

What's Wrong with Reliable Testimony?
Chapter 2

From *The Epistemic Significance of Rape Victim Testimony*
Amber Rose Carlson
Vanderbilt University

This essay defends the view that rape victim testimony undermines current conceptions of reliable testimony. I argue that the very features causing rape victim testimony to appear unreliable according to three main theories of testimonial justification—reductionism, non-reductionism, and dualism—are the same features that point to its reliability. That is, I claim that it is precisely when rape victim testimony appears unreliable that hearers should trust the victim that rape occurred. Thus, I will argue that—in at least some real-world circumstances—some testimony is reliable precisely when it does not seem reliable. I suspect some, perhaps many, readers will initially balk at this idea. But I hope to show it to be a coherent possibility with significant epistemic and moral implications.

Standards for reliable testimony vary across theories of testimonial justification. In this essay, I limit my argument to three mainstream theories of testimonial justification: reductionism, non-reductionism, and dualism. Specifically, I locate my critique in the way each theory employs the use of either positive reasons to accept testimony as reliable (reductionism and dualism) or negative reasons (i.e. defeaters) to reject testimony as unreliable (non-reductionism). Like two sides of the same coin, I will show that negative reasons elide with positive ones. I will then show how assessing reliable testimony according to positive or negative reasons fails in cases involving rape testimony.

The phenomenon I argue for—that rape victim testimony can be reliable precisely when it appears unreliable—is worth investigating because testimony is an indelible feature of our daily

lives. That we secure knowledge from testimony is commonsensical,¹ and yet rich philosophical questions remain as scholars debate precisely when (i.e., under what circumstances) and why (i.e., according to which principles) a hearer is justified in taking a speaker's testimony as a reliable source of knowledge. Any revelations that indicate flaws in one of the popular ways scholars understand reliable testimony should thus be of special interest.

A second reason for thinking about flaws in what we take to be reliable testimony involves a moral dimension. Rape is pervasive, and studies show that the effects of rape are some of the most devastating for victims of violent crimes (Center for Substance Abuse Treatment 2014). Nonetheless, our current social environment is one in which victims are typically disbelieved when they report details of their rape. From an epistemic perspective, disbelieving rape victims whose memories, for example, lead to fragmented or incoherent testimony appears to be the epistemically responsible option. The epistemic environment victims find themselves in is one where they are (somewhat) understandably disbelieved. However, if our current conception of testimony erroneously reinforces a survivor's victimhood, we should take special care to reexamine epistemic standards.

This essay proceeds in three parts. In Part 1, I show how each mainstream theory of epistemic justification employs either positive or negative reasons to determine reliable testimony. In Part 2, I offer an argument against believing rape victims that rape occurred. I pair mainstream reliability standards with common features of rape victim testimony to show that, from a mainstream epistemic standpoint, it seems that hearers should reject victim testimony that rape occurred. I conclude in Part 3, where I argue that the Normative Argument I presented in Part 2

¹Scholars refer to the notion that testimony is a source of knowledge as the "common-sense restraint." See (Insole 2000) and (Weiner 2003) as examples.

appears cogent, its involvement with trauma leaves it (strong, but) not cogent after all. I then show how rape victim testimony undermines all three popular theories of testimonial justification.

1. Testimonial Justification: Three Views

Reductionists argue that the justification for taking testimony as a source of knowledge must reduce to something other than testimony. Put another way, reductionists argue that a hearer must have *positive reasons* to accept testimony and that these positive reasons cannot themselves rely on testimony. Typically, reductionists cite sense perception, memory, and inference as examples of positive reasons to accept testimony. Reductionists get their name because testimonial justification *reduces* to other justificatory methods.

Scholars distinguish two different senses of reductionism: *global reduction* and *local reduction*. Global reductionism is the notion that testimony *as a source of belief* reduces to justifications like sense perception, memory, and reason. Proponents of this view argue that in order to be justified in accepting testimony, one must have a positive reason for thinking that testimony is generally reliable. Local reductionism is the notion that a speaker must have positive reasons (e.g. memory, sense perception, reason) for accepting any particular piece of testimony.

Non-reductionists, on the other hand, don't agree that testimony reduces to sense perception, memory, or inference. Non-reductionists eschew positive reasons for justification—they assert that positive reasons are neither sufficient nor necessary conditions. Instead, non-reductionists argue that testimonial justification is just as basic as other justificatory methods; for non-reductionists, one is justified in believing testimony so long as (1) the testimony is reliably produced and (2) the hearer does not have any relevant defeaters—e.g. counter-beliefs or counterevidence for the testimony (what I call negative reasons).

Finding fault with both reductionism and non-reductionism, Jennifer Lackey champions a third option—what she calls Dualism:

For every speaker A and hearer B, B justifiedly believes that p on the basis of A's testimony that p only if: (1) B believes that p on the basis of the content of A's testimony that p, (2) A's testimony that p is reliable or otherwise truth conducive, and (3) B has appropriate positive reasons for accepting A's testimony that p. (Lackey 2006, 170).

Lackey's first condition is simply to ensure that the root of the belief is in the actual testimony and not some other non-testimonial source. Lackey uses the example of someone reporting that their voice is soprano. For (1) to be satisfied in that case, the hearer must believe that the speaker's voice is soprano because the speaker said so, not because, for example, the speaker spoke with a voice in the soprano range.

Lackey's second condition, she thinks, is fairly uncontroversial—in order to be justified in believing testimony the testimony itself has to be reliable (i.e. true) or otherwise truth conducive. If not, then the hearer's belief would not be justified, because the content of the belief would be false. Dualism's third condition is the most controversial. Indeed, most critiques leveled against reductionism pertain to the positive reasons component. Thankfully, Lackey gives us some insight into what counts positive reasons. The most relevant description for the purposes of this paper refers to positive clues about the context of the testimony.

Consider the different attitudes that may be taken toward a calm and coherent stranger reporting a robbery a few blocks away versus an apparently confused person who is smelling of alcohol reporting the same information. Again, the difference in responses may be explained by both positive reasons and defeaters: previous inductive evidence indicates that the contextual features in the first scenario suggest a reliable testifier while the contextual features in the second scenario suggest an unreliable testifier. Similar remarks can be made about countless other contextual factors, such as facial expressions, eye contact, mannerisms, narrative voice, and so on (Lackey 2006, 173).

Lackey's description of positive reasons and defeaters is helpful for discerning what factors count as positive reasons for accepting testimony as reliable. Her description is also illustrative of

the way defeaters and positive reasons can lose conceptual distinction. A positive reason to accept testimony is the speaker's calm affect and coherent report because inductive reason tells the hearer that calm and coherent testimony tends to be true testimony. Conversely, a reason to reject testimony is someone who smells of alcohol. Lackey refers to this context clue as a defeater, but the decision to reject testimony in this case still relies on inductive inference. It is not that someone smelling of alcohol is a defeater for reliable testimony in itself. Rather, the testimony from the speaker who smells like alcohol is deemed unreliable because (presumably) inductive inference indicates to the hearer that testimony from speakers who smell like alcohol tend to be unreliable. In this way, the concept of defeaters and positive reasons collapses; even defeaters are positive reasons so long as they are deemed defeaters based on inductive evidence, sense perception, or memory.

2. The Normative Argument Against Believing Rape Victims

There is an argument—what I will call the Normative Argument Against Believing Rape Victims (NA)—that, at least upon first glance, I believe many readers would be inclined to endorse. NA's basic idea is that when a rape victim reports that she was raped, the details of her testimony are typically fragmented and incomprehensible. Because failure to provide a comprehensible narrative is often taken as a sign that testimony is false, responsible epistemic agents should not believe rape victims on the basis of testimony alone.

My aim in this section is to show how NA appears to be a cogent argument when hearers employ routine epistemic standards in their assessment of testimony. This section, then, can be understood as laying the groundwork for exposing an overlooked problem in the epistemology of testimony. Later, I will argue that NA only appears cogent—I will show that unique characteristics of rape victim testimony undermine usual assessment processes. While current epistemic

standards typically result in hearers acquiring justified beliefs, I will show that when epistemic standards are applied to rape testimony, hearers are lead to false beliefs.

The Normative Argument Against Believing Rape Victims (NA) can be expressed as follows:

- (1) If someone has been raped, they will be traumatized.
- (2) If someone is traumatized, they will have incoherent memories regarding their trauma.
- (3) If someone has incoherent memories regarding their trauma, they will have correspondingly incoherent testimony regarding their trauma.
- (4) If someone has incoherent testimony regarding their trauma, then their testimony regarding their trauma is unreliable.
- (5) If someone has unreliable testimony regarding their trauma, then a responsible epistemic agent should not believe the trauma victim's testimony regarding their trauma.
- ∴ (6) If someone has been raped, a responsible epistemic agent should not believe the trauma victim's testimony regarding their trauma.

As series of conditionals, NA is a strong argument. Simple substitutions allow us to conclude that if someone was raped, we should not believe her testimony. A shorthand way to read NA is to say: If rape, then trauma; If trauma, then incoherent memories; If incoherent memories, the incoherent testimony; If incoherent testimony, then unreliable testimony; If unreliable testimony, then disbelief. We can make minor adjustments with respect to how we want to instantiate each premise's central claim, but the key features remain the same. That is, once we articulate NA as an instance where someone was raped, we have some liberties as to how we want to flesh out the particular phrasing, but we still begin with an antecedent hypothesizing rape, and we end with the consequent that we should not believe the person who was raped with respect to her rape. Thus, NA is a strong argument, but it is a cogent one?

There are two main way to support premise (1), first by recognizing its tautological structure. The DSM defines psychological trauma as follows:

Exposure to actual or threatened death, serious injury, or sexual violence in one (or more) of the following ways: directly experiencing the traumatic event(s); witnessing, in person, the

traumatic event(s) as it occurred to others; learning that the traumatic event(s) occurred to a close family member or close friend (in case of actual or threatened death of a family member or friend, the event(s) must have been violent or accidental); or experiencing repeated or extreme exposure to aversive details of the traumatic event(s) (American Psychological Association 2013, 271).

Rape is a particularly egregious form of sexual violence, and so when the DSM defines trauma as having experienced sexual violence, rape experiences count as traumatic ones. Appealing to the DSM, then, another way to say that “if someone is raped, they will be traumatized” is to say that if someone is traumatized, they will be traumatized. By definition premise (1) is true.

The most obvious objection to this premise is to reject the DSM’s definition of trauma. If the DSM is the standard for practicing psychologists, why would someone want to reject the DSM’s definition? A preliminary answer has to do with how difficult it is to define trauma. The effects of trauma manifest differently in different people, and some scholars note that an event perceived as traumatic by one person, might not be traumatic for another (SAMHSA 2012, 8). A major question in psychological literature is what, if anything, accounts for this difference:

“Survivors’ immediate reactions in the aftermath of trauma are quite complicated and are affected by their own experiences, the accessibility of natural supports and healers, their coping and life skills and those of immediate family, and the responses of the larger community in which they live” (Center for Substance Abuse Treatment 2014). Other studies show that the victim’s level of “mastery” over life is predictive of the extent to which they will exhibit trauma symptoms or not. Where mastery is their sense of how much control they have over life’s circumstances (Gil and Weinberg 2015). Trauma, it seems, has a subjective component. Yet although subjective factors influence how trauma is received, one’s trauma experience does not seem to be completely subjective; “People who have endured horrible events suffer predictable psychological harm” (Herman 1997, 3). While there are a variety of traumatic disorders, these “traumatic syndromes

have basic features in common” (Herman 1997, 3). The difficulty in defining trauma centrally involves the difficulty of squaring the predictable effects of trauma with the unique experiences of each victim.

Because it is difficult to define trauma, and because mental health research is ongoing, the DSM routinely changes its conception of trauma (North et al. 2016). The DSM serves the psychological community as a disciplinary standard, but this doesn’t mean that it always gets it right. The DSM’s penultimate edition, for example, made a distinction between subjective and objective elements of trauma—attempting to balance the common components of trauma with the subjective experiences of individuals. It was thought that the differences in trauma manifestation could be accounted for by including subjective elements of “intense fear, horror, or helplessness,” and that the definition of trauma retained boundaries with some objective criteria. Unfortunately, further studies showed that the subjective criteria, as the DSM explicated them, were not predictive of objective trauma (Adler et al. 2008) (Bedard-Gilligan and Zoellner 2008). In particular, researchers found that “the requirement of a subjective response as part of the trauma criterion created a serious conceptual error by conflating the subjective experience of trauma with objective exposure to the traumatic event” (Anushka, Alina, and North 2017, 3). The DSM subsequently removed the subjective/objective distinction from its definition of trauma, but conceptual remnants remain in scholarly literature. Another reason one might reject the DSM definition is because the DSM has been wrong in the past.

Perhaps the most forceful objection to using the DSM’s definition is that it is too narrow. There are some scholars who think that limiting trauma to the few events listed fails to account for all of the traumatic experiences. Brier and Scott (2015), e.g., argue that the DSM’s current definition of trauma is too limiting because death, serious injury, or sexual violence need not occur

for someone to find an event traumatic. The idea that the DSM's definitions are too narrow is important to take seriously, because there are legitimate concerns regarding mental health gatekeeping—there are lots of documented barriers to mental healthcare (Thornicroft, Rose and Kassam 2007), and if we only take accepted established diagnostic criteria as legitimate, it is likely that some individuals go undiagnosed. Since biases in mental health diagnoses are well-established, we should question the legitimacy of the DSM.

In response, I will not deny that there are serious problems taking the DSM as the definitive voice on what constitutes trauma. What I'd like to suggest is that for the purposes of this paper we take the DSM's definition as a useful definition—rather than the standard definition. Understood this way, the definition can reasonably change over time. It can be expanded as needed to include additional research and it can be amended to include other instances of trauma. As a working definition, it retains enough structure to offer some guidelines on the difference between trauma and merely having a bad experience.

As it stands, the DSM's definition is persuasive in part because it does seem that there are commonalities across trauma related disorders. It is also persuasive because a definition of trauma that prioritizes subjective experience is problematic. Already colloquial uses of trauma are rampant—trauma language is used in jest and as a descriptive intensifier. A friend might, for example, joke that they were “traumatized” because their parent made them sit and finish their vegetables as a child, but the chances that your friend meant that they were traumatized in any clinical sense is slight, and regardless of their intention it is also unlikely that finishing one's vegetables as a child would rise to the level of trauma akin to, say, a near death experience.

Sometimes, as in the example above, colloquial use is obviously not meant to denote actual trauma and all that trauma entails, other times, though, individuals will call their experience

traumatic when they don't have a clear grasp of what traumatic means, or when they want to legitimize their bad experiences. Suppose, for example, that a vocal soloist giving a recital froze with stage-fright upon taking the stage. This soloist might later recount that the experience was traumatic. Was the experience traumatic in a clinical sense, or was it simply unpleasant? Consider an even murkier example: suppose you have a colleague who is routinely disrespected in their workplace. Colleagues say mean and disrespectful things about the quality of this person's work, and occasionally call them names to their face. Your colleague reports that this treatment is traumatizing. Does your colleague really believe that they are traumatized as rape victims or war veterans are traumatized? Or does your colleague mean that the experience was a painful and difficult one? If your colleague doesn't know what it means to be traumatized—that there are predictable effects of trauma like flashbacks and incoherent memories—your colleague might genuinely believe they have been traumatized, not knowing that how they define trauma is different from how a clinician would define it. In a way, such error is understandable because there are also predictable effects of workplace harassment. Studies show, for example, that workplace sexual harassment is linked to depression (Friborg et al. 2017). Research indicates that “most people in the general population (in all the countries where this has been studied) have a mixture of little and wrong information about mental illnesses, alongside wary and cautious attitudes about mentally ill people” (Thornicroft, Rose and Kassam 2007, 114). Researchers thus conclude that “it is therefore understandable that [most people] are often slow to recognize developing mental health problems in themselves, in family members or in friends” (Thornicroft, Rose and Kassam 2007, 114). Additionally, little and wrong information about mental health disorders can lead to faulty self-diagnoses. Alternately, if your colleague does know how clinicians define trauma, it might be the case that they had a bad experience and want that experience legitimized with a pathological label.

Despite mental health stigmas, acquiring (or asserting) a diagnostic label can legitimize one's experience.

It's less clear how to proceed in cases where experiences are very bad ones, but don't quite conform to the DSM's definition. By what standards should clinical definitions of trauma include cases where the victim reports (i.e. self-diagnoses) trauma? How do we draw the line between what is "really" trauma and what is not? Of course, it seems problematic that the DSM might not diagnose everyone suffering from trauma, but it's also difficult to retain a meaningful sense of trauma if trauma is ascribed to anyone who self-diagnoses. I'm not in a position to make an argument in favor of one or the other stance in this paper. I'd rather take the DSM's definition as a definition of trauma, with the caveat that this definition can evolve over time. At the forefront of this definition we can keep in mind both that the DSM is not without its flaws, and also that trauma is not trauma simply because someone self-assesses that they have been traumatized.

This brings us back to premise (1). Is it true that if someone is raped, they will be traumatized? One way to answer affirmatively is to provisionally accept the DSM's definition. Another way is to simply appeal to statistical evidence. Studies estimate that 94% of women who are raped exhibit symptoms of PTSD in the first two weeks following the attack (Rothbaum et al. 1992). Even though not all victims experience PTSD for very long (30% continue to exhibit symptoms of PTSD 9 months after the rape) (Rothbaum, Olasov, and Foa. 1993, 25), 94% is an extremely high percentage of victims with consistent and relatively uncontroversial markers for trauma. Of course, there are counterexamples to this, but for an inductive argument, I only need to show that it is very likely true that women who are raped are also traumatized.

Support for premise (2) can be found in various empirical studies that investigate the way trauma affects memory processing. In short: studies find that traumatic experiences are processed

by the brain differently than ordinary experiences. Usually, “when people receive sensory input they generally automatically synthesize this incoming information into the large store of pre-existing information. If the event is personally significant they generally will transcribe these sensations into a narrative, without conscious awareness of the processes that translate sensory impressions into a personal story” (Van der Kolk, 1998). On the other hand, “traumatic experiences initially are imprinted as sensations or feeling states, and are not collated and transcribed into personal narratives. [...] traumatic memories come back as emotional and sensory states, with little capacity for verbal representation” (Van der Kolk, 1998). While this kind of memory processing is a core feature of PTSD, the notion that “traumatic events are almost impossible to put into words [...] is true for all of us, not just for people who suffer from PTSD” (Van der Kolk 2008, 233). Due to the nature of how traumatic memories are processed, then, it is difficult—sometimes impossible—for victims to put words to their memories, let alone construct them according to a coherent narrative. Insofar as traumatic memories are processed in such a way that render the victim unable express them narratively, it seems that premise (2) is likely true.

An obvious—although misguided—objection to this picture of traumatic memory would cite the research that appears to contradict the description of traumatic memory processing I just articulated. Those who are skeptical of the above picture of traumatic memory might object by citing the studies showing that traumatic memories are not at all incoherent but largely accurate and retained for long periods of time. Emily Yoffe is one such critic. Yoffe argues that the science behind the notion that memories are incoherent is “junk science” (Yoffe 2017), because other studies show that traumatic memories are extremely clear and lucid. To make her case, Yoffe cites psychologist Richard McNally. In his *Remembering Trauma*, McNally writes that “neuroscience research does not support van der Kolk’s claim that high levels of stress hormones impair memory

for traumatic experience. (In fact, research on human subjects shows that extreme stress enhances memory for the central aspects of an overwhelming emotional experience [...])” (McNally 2005, 180).

Yoffe, citing McNally, is partially correct. She is right that studies show that certain traumatic memories are lucid and extremely accurate. Van der Kolk admits this: “when something terrifying happens, like seeing a child of a friend get hurt in an accident, we will retain an intense and largely accurate memory of the event for a long time (Van der Kolk 2008). Additionally, van der Kolk cites studies which show that traumatic memories are less likely to erode over time than ordinary memories (Van der Kolk 1998). Yoffe is right when she points out—with McNally’s help—that some traumatic memories are clear, lucid, and accurate. What Yoffe gets wrong is thinking that all traumatic memories are clear, lucid, and accurate. In so assuming, Yoffe presents a false dichotomy: either, she says, traumatic memories are disordered and incoherent or they are recalled in vivid detail with great accuracy. Her misstep lies in either a misunderstanding or a misarticulation of traumatic memories. As van der Kolk goes on to say: “[Trauma survivors] remembered some details all too clearly (the smell of the rapist, the gash in the forehead of a dead child) but could not recall the sequence of events or other vital details (the first person who arrived to help, whether an ambulance or a police car took them to the hospital) (Van der Kolk 2008, 195). It’s consistent with the notion that some aspects of traumatic memories are clear, lucid, and accurate that these same memories might be disordered or inconsistent in certain ways. It is also consistent to have clear, lucid, and accurate memories that don’t lend themselves to narrative structure. So an objection like Yoffe’s is faulty because it appeals to a subset of research on traumatic memory and in so doing, misconstrues traumatic memory research and traumatic memory processing; Yoffe presents an only apparent contradiction, and ignores the complexity of

traumatic memory wherein “on the one hand, traumatized people remember too much; on the other hand, they remember too little” (Herman 1995, 7).

Support for premise (3) is fairly straightforward. It’s commonsense that if testimony is solely reliant upon one’s memories, the testimony is going to be dependent upon the coherency of those memories. I cannot give a description of my 10th birthday party, for example, beyond my memories of it, unless I can appeal to outside sources like other witnesses or a video. It’s unusual for there to be witnesses to rape, and although the rise of technology makes it more likely that external sources can help a victim fill in the details of their trauma (Oliver 2015), rape occurs largely behind closed doors without any witnesses. Further, given that witnesses can also be traumatized and thus have incoherent memories, we can also rightly question the extent to which witness corroboration meaningfully helps victims construct a coherent narrative.

A pressing objection to premise (3) is simply that there many examples of rape victims telling the story of their rape in a coherent fashion. We might think that the existence of coherent rape testimony calls into question the extent to which it is true that if someone has incoherent memories, they will provide incoherent testimony.

In response, it’s worth noticing that there are a number of reasons why coherent rape narratives exist. Sometimes victims have external evidence that helps them construct a narrative. This is a good objection, and so we should amend our understanding of premise three to include a caveat that premise (3) is true if a survivor’s traumatic memories are the only (or primary) means she has to construct a narrative. Other times victims can construct a coherent narrative because they have gone through therapy aimed at memory reconstruction. Studies also show that the passage of time helps victims construct coherent trauma narratives (van der Kolk 2008, 196). It might also be the case that a victim can construct a narrative to the best of her ability, and this

narrative will appear coherent but it will not include all the details. With the rise of the #metoo movement, more and more women are coming forward with their experiences of sexual assault—and are largely able to share coherent testimonies. However, if pressed, it is possible that survivors would not be able to construct a wholly coherent narrative. I could coherently detail my own trauma (Carlson 2017), e.g., but, if pressed there are many details I cannot produce. I can tell you where I was raped, but I cannot tell you how I got there, or what happened afterwards.

It is uncontroversial that coherent rape narratives exist, but the point of premise (3) is not to say that no coherent rape narratives are possible. The point is merely to suggest that there is a correlation between memory and testimony. Strictly speaking, the fact that coherent narratives exist doesn't in itself call into question the connection between memory and testimony. As memories gain coherency over time, with corroborating evidence, or with professional help, so too would the victim's testimony. And, as mentioned, a story can appear coherent if the narrative stays on a level general enough to leave out missing or inconsistent details. Incoherent narratives, then, are not necessary conditions for truth, but incoherent testimonies do not rule out truth—in fact, incoherent testimonies are symptomatic of trauma. Premise (3) is true, then, so long as the survivor must rely on her own incoherent memories of the trauma, which is—unfortunately—in most cases.

Support for premises (4) and (5) can be found in many of our practices. The driving force behind premise (4) is the notion that incoherent testimony is unreliable testimony. There are many cases in which we might reasonably expect to hear incoherent testimony. When an interlocutor is drunk, on certain medications (e.g. certain painkillers or anesthetics), or even simply when someone is recalling an event that took place in the distant past. In all these scenarios, memory or other intellectual capacities can be impaired in such a way that we can reasonably expect elements

of incoherent testimony. When stories are disordered, contradictory, or missing key details, they give us pause.

These elements are what Lackey, Weiner, and others² call positive reasons to reject testimony. We might end up believing the testimony after further investigation, but in terms of the testimony itself, we would call it unreliable in the sense that we are not justified in believing it precisely because it does not conform to an intelligible narrative structure. That is, we would call testimony unreliable in the sense that we are not justified in believing it precisely because it is incoherent, disordered, inconsistent, etc.

Further, in situations where testimony is incoherent, it is not just that we should disbelieve the ancillary details, but we should reject the central claim as well. That is, when a friend who was drunk the night before tells you that, say, they left their hat at another friend's house but cannot give a coherent account of how that happened, hearers are right to question whether or not the hat is really where the inebriated friend says it is. Applying this practice to rape testimony: in scenarios where victims report rape, then, the coherency of the testimony with regard to the details of the attack bear upon whether or not we should accept that rape really occurred. The practice of requiring a coherent narrative is common not only in everyday scenarios, but in legal contexts as well. Since rape testimony typically appears incoherent in ways that speak to its unreliability, even the careful epistemic agent could easily decide rape victim testimony is unreliable, and therefore should not be believed on the basis of the victim's testimony alone.

3. What's Wrong with the Normative Argument Against Believing Rape Victims?

So far I've suggested that there is an argument involving rape victims that—when initiated by the fact that rape occurs—concludes that hearers should not believe rape victims that they were

² See (Weiner 2003) and (Lackey 2006).

raped. For many, this conclusion will be an unhappy one. Indeed, we might think that there is something odd about an argument wherein the fact of an event results in the epistemic stipulation that the victim should not be believed. I have already claimed that NA is only apparently cogent, so where does NA go wrong?

The key insight for dismantling NA rests in premise 4:

(4) If someone has incoherent testimony regarding their trauma, then their testimony regarding their trauma is unreliable.

Support for this premise comes from inductive reasoning; given the observation that incoherent testimony often leads to false beliefs. It seems reasonable to apply the correlation between incoherence and false belief to new cases where the hearer encounters incoherent testimony. It seems reasonable to think that if a rape victim's testimony is incoherent, she is mistaken or even lying. However, premise 4 is false insofar as it deals with traumatic testimony. Traumatic events typically lead to traumatic memory processing. This in turn affects the quality of testimony. In cases involving trauma, incoherent testimony is not just unsurprising if the event actually occurred, it is *expected*. Incoherent testimony about a traumatic event, then, is linked to the truth of the testimony rather than its falsehood. This correlation is precisely the opposite of the normative standards that epistemic agents typically employ when assessing testimony. In rape cases, context clues betray the search for truth. Insofar as reductionism, non-reductionism, and dualism all employ context clues to infer reliability, these theories lead the responsible epistemic agent astray.

So, what's wrong with reliable testimony? A short answer is to say that there is nothing "wrong" with reliable testimony—rather what is wrong is the way our epistemic norms inform the way in which we assess which pieces of testimony are reliable and which ones are not. Put another way, true reliable testimony is—by definition—truth conducive. The problem, then, is that not all reliable (truth-conducive) testimony is marked as such by hearers. The problem resides in the way

hearers tend to use inductive inference on context markers to make an initial assessment of testimonial reliability. Hearers are taught, through many experiences, that calm and coherent people point to true testimony while confused and incoherent people point to false testimony. What's wrong, then, is not with the rape testimony, nor the rape victim, but rather with the epistemic norms that dictate disbelief in the rape victim's testimony.

At this point, you might be convinced that rape victim and other testimony born out of trauma do cause problems for epistemic norms, but you might not yet be convinced that it matters. One possibility—although one I will reject—is that we take the observation that our usual epistemic practices will lead us astray in trauma cases, but that we can note trauma as an exception to the rule.

There are a few reasons why I think it would be misplaced to simply name traumatic testimony an anomaly. First, the way in which traumatic testimony undermines reliable standards has significant consequences for the way in which we should continue to think about epistemic justification. The central question in the epistemology of testimony is when, precisely, we are justified in taking another's word as a source of knowledge. At present, there are only three main theories. These theories are often critiqued and rejected because they fail to account for some broad subset of assertions. In this paper, I have shown that traumatic testimony would fail all three justificatory tests when it should—given an adequate account of testimonial justification—pass. Thus, here I've offered a substantive critique of current views of epistemic justification.

Second, it's mostly uncontroversial that the point of acting in accordance with epistemic norms is so that we can reliably hold true beliefs. Insofar as an epistemic agent is committed to holding true beliefs (I think it's reasonable to say that most, if not all people, are generally committed to this), then the possibility that an epistemic norm might lead them astray should be of

alarming concern. Since rape testimony and other traumatic testimonies can easily lead to false belief (i.e. that the rape did not occur), the nuances of traumatic testimony should not be jettisoned off as an anomalous case.

Finally, insofar as a hearer has any moral commitment to supporting friends, relatives, and acquaintances who have been victims of trauma, the arguments I present in this chapter should be of special import. It can be difficult to think that in order to believe a rape victim, one must betray one's epistemic sensibilities. In this chapter, I hoped to show that those who feel a moral commitment to believing rape victims have epistemic support as well.

References

- Adler, A.B., K. M. Wright, P. D. Bliese, R. Eckford, and C. W. Hoge. 2008. "A2 Diagnostic Criterion for Combat-Related Posttraumatic Stress Disorder." *Journal of Traumatic Stress*, 21: 301-308.
- American Psychiatric Association. 2013. *Diagnostic and Statistical Manual of Mental Disorders: DSM-V*. Washington, DC: American Psychiatric Association.
- Anushka, Pai, Suris M. Alina, and Carol S. North. 2017. "Posttraumatic Stress Disorder in the *DSM-5*: Controversy, Change, and Conceptual Considerations." *Behavioral Sciences* 7 (1): 7.
- Bedard-Gilligan, M., and L. A. Zoellner. 2008. "The Utility of the A1 and A2 Criteria in the Diagnosis of PTSD." *Behavioral Research and Therapy*, 46: 1062-1069.
- Briere, J. N., and Scott, C. 2015. *Principles of Trauma Therapy: A Guide to Symptoms, Evaluation, and Treatment (2nd ed.)*. Thousand Oaks, CA: Sage Publications.
- Carlson, Amber Rose. 2017. "Is There a 'Rational' Punishment for My Rapist?" *The New York Times*, October 23.
- Center for Substance Abuse Treatment. 2014. "Understanding the Impact of Trauma." In *Trauma-Informed Care in Behavioral Health Services*. Rockville, MD: Substance Abuse and Mental Health Services Administration.
- Friborg, M.K., J. V. Hansen, P. T. Aldrich, A. P. Folker, S. Kjær, M. B. D. Nielsen, R. Rugulies, and I. E. H. Madsen. 2017. "Workplace Sexual Harassment and Depressive Symptoms: A Cross-Sectional Multilevel Analysis Comparing Harassment from Clients or Customers to Harassment from Other Employees Amongst 7603 Danish Employees from 1041 Organizations." *BMC Public Health*. 17(1):675.
- Gil, S., and M. Weinberg. 2015. "Coping Strategies and Internal Resources of Dispositional Optimism and Mastery as Predictors of Traumatic Exposure and of PTSD Symptoms: A Prospective Study." *Psychological Trauma: Theory, Research, Practice, and Policy*, 7 (4): 405-411.
- Herman, Judith. 1995. "Crime and Memory." *Journal of the American Academy of Psychiatry and the Law*, 23 (1): 5-17.
- . 1997. *Trauma and Recovery: The Aftermath of Violence—from Domestic Abuse to Political Terror*. New York: Basic Books.
- Insole, Christopher J. (2000). "Seeing off the Local Threat to Irreducible Knowledge by

- Testimony.” *The Philosophical Quarterly* 50.198, pp. 44–56.
- Lackey, Jennifer (2006). “It Takes Two to Tango: Beyond Reductionism and Non-Reductionism in the Epistemology of Testimony.” In: *The Epistemology of Testimony*. Ed. by Jennifer Lackey and Ernest Sosa. Oxford: Oxford University Press. Chap. 8, pp. 160–189.
- McNally, Richard J. 2005. *Remembering Trauma*. Cambridge: Harvard University Press.
- North, C. S., A. M. Surís, R. P. Smith, and R. V. King. 2016. “The Evolution of PTSD Criteria Across Editions of DSM.” *Annals of Clinical Psychiatry*, 28: 197-208.
- Oliver, Kelly. 2015. “Rape as Spectator Sport and Creepshot Entertainment: Social Media and the Valorization of Lack of Consent.” *American Studies Journal*, 10: 1-16.
- Rothbaum, Barbara Olasov, and Edna B. Foa. 1993. “Subtypes of Posttraumatic Stress Disorder and Duration of Symptoms.” In *Posttraumatic Stress Disorder: DSM-IV and Beyond* Edited by R. T. Davidson and E. B. Foa, 23-36. Washington, DC: American Psychiatric Press.
- Rothbaum, Barbara Olasov, Edna B. Foa, David S. Riggs, Tamera Murdock, and William Walsh. 1992. “A Prospective Examination of Post-Traumatic Stress Disorder in Rape Victims.” *Journal of Traumatic Stress*, 5 (3): 455-475.
- Substance Abuse and Mental Health Services Administration. 2012. *SAMHSA’s Concept of Trauma and Guidance for a Trauma-Informed Approach*. Rockville, MD: SAMHSA’s Trauma and Justice Strategic Initiative.
- Thornicroft, Graham, Diana Rose, and Aliya Kassam. 2007. “Discrimination in Health Care Against People with Mental Illness.” *International Review of Psychiatry*, 19 (2): 113-122.
- Van der Kolk, Bessel A. 1998. “Trauma and Memory.” *Psychiatry and Clinical Neurosciences*, 52, S52–S64.
- . 2015. *The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma*. New York: Penguin Books.
- Weiner, Matthew (2003). “Accepting Testimony.” *The Philosophical Quarterly* 53.211, pp. 256–264.
- Yoffe, Emily. 2017. “The Bad Science Behind Campus Response to Sexual Assault.” *The Atlantic*, September 8.