a greater sense of uncertainty about the subject matter, (b) stronger interpersonal trust with the interrogator, and (c) an increase in one’s expectations that he or she should know the “correct” answer to the questions being asked (Brown et al., 2011; Gudjonsson, 1984; Gudjonsson & Clark, 1986; Pollard et al., 2004). This article explores how several of the typical cognitive and functioning deficits in the clinical presentation of FASD may impact Gudjonsson and Clark’s (1986) model.

1. **Adaptive and Executive Functioning:** Deficiencies in adaptive and executive functioning are primary deficits associated with FASD (Edwards & Greenspan, 2010; Fast & Conry, 2009; Green et al., 2009; Rasmussen, 2005). Prenatal exposure to alcohol almost universally affects frontal lobe development, which is largely responsible for higher order thinking and decision-making ability (Brown et al., 2011; Wyper & Pei, 2015). This can result in deficits of cognitive flexibility, planning, strategy use, verbal reasoning, and working memory (Page, 2003; Wyper & Pei, 2015). Social judgment and problem solving are both typically compromised, particularly in individuals with FASD who have lower adaptive functioning (Edwards & Greenspan, 2010; Greenspan & Driscoll, 2015). Although the average IQ of individuals with FASD is in the 80s, the universal functional adaptive IQ is in the 60s to 70s (Greenspan & Driscoll, 2015), which is roughly equivalent to the functioning level of a 10-year-old child (Page, 2003). Nonetheless, these deficits in IQ and functional adaptive IQ may be masked by the ability to use expressive language (Mela, 2015). In fact, people with FASD can have verbal skills comparatively well beyond their adaptive functioning and comprehension abilities (Edwards & Greenspan, 2010; Mela, 2015; Hand et al., 2015). These advanced verbal skills are likely to confound the ability of professionals to comprehend the seriousness of the disability (Lebel, Rasmussen, Wyper, Andrew, & Beaulieu, 2010; Mela, & Luther, 2013; Page, 2001).

The difficulty of people with FASD to use higher-order executive skills can result in an increased probability of succumbing specific aspects of Gudjonsson and Clark’s (1986) model (MacSween, 2007). First, individuals with FASD are likely to have a high level of uncertainty regarding the correct answer during interrogation. This uncertainty would only be exacerbated by “hypothetical” and “leading” questions, which require high levels of abstract skills to process (Greenspan & Driscoll, 2015). Second, the social judgment deficits of FASD could increase the likelihood of trusting the interrogator as well as the perception of being expected to know the correct answer to the questions being asked. The combination of these issues increases the chance of comprehensive and unequivocal agreement with an interrogator and, as a result, suggestibility (Burd et al., 2010; Conry & Fast, 2011; Fast & Conry, 2009; Fast & Conry, 2004).

2. **Social Skills Deficits:** As a general rule, most people with FASD have impaired social skills (e.g., social insight and judgment). Greenspan and Driscoll stipulate that the neurocognitive limitations of FASD contribute to social neediness in two ways: (a) a small number of non-deviant friends and personality adaptations and (b) possessing a tendency to conform to others’ needs and requests, both of which have influence within the legal system (Brown et al., 2011). Beyond these skill deficits, people with FASD also have difficulties discerning social subtleties and nonverbal communication (Edwards & Greenspan, 2010; Brown et al., 2011; Mariasine et al., 2014; Greenspan & Driscoll, 2015).

Interrogators often rely on deception to “successfully” elicit a confession (Greenspan & Driscoll, 2015). This can include attempting to solicit an inappropriate level of trust from the person by appearing overly friendly. Individuals with FASD will likely demonstrate a high level of trust in the interrogator due to their misperceptions of social cues, desires for social acceptance, and inability to accurately perceive the intents of the interrogator. Further, individuals with FASD are likely to try and answer the interrogator’s questions in a manner that would “please” the interrogator out of a desire for social acceptance (Brown, Wartnik, Connor, & Adler, 2010; Mariasine et al., 2014; Roach & Bailey, 2009; Thiel et al., 2011).

3. **Learning Problems:** People with FASD generally have an inconsistent pattern of cognitive organization and information processing performance that can be overwhelmed during intake, organization, retrieval, and expression of specific information (Brown et al., 2011). Information overload may result in individuals with FASD withdrawing and indiscriminately taking direction from others in high stress situations, including interrogations. In addition to ineffective information processing skills, FASD typically includes difficulty generalizing information learned in the past to current tasks and situations. Not only is there difficulty in organizing experiences, but there is difficulty in applying previous knowledge to present situations (Conry & Fast, 2011; Fast & Conry, 2009; Brown et al., 2011).

Interrogations are intense situations that require a person to effectively process information. Because of the information processing of FASD, there is a high likelihood individuals with FASD will experience a strong sense of uncertainty about the accuracy of their responses during interrogations (Brown et al., 2011; Gudjonsson & Henry, 2003). This can be exacerbated by the intensity of the situation, which may activate a flight or fight response or further impair an already compromised information processing ability (Brown et al., 2011; Greenspan & Driscoll, 2015). As such, individuals with FASD may demonstrate increased trust in an interrogator due to an inability to comprehend the potential consequences of any disclosures.

4. **Difficulty With Emotion Regulation:** Emotion regulation is the capacity to implement a variety of strategies to manage emotions across a variety of different situations. Because many individuals with FASD have difficulty regulating their emotions, there is an increased likelihood of experiencing anxiety in high-stress situations such as interrogations. Further, individuals with FASD are less likely to mitigate anxiety with efficient coping skills (Streissguth et al., 1998; Siklos, 2008).

High levels of anxiety combined with low emotional regulation capacity can result in the ineffective use of coping strategies. In the instance of an interrogation, these strategies may include disclosing false admissions of guilt in an attempt to lessen the discomfort of an interrogation. Such confessions may be exacerbated by a misplacement of trust in the interrogator.

5. **Poor Memory:** Individuals with FASD often have hippocampus damage and impaired frontal lobe functioning, which can cause deficiencies in free recall, sensory processing (e.g., auditory, visual, and spatial), and memory (e.g., sequential and working; Kodituwakku, 2009; Mattson, Crocker, & Nguyen, 2011; Page, 2003; Rasmussen, 2005). Interestingly, procedural/implicit memory, or the ability to remember how to perform daily tasks or processes, remains relatively intact in these individuals. This discrepancy implies much of the memory impairment in individuals with FASD is a result of erroneous encoding processes rather than retrieval impairments (Brown et al., 2011).

Memory, particularly verbal memory, has been shown to affect suggestibility on several levels (Gudjonsson & Henry, 2003; Howard & Chaiwitukornwanich, 2006; Willner, 2008; Ridley, 2013; Ridley &

Gudjonsson, 2013). If there is an error in encoding memories, there may be a decrease in the individual's level of certainty about the line of questioning. This phenomenon may be related to memory distrust syndrome (MDS), which Gudjonsson (2003) describes as a strong distrust of one's own recollection of events. Subsequently, this leaves an individual as more susceptible to the influence of external cues and suggestions that may lead to false confession or statements. Complicating matters, individuals with FASD may falsely recollect acts of benevolence by the interrogator, which could potentially lead to a misplaced and inappropriate level of trust in the interrogator. These factors may compound the likelihood of suggestibility in individuals with FASD (Gudjonsson & Henry, 2003).

6. **Attention Problems:** Attention deficits are a core feature of FASD (Page, 2003; Fast & Conry, 2009; Brown et al., 2011). These deficits include difficulty shifting attention in a flexible manner or maintaining attention on the activity at hand (Fagerlund et al., 2012; Glass, L., Graham, Deweese, Jones, Riley, & Mattson, 2014). The trouble with failing to maintain attention on an event is the possibility of encoding an incomplete memory (Howard & Chaiwitikornwanich, 2006). As previously discussed, incomplete memories can lead to a strong sense of uncertainty, which can result in an increased likelihood of suggestibility during interrogation. Individuals with attention-deficit/hyperactivity disorder (ADHD), which commonly co-occurs with FASD, may be prone to a disproportionate number of uncertain responses (Gudjonsson, Young & Bramham, 2007). Further, deficits in attention can lead to perseveration or the repetition of words or gestures, even when such repetition is no longer appropriate. This may subsequently increase acquiescent responses during interrogation (Brown et al., 2011) due to an increase in the expectation that the answer should be known.

7. **Communication Difficulties:** Superficial verbal fluency is commonly mentioned as a characteristic of FASD (Brown et al., 2011). This is the appearance of carrying on a meaningful conversation when, in fact, there is little mutual understanding taking place (Page, 2001; Page, 2003). Interrogations occur at a primarily verbal level that infrequently checks for comprehension of questions and process beyond verbal statements. Parroting speech patterns and general talkativeness couple with this covert miscommunication to increase the inherent difficulty in understanding communication in individuals with FASD. Despite the apparent verbal competency, people with FASD may exhibit impairments in both receptive and expressive language skills, which results in poor language comprehension (Brown et al., 2011; Manji, Pei, Loomes, & Rasmussen, 2010; Wyper & Pei, 2015). People with FASD may effectively report comprehension that, in actuality, may not exist.

Developing a clear understanding of what is being asked and formulating a response are daunting and potentially impossible tasks for someone with FASD, especially in stressful circumstances (Greenspan & Driscoll, 2015). Difficulties with communication can create an incomplete or inadequate understanding of the questions being asked during interrogations (Fast & Conry, 2009). This strong underlying sense of uncertainty can increase suggestibility. Further, the superficial verbal fluency may increase the interrogator's expectations in such a way that the individual feels like he or she should know the answers during interrogations. Finally, traditional questions could be interpreted as accusations and expectations on behalf of the interrogator.

Conclusions and Future Directions

Fetal alcohol spectrum disorder (FASD) describes a constellation of impairments that, when taken individually, would be sufficient to compound any probability of increased interrogative

suggestibility. When FASD is present, there is a resulting complexity that must be considered when evaluating suggestibility. Gudjonsson and Clark's (1986) model of suggestibility offers an individualized framework that clinicians can use to begin examining one's vulnerability to suggestibility. Failing to account for the unique needs of individuals with FASD in the criminal justice system may result in injustice not only to the individual but also to the criminal justice system and society as a whole. The gaps in knowledge of suggestibility and FASD leave ample opportunities for additional research. Topics worth exploring include gullibility and naiveté, acquiescence, social desirability, and the connection between adverse life experiences and suggestibility levels. When examining the topic of suggestibility, researchers must consider confabulation and the role it plays in gaining accurate information during interrogations. On a related note, confabulation, or the replacement of gaps in one's memory with imaginary experiences that are believed to be true, likely operates in a similar manner as suggestibility.

Biographies

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