



DEPARTMENT OF PSYCHOLOGY

INTERVIEWING CHILD WITNESSES

Proceedings of the 2016 Theoretical Course

Edited by: Sara Landström

In collaboration with



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PREFACE

The PhD course *Interviewing child witnesses* (6 higher education credits) offers an introduction to child interviewing in forensic settings. The first part of these proceedings focus on different interviewing techniques. The PhD students were asked to choose and study one established legal interrogation technique and explain why (or why not) the technique is suitable for interrogations of children of different ages and for what purposes the technique is suitable (e.g., for child plaintiffs, witnesses or child suspects). The second part of these proceedings focuses on children in the legal system worldwide. The students were to give an oral presentation and a brief written account of the situation for children (as suspects, as witnesses, and as plaintiffs) in the legal system in their home country.

The course is mandatory for those PhD students enrolled in the House of Legal Psychology Erasmus Mundus Joint Doctorate Programme (EMJD-LP) and optional for Swedish PhD students with an interest in child forensic interviewing. For previous proceedings, please see:

http://psy.gu.se/digitalAssets/1471/1471694_interviewing-child-witnesses-fall-2013.pdf

Sara Landström, August 2017.

PART 1: LEGAL INTERROGATION TECHNIQUES USED WITH CHILDREN

THE COGNITIVE INTERVIEW

Suitability of the Cognitive Interview for use with Children

Nicole Adams-Quackenbush

Maastricht University (the Netherlands) & University of Portsmouth (UK)

The forensic investigative interview is an important information-gathering tool used by the police. This type of interview is especially helpful when the police are attempting to identify a suspect, determine details of a crime, gather evidence, and when building a case against a potential suspect. As an information gathering tool, the investigative interview is only as good as the interviewer. That is, the abilities and competencies of the interviewer largely influence the quality of the information obtained, as well as the outcome of the interview (e.g., reliable information and interviewee cooperation). However, assuming the most well trained interviewer, there is another important variable that must be considered: suitability of the techniques to the interviewee.

During a forensic investigative interview, the interviewee is required to recall, retrieve, and recount memories of events that are often traumatic. It may be necessary for witnesses and victims to sort through overwhelming emotions they may have experienced at the time of the event. Interviewees are also asked to remember important details that may or may not have been stored in the memory. The interviewee is then asked to find the words to articulate these details to the interviewer. In short, participating in an investigative interview puts a large demand on the interviewees' emotional and cognitive resources.

There are many different interview techniques that can be used to elicit details from the interviewee; however, not all techniques are suitable to be used with all types of interviewees. For example, interviewing children as victims or witnesses often raises additional and unique challenges that need to be considered. A child may not be at a developmental phase, or have acquired the necessary skills, to perform the tasks needed for a successful forensic interview.

The Cognitive Interview

One of the most popular forensic interview techniques used by police is the Cognitive Interview (CI). This interview technique was introduced in the mid-1980s to help police elicit more accurate and complete eyewitness accounts (Geiselman et al., 1984). Since its introduction, the CI has been empirically tested in hundreds of laboratory studies and a few real-life forensic interviews (Fisher, Ross, & Cahill, 2010). Laboratory studies have shown that the CI is effective in enhancing the correct recall of memories with only a small increase in incorrect memory recall in both adults and children (Memon, Meissner, & Fraser, 2010).

Over the decades, the CI has been enhanced to give the interviewee as much time as needed to make a complete account of the events. Instructions for the interviewer to start with free recall and eventually work toward more specific questions have also been included (Fisher, Geiselman, Raymond, Jurkevich, & Warhaftig, 1987). The CI was then revised to partition the interview into five distinct stages that assist the interviewer in progressing through the session. These phases also provide some structure to the interview (build rapport, free recall, mnemonics, present information for accuracy, and close the interview; Fisher, Geiselman, & Amador, 1989). Although the CI has seen some changes over the years, the technique used today is still based on the original four mnemonics or retrieval rules: 1) context-reinstatement, 2) report everything, 3) change order, and 4) change-perspective. However, it is within these mnemonics that the interviewer may encounter some challenges in using CI with young children.

Developmental Factors, Forensic Outcomes, and the Cognitive Interview

Since the final revision, the CI technique has been tested extensively with both adults and older children. Geiselman and Padilla (1988) tested the usefulness of the CI with children 7 – 12 years old and found a 21% increase in correct information details than children subjected to the standard interview techniques of the time. However, they also found that the number of mistakes and confabulations (i.e., other memories intrude and become part of the story) did not differ by interview type, and that the number of confabulations was directly related to the age of the child. These findings prompted suggestions to further modify the CI for use with children (MCI). The modifications to the CI included a more detailed set of instructions about the “rules” of the interview (e.g., “*if you don’t know the answer, don’t make something up. You are allowed to say ‘I don’t know’*”), and enhanced verbal instructions and general techniques for the interviewer (e.g., do not interrupt the child at all; Aldridge, 1999).

Despite these modifications, the creators of the CI and researchers in investigative interviewing techniques realized that the full CI still posed some problems when interviewing children. Even more challenges emerged when interviewing children younger than six years of age. To determine what additional modifications may be needed, Holliday and Albion (2004) tested the MCI on four and five year old children. The researchers used a misinformation paradigm to also examine whether this age group was prone to confabulation despite the modifications. They created six conditions by removing a mnemonic of the MCI for four of the conditions, increasing rapport-building time by five-minutes in a fifth condition, and including a control condition where the children were subjected to the full CI.

Holliday and Albion (2004) found that children who were not subjected to the full CI recalled significantly more correct details than those in the control condition. Moreover, children in all of the MCI conditions gave more complete reports than children in the control condition. The researchers suggested this could be attributed to the context reinstatement, report-all, and change order mnemonics. Although these findings seemed promising, they did not take into account preschool children (18 months to 4 years) and the developmental abilities and limitations of this age group. Preschool children can be especially challenging because their level of development may not be compatible with the mnemonics that make up the CI.

Context reinstatement. During the context reinstatement portion of the MCI, the child is asked to revisit the “*to be remembered*” (TBR) event by creating a mental picture. The interviewer may guide them through the scene by asking them to think about the environment, the temperature, the smells, and any people or objects in the area. Although this technique forms the basis of the CI, it is open to source monitoring errors when used with young children (Poole, Dickinson, Brubacher, Liberty, & Kaake, 2014). This is due to memory retrieval differing and improving with age and experience. What is important or salient to a child differs significantly for children at different developmental stages. Thus, details that are not attended to, will not be encoded into the memory. Furthermore, even if certain details do make it into memory, they will vary in strength and any items that are encoded weakly will fade more quickly (Baker-Ward & Ornstein, 2002).

Narrative skills at the time of the event are also important to memory and the recounting of those memories. If a child is abused at a time they had limited verbal abilities, but are interviewed after these skills have developed, they are less likely to provide verbal information about the event (Baker-Ward & Ornstein, 2002). The ability to recall events is also affected by other developmental factors. For example, one of the modifications frequently employed in MCI with children is the use of drawings or inanimate objects to demonstrate their experiences. Very young children are often unable to perform these tasks successfully because they do not see these items as extensions of the self, and the depiction of an event through drawings requires skill, and a level of abstraction, not usually seen in children younger than 5-7 years (Fivush, 2002; Verkampt, Ginet, & Colomb, 2014).

Finally, one of the most serious drawbacks of context reinstatement is that it requires the interviewee to relive potentially traumatic or highly emotional events. This can create overwhelming distress and re-victimization in children who have experienced severe abuse or neglect. Children may also be reluctant to recall and recount how they felt during a TBR event as a defense mechanism against further traumatization. If this is the case, the CI may be more damaging than helpful to the child by facilitating flashbacks or exacerbating PTSD symptoms (Aldridge, 1999).

Report-all. When the interviewer instructs the child to report everything, the interviewer encourages the child to tell them all the details they can remember no matter how trivial the detail may seem. This mnemonic often involves the use of free recall techniques; however, even when these instructions are given in an age appropriate manner, it can still be difficult for the child to give a complete and accurate description of the event. Because free recall develops much later than other basic forms of memory retrieval, young children are more susceptible to confabulation (Schacter, Kagan, & Leichtman, 1995; Stolzenberg & Pezdek, 2013). Additionally, the ability to distinguish details of a TBR event from what is remembered (self-produced information) and what one has been recently exposed (recently presented information) requires the maturation of certain areas in the prefrontal cortex (Buda, Fornito, Bergström, & Simons, 2011). This means that children are more susceptible to suggestibility, even from items within their immediate environment.

Furthermore, the risk of confabulation increases with demand characteristics, a high desire to be helpful, incomplete language development, and a higher risk of retrieving inaccurate information due to decreased ability to source monitor (Poole, et al., 2014). This can occur even when the child is instructed not to make up the answers, and when the child is told that it is acceptable to state that they do not know. Focused questions are likely more appropriate for young children because it allows the child to recount only what they actually remember; however, there is also a danger in using focused questions with young children (Baker-Ward & Ornstein, 2002). Principe, Greenhoot and Ceci (2014) found that young children's error rates significantly increased when specific words in the focused question triggered memories not related to the TBR event.

Change-order. A mnemonic frequently used with adults during a CI is the change-order. Here the interviewee is asked to report the TBR from different temporal points than the initial starting point. Change-order poses a problem because younger children have difficulty recounting events using accurate chronological techniques and require a lot of prompting ("*and what happened after that?*"). However, very young children are more likely to provide an initial free recall of the TBR event that is out of sequence because young children do not usually have the ability to temporally rearrange the sequence of details of a TBR event (Poole, 2014). Moreover, if the child has been exposed to repeated experiences of a similar event, source-monitoring errors could be exponentially increased. For example, if the child has experienced repeated instances of sexual abuse in different locations, or with more than one-person present, it is more likely that a young child will confuse the details of each event. A young child may not have the capacity to create a timeline of events over their current lifespan (Powell & Thomson, 2002).

Change-perspective. To ensure they have obtained as many details as possible, the interviewer will often ask the interviewee to recount the TBR event from a different perspective. For example, a child may be asked, "*If there was a Teddy bear in the room, what do you think the Teddy would say he saw?*" This technique has been successful in producing additional detail in children 7 – 11 years old (Aldridge, 1999); however, this instruction could be confusing for a younger child. The ability to attribute beliefs and knowledge to oneself and others, as well as pretend play, requires the development of theory of mind (ToM). There is strong evidence that ToM development is correlated with language development in humans (Milligan, Astington, & Dack, 2007). That is, as language develops, the ability to see oneself and others as separate beings with individual emotions and capabilities also increases. Moreover, Moore, Pure and Furrow's (1990) work has shown that the ability to understand words such

as *think* and *believe* significantly predicted ToM development in preschool children. Children also require verbal ability to recall an event, which occurs around 2 years of age (Fivush, 2002). This is also consistent with the age we begin to see evidence of ToM in young children; however, this does not mean that all children at this age have the ability to pretend or speculate what another real, or pretend, person, or object in the room may have seen or experienced.

Can the Cognitive Interview Work with Children?

Overall the CI retrieves more accurate details from adult and child interviewees than many of the other interview techniques currently employed in forensic interviewing. The CI's success hinges largely on the interviewee's ability to retain the details, recall the event and recount their experiences. Although a child's ability to recall with age has been demonstrated experimentally, the reliability of recounts at a later time relies largely on the accuracy of the first recount. There is some evidence that suggests emotional valence may also play a role in recall. For example, in positive events, children tended to recall a more descriptive narrative about the people, objects and environment. For negative events, children recalled how they or other people reacted emotionally and provided fewer details (Fivush, 2002).

The CI as an investigative interview is a technique that provides a lot of flexibility in how the mnemonics are employed, and it allows for the interview to be tailored to the specific needs of the interviewee. The CI has demonstrated much success with adults and typically developing children older than 7-years. Research has demonstrated that the modified CI techniques may be appropriate for children between 4 and 6 years of age. However, based on the aforementioned literature and empirical evidence, it seems clear that the CI may not be suitable for use with children younger than 4-years of age due to their developmental and cognitive limitations.

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The efficacy of the Cognitive Interview for interrogating children

Meghana Srivatsav

University of Gothenburg (Sweden) & Portsmouth University (UK)

January 21st 1998, Escondido, California: Stephanie Crowe, the 12 year old daughter of Stephen Crowe and Cheryl Crowe was found dead in her bedroom lying amidst a pool of her own blood. She had been stabbed nine times. A scream from her grandmother alerted the parents and Stephen called the Escondido police frantically crying that his daughter was dead and that they needed help. An initial investigation by the police showed no evidence of forced entry, broken locks, murder weapons or any tell-tale signs of an external perpetrator. The police then took the family in for questioning, initially suspecting Stephen of molesting and killing his daughter. Further investigation ruled out that possibility and the police took the other two children Shannon and Michael Crowe in for questioning. Observations by the detectives made them conclude that Michael seemed more aloof about the murder of his sister than the rest of the grieving family. He became the prime suspect. After an intense, misleading, coercive, confrontational interrogation of the 14-year-old Michael, the boy confessed. Clearly, this “*confession*” was forced out of him due to extreme stress and emotional trauma. He was recorded saying, “I do not remember doing it. I am only saying this because that’s what you want to hear.” (The murder of a 12-year old- Crime Documentary, Mark Wallace & Jonathan Greene; Courtroom Television Network LLC, 2001).

The unfairness of the justice system becomes evident in scenarios such as the aforementioned case. In Michael’s interrogation, the authorities used the very popular but controversial Reid technique to accumulate their confessions. This was not just used on Michael but on two of his friends who “*confessed*” as co-conspirators of the crime. In May 2004, further investigations lead the police to Richard Raymond Tuite who was later sentenced to thirteen years of imprisonment for the murder of Stephanie. In December 2013, however, he was pronounced not guilty by the jury due to lack of concrete evidence against him. The unsolved murder of Stephanie Crowe highlights the flawed interrogation techniques used against children that ultimately lead to false confessions. The investigation and interrogation by the police lead to compliance due to psychological trauma (Zimbardo et.al, 1971).

Jean Piaget’s theory of cognitive development explains how children assimilate and accommodate new information. Based on this theory, abstract thinking and reasoning becomes a prominent feature in children around the age of 14 (Piaget, 1972). Before this age, most of the cognitive activities are basic in nature and requires concrete criteria for the child’s comprehension. This means that when a child is taken into an investigation, it is important to understand the mental development of the child based on the established theoretical setup. However, developmental aspects may vary amongst children based on biological, environmental and psychological factors, and these should be taken into consideration. Keeping this in mind we can examine the efficacy of the Cognitive Interview technique (Fisher & Geiselman, 1992) in interrogating children in a crime scenario.

The Cognitive Interview (CI)

The Cognitive Interview (CI) is based on the following four major memory retrieval component: Mental Reinstatement of Environment and Personal Contexts (mentally revisiting the scenario that needs to be recalled by the child during the interview); In-depth Reporting (Giving details about every minute detail of the scenario); Describing the to-be-recalled event in several orders (to gain a better perspective of the situation, narrations are requested at different points of the interview); Reporting the to-be-recalled events from different perspectives (seeing the same event from another’s point of view). Research has shown that children are suggestible by nature and it is therefore important to formulate unbiased, non-leading questions while interviewing them (Ceci & Bruck, 1993). The CI technique has, with success,

been used on children to help them recall accurate details of a witnessed crime event. The technique also reduce suggestibility. Children can recall more details using memory cues and this would result in collecting substantial and accurate information (Venkampt & Ginet, 2010). The cognitive interview has shown more promising results of child eyewitness memory than other techniques. Studies have shown that the CI generates 21% to 27% higher accuracy rates in the information collected, compared to other techniques (Geiselman & Padilla, 1988; Holliday, 2003). In contrast to other interview techniques, the CI is one of the most promising (Fisher & Geiselman, 2014). The technique also has the undue advantage of considering the cognitive development of the child at various developmental levels that makes it most pragmatic one. It has also been observed that enhanced retrieval of event related memories of children occur with the use of the CI (Geiselman et al, 1986). It is also important, especially for children that they connect with the interviewer to reveal relevant information. The CI gives weightage to rapport building, setting it apart from other confrontational interrogation techniques making the information gathering process smooth and allowing children to be relaxed during the process (Waddington & Bull, 2007). Children tend to take more time than adults to comprehend the purpose of their presence in an interrogation. The CI incorporates a slower, more comprehensive questioning while making sure that the child understands the overall context clearly. Since the CI does not involve a pre-established model of questioning it becomes convenient to alter the questioning as the context is established according to the child's development stage. (Fisher & McCauley, 1991). It has also been found that older children, at a higher developmental stage, recall better when the context is asked to be recalled backwards in the sequence of events due to the recency effect of the narration making this a helpful tool to identify the veracity of their statements. (Geiselman & Padilla, 1998). Children are also seen to show better retrieval with visual imagery (St-Clair & Holmes, 2008), this is one of the popular strategies included in the CI. This is especially helpful with children who refuse to talk due to either anxiety or shyness.

The Modified Cognitive Interview

Investigative officers have argued that despite the efficacy of the CI, the procedure is a lengthy making this technique less efficient. In addition, the lack of time to solve cases within investigative agencies puts pressure on the authorities leading them to avoid using this technique (Dando, Willcock, Milne & Henry, 2008). The main difference between the CI and the Modified Cognitive Interview (MCI) is the time consumed at the mental reinstatement of context (MRC) stage. The MRC is the most important stage, which involves the subject recalling the mental, emotional and physical states of the event that is under question. A shorter version called the Sketch MRC was introduced within the MCI. This technique requires individuals to sketch out retrieval cues that will allow for a quicker recall of events. This will hence reduce the time of the interview and reduce the possible suggestibility of the interviewer designing the memory cues as in the CI technique (Dando et al, 2008). Studies have shown that the MCI is a more effective method of interviewing children as it reduces the load of the extensive CI (Memon et al, 1996). Since the retrieval cues are sketched out by the interviewee, suggestibility is drastically reduced. (Holliday & Albon, 2004).

Discussion

From the research on the CI and the MCI on children as an interviewing technique, it can be stated that it shows a lot of promise in terms of its use in information gathering. However, the research of MIC with younger children is insufficient and further investigation is required for said population. In addition, most of the experiments have been carried out within experimental set ups which can control the time of presentation and the event related information. To ensure its generalizability, the technique must be further tested on real-life scenarios.

Recalling traumatic events can cause children extreme stress. This is important for investigators to consider especially since additional stress can hinder the efficacy of the technique. It is also necessary to keep in mind the child's age and gender, their mental-emotional-physical development, as well as the type of event that has taken place. Despite the fact that the CI takes into consideration the cognitive development of the child, individual differences could significantly affect the usability of this technique as the most effective for all cases. Studies are limited in terms of comparison with other interview/interrogation techniques that makes its foothold wobbly. However, it is safe to say that the CI can be a valuable tool for interviewing children. Further research based on the existing limitations could make this a stronger alternative to other child interviewing techniques.

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Benefits and limitations of the Cognitive Interview with children

Renan Benigno Saraiva

University of Portsmouth (UK) & Maastricht University (the Netherlands)

Interviewers in forensic contexts have long been encouraged to follow evidence-based interview protocols, especially when interviewing children (e.g. American Professional Society on the Abuse of Children guidelines, 2012; Lamb et al., 2008; Lyon, 2014). Children as young as three or four years old can provide statements with enough clarity and reliability to assist in trials (Goodman & Melinder, 2007; Hershkowitz et al., 2012), but children - as well as adults - are prone to memory mistakes. Eyewitness memory research has focused on identifying social and cognitive sources of error in memory accounts, allowing the development of interview protocols that maximize the amount and quality of information obtained (Powell, 2013). Some basic principles underlie most of these interview protocols, such as providing an inviting environment (Powell & Cauchi, 2013), establishing a meaningful rapport (Ahern, Stolzenberg, & Lyon, 2015), and the use of a questioning style that maximizes free narrative detail (Sternberg et al., 1996). A prominent example of a protocol that follows such principles is the cognitive interview (CI; Fisher & Geiselman, 1992). In this draft I discuss the use of CI with children, highlighting the benefits and limitations of such technique in forensic settings.

The Cognitive Interview

The CI was specially developed to enhance retrieval of information, instructing witnesses to: freely report every detail that comes to mind no matter how trivial they may seem; recreate the context of the witnessed event mentally (contextual reinstatement); describe what happened in a different temporal order; and use different perspectives when recalling the event. The CI interviewer also employ several strategies to maximize witnesses accuracy, such as establishing rapport, allow the witness to have control on the interview, and use questions that are congruent with the witness report (Fisher & Geiselman, 1992). Meta-analyses on adult eyewitness studies revealed that the use of CI increased the recall of accurate information in about 35% to 45%, compared to standard interview procedures (Köhnken, Milne, Memon, & Bull, 1999; Memon, Meisser, & Fraser, 2010). Numerous studies also indicate that the CI improves children's recall of witnessed events when compared to other interviews (e.g. Fisher, Brennan, & McCauley, 2002; Holliday, Reyna, & Hayes, 2002; Holliday, 2003a, 2003b; McCauley & Fisher, 1995; Saywitz, Geiselman, & Bornstein, 1992). Specifically, the CI seems to improve children's recall of people, actions and objects (Holliday et al., 2002; Milne & Bull, 2003), characteristics particularly important when evaluating abuse reports.

Recent findings also suggest that CI promotes better quality accounts among children with intellectual disabilities (Gentle, Milne, Powell, & Sharman, 2013; Milne, Sharman, Powell, & Mead, 2013; Robinson & McGuire, 2006). Gentle et al (2013), for example, found that children with mild to moderate intellectual disabilities interviewed with the CI reported more contextual and background information of a witnessed event, although it did not increased the amount of grammar elements in the narrative. Another apparent benefit of CI is that this approach protect witnesses from repeated questioning, which can yield negative effects in their accounts (Wysman, Scoboria, Gawrylowicz, & Memon, 2014).

Theoretical frameworks of CI with children

The benefits and limitations of CI on children's testimony can only be completely appreciated when taking into consideration a developmental perspective on memory systems. In fact, memory

performance is both quantitatively and qualitatively age related (Bruck & Ceci, 2004). Some theories on memory functioning have proposed that it consists of multiple interacting systems, which have different roles on our ability to encode, store and recall information (e.g., Tulving, 2002). These different systems may not be equally developed along distinct age groups. Procedural memory, for example, appears to be present since very early development, but has little usefulness in forensic contexts (Cowan, 1998). Perceptual representation systems, semantic knowledge, and autobiographical memory - all of forensic relevance - are only acquired later in maturation, and may have different elaboration depending on children's age and maturity (Cowan, 1998; Tulving, 2002). Therefore, interview questions must always take into account the child's knowledge and reasoning ability, and the child's stage of cognitive development must be considered when interpreting their answers (Singer & Revenson, 1996). Finally, although memory abilities differ along different age groups, the CI seems to have the same effect on children's and adults (Milne & Bull, 2002; Priestley, Roberts, & Pipe, 1999).

It is also well documented that most problems with children witnesses recall comes from omission, rather than commission errors (Milne & Bull, 1999; Poole & Lamb, 1998). CI helps in that aspect by motivating detailed recalls with non-suggestive questioning (report-everything instruction), allowing a more complete and unbiased recall. This is also in line with the concern of children being more susceptible to suggestibility effects (Ceci et al., 2002), and again CI benefits memory recall by protecting children from misinformation (Holliday & Albon, 2004).

Limitations of CI

Although CI is very efficient and often improves children's testimony, it still has some disadvantages and limitations. Some studies show that CI increases confabulation and amount of incorrect information reported (Fisher, Brennan, & McCauley, 2002; Hayes, & Delamothe, 1997; Köhnken, Milne, Memon, & Bull, 1999; Memon, Wark, Bull, & Koehnken, 1997); although its impact on testimony accuracy remains relatively low (e.g., Holliday, 2003a,b). Also, other studies have showed a lack of improvement when employing CI techniques with very young children (Memon, Holley, Wark, Bull, & Kohnken, 1996). However, a recent study addressing this problem showed that a modified cognitive interview (MCI; Memon et al., 2010) can increase the amount of correct information provided by children aged 4 to 6 in about 42% (Verkamt, Ginet, & Colomb, 2014). The main difference of the MCI is that it provides social instructions that establish some ground rules of communication (i.e. "children can say 'I don't know'" and "Interviewer knows nothing about the facts"; Verkamt, Ginet, & Colomb, 2014). There is still a lack of studies that investigated the benefits of MCI on children and adults with intellectual disabilities. Furthermore, there seems to be a lack of studies that make direct comparisons between CI and other evidence-based interview protocols, such as the NICHD (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007), and the step-wise interview (Yuille et al., 1993).

Final considerations

Surveys show that many professionals are skeptic about children's credibility as witnesses (Melinder, Goodman, Eilertsen, & Magnussen, 2004; Strömwall, Hartwig, & Granhag 2006); and that police officers are reluctant to use CI techniques (Memon, Holley, Milne, Koehnken, & Bull, 1994). In fact, memory has a very important developmental component, and ability to codify and retrieve information increases as maturity is reached (Cowan, 1998, Priestley, Roberts, & Pipe, 1999; Tulving, 2002). However, numerous evidences show that children are capable of providing reliable narratives in forensic settings, being a fundamental asset in the criminal justice system (Goodman & Melinder, 2007; Hershkowitz et al., 2012). Also, as discussed thoroughly this text, different interview techniques improve children's testimonies as much as they do with adults. The CI approach reliably obtains more information compared to standard interview protocols (Memon, Meissner, & Fraser, 2010), and it is

suitable to populations with different intellectual disabilities (Gentle, Milne, Powell, & Sharman, 2013). Limitations in the technique have been addressed (Memon et al., 2010; Verkampt, Ginet, & Colomb, 2014), but room for improvement has been suggested, such as further exploring the individual benefits of each CI mnemonic (Davis, McMahon, & Greenwood, 2005; Milne & Bull, 2002). In fact, it has been suggested that different types of the CI might be more suitable for child interviewing (Verkampt & Ginet, 2010). The advantages of applying psychological knowledge to the legal system are notable, but it remains a challenge to offer proper training and information access to practitioners (Kebbell, Milne, & Wagstaff, 1999; Wells & Quigley-McBride, 2016). Finally, a coherent guideline proposed in the field is to guard against overly pessimistic or optimistic interpretations of children's credibility as witnesses (Goodman & Melinder, 2007).

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Interviewing Child Witnesses: The Cognitive Interview

Sergii Yaremenko

Maastricht University (the Netherlands) & University of Portsmouth (UK)

Eyewitness testimony has traditionally been one of the most important sources of evidence in criminal proceedings. At the same time, a substantial body of research indicates that human memory can be prone to a number of biases and distortions. Mostly unimportant in everyday life, these distortions often have grave consequences in legal contexts, resulting in grave injustices. For this reason, researchers have been focusing on developing better ways of eliciting information from witnesses. In the course of this work, a number of interrogation techniques have emerged, such as the Cognitive Interview, Strategic Use of Evidence, Self-Administered Interview etc. One of them, the Cognitive Interview (the CI), is considered to be among the most well established protocols that allows for the numerous factors that contribute to accuracy of elicited information.

The Cognitive Interview

Developed by Geiselman et al (1984), the original version of the CI was based on well-established notions and ideas on the mechanisms underlying memory functioning. One of such ideas known as encoding specificity principle states that the more cues present at the time of retrieval overlap with the cues present at the time of encoding, the better memory performance is going to be (Tulving & Thomson, 1973). In order to increase the overlap between retrieval and encoding contexts, two mnemonic techniques are employed in the CI. One of them is mental reinstatement of the environmental and personal context of the event, in which witnesses are asked to think about internal and external cues that were present at the time of encoding. In the second mnemonic technique, witnesses are asked to report everything regardless of whether certain details are considered relevant or important.

Another theory underpinning CI is the multi-component view of memory. This model emphasizes the complexity of memory trace and the idea that there is a higher possibility to access information about an event if several retrieval routes are used. Encouraging witnesses to vary the order of retrieval of events can achieve this and the perspective from which the events are reported (Geiselman, Fisher, MacKinnon, & Holland, 1985).

Further effort to enhance social and communicative aspects of the CI resulted in a more eyewitness-centered procedure. The Enhanced CI included such instructions for an interviewer as allowing the witness to control the flow of the information, avoiding interrupting the eyewitness and tailoring the language to each eyewitness (Fisher & Geiselman, 1992). The core mnemonic techniques remained the same, the context reinstatement procedure perhaps being the core of the protocol (Memon & Higham, 1999).

The Cognitive Interview and Child Testimony

A substantial body of research has demonstrated the effectiveness of the CI. However, the suitability of a legal interrogation technique depends on a number of factors, the age of a witness being a particularly important one. The pool of individuals involved in criminal justice system is comprised of individuals of various ages and, just like adults, children appear as witnesses, plaintiffs or suspects. However difficult the dilemmas of involving a child in criminal proceedings could be, it is still sometimes only child's testimony that can provide crucial details. This paper focuses on evaluating whether and to what extent the CI is a suitable technique for interviewing children of different ages.

Theory of Mind

In general, the theory of mind refers to a child's ability to attribute knowledge and mental states to others. This aspect of child's cognitive functioning is essential to the effectiveness of any legal interrogation technique, as the understanding of an interviewer's intentions and questions directly depends on the theory of mind. In this regard, it is important that one of the CI's techniques, namely the requirement to report on the witnessed event from another person's perspective, presumes that a witness has relatively advanced understanding of mental processes of other people.

Some of the attempts to resolve above-mentioned issues resulted in the development of modified versions of the CI. For instance, Holliday (2003a, 2003b) substantiates the removal of the perspective changing technique in an attempt to adapt it for the use of 4- to 6-year-old children. In another modified version (Davis, McMahon, & Greenwood, 2005), child witnesses are asked to additionally go through the event in chronological rather than reverse order, and perspective change instructions are removed completely.

Executive Functioning

In order for the CI to work properly, children need to engage in goal-directed behavior, which means that attentional effort, inhibitory control and certain degree of planning may be required. Inhibitory control emerges at the age of 3 to 5 (Perner & Lang, 1999). Therefore, children might encounter difficulties performing certain aspects of the CI before these capacities are fully established. To a certain extent, the Enhanced Cognitive Interview's instruction to minimize any distractions might be helpful for this purpose.

It is also possible that when instructed to "travel back in time" in order to reinstate the context of the event, children will fail to inhibit competing images coming from their imagination instead of the actual memory trace. However, there has been no evidence that the CI induces false memories or confabulations in adult witnesses so far. On the contrary, Pressley and Levin (1980) reported an increase in recall performance due to similar imagery instructions. Likewise, Sharman and Powell (2013) have shown that the CI also typically does not contribute to the development of false memories in adults. Further research might still be necessary to investigate specific effects of context reinstatement technique in 3 to 5-year-old witnesses.

Source Monitoring

There are variations in the capacity of autobiographical memory among children of different ages. One important issue is erroneous responses to suggestive questions among young children, especially preschoolers. In this regard, the CI is known for reducing suggestive elements and uncertainty in questioning and minimizing the chance of misinterpretation.

Imagination is an inevitable part of a child's life. Children are worse at discriminating between a memory for an event the way it was actually experienced and its imagined version. This may be a substantial source of inaccuracies in child testimony. An act of misjudging a memory for imagined or heard event for an actually occurred one is called a source monitoring error. According to Johnson and Raye (1981), imagined and perceptually derived memories differ in a number of ways. First, externally generated memories in general have more sensory, spatial and temporal contextual attributes. Second, externally generated representations are more semantically detailed. Third, they contain more information or more specific information than internally generated representations. Memories derived from imagination, in turn, typically have more information about cognitive processes. The dimensions described in the reality-monitoring model (Johnson & Raye, 1981) could be used to decide on the origin of a trace regardless of the particular content of the memory involved. The more features of perceptually derived memories a particular memory has and the more familiar it seems, the more likely it is to be judged as a memory of a real event (Goff & Roediger, 1998; Johnson & Raye, 1981; Koehler, 1991). In

other words, if the memory trace meets certain criteria, an individual may mistakenly consider something he or she heard of or imagined for an event that has actually been experienced.

However, recent studies show that the opposite might actually be true (Otgaar, Howe, Brackmann, & Smeets, 2016), traditionally a number of studies have concluded that susceptibility to false memory is indeed a substantial obstacle in child testimony (e.g. Cohen & Faulkner, 1989; Roberts, 2002 etc). However natural and inevitable source monitoring errors may be from the point of view of child's cognitive development, they can lead to serious consequences in forensic contexts. From this perspective, context reinstatement and the use of open-ended questions in the CI seem to be an effective means of reducing source-monitoring mistakes in child witnesses.

Social and Emotional Development

Another important concern when interviewing children is minimizing stress. In order to encourage the child to feel more at-ease, Fisher and Geiselman (1992) suggest the including of rapport building phase in their Enhanced version of the CI. The authors include such steps as explaining to the witness the reason of being interviewed, what is going to happen during the interview, stress the importance of using the witness's name and showing explicit signs of active listening. As means of reducing anxiety, an interviewer could start by asking simple questions. Indeed, the Modified CI was shown to significantly increase the amount of correctly recalled information in children (Saywitz, Geiselman, & Bornstein, 1992).

Another modification of the CI is the instruction to build an interview in witness-centered way (Fisher & Geiselman, 1992) in which witness feels like he or she is in control of the interview flow. In case of children, this may help reduce negative emotional reactions and possibly avoid re-victimization to a certain extent.

Finally, a possible problem could be that the context-reconstruction technique in the CI may actually appear to increase the chances of re-victimization. Along with improving recollection, context reinstatement technique may lead to excessive activation of negative emotional responses a child could have experienced when witnessing the event. Therefore, it seems that in certain cases mental context reinstatement should only be used after careful consideration.

Conclusion

The positive effect of the CI strategies is quite well established, and the technique has demonstrated good results with child witnesses. At the same time, studies have shown that younger children may have more difficulty adhering to the more advanced components of the cognitive interview. Some mnemonic techniques employed by the CI may be less successful in very young children due to developmental peculiarities of children of certain ages. Such aspects of the CI as the perspective changing technique do not seem to be suitable for children under the age of six.

In spite of the attempts to modify the technique for children, these adjustments are not equally effective for children of different ages, and it appears that 4-year-olds often have major problems with most aspects of the CI. However, it has been pointed out before that the Enhanced Cognitive Interview is not an all-or-nothing approach and does not imply that all the phases must be used in every single interview (Paulo, Albuquerque, & Bull, 2013). Indeed, very frequently, age is only a rough indicator of a phase of development of each psychological domain, and in order to successfully use the CI with child witnesses, it might be necessary to adjust the specific techniques and the complexity of language used by investigator to each specific child.

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THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT (NICHD) PROTOCOL

Evaluation of the NICHD Protocol to interview children in legal settings

Alejandra De La Fuente Vilar

Maastricht University (the Netherlands), University of Gothenburg (Sweden) & University of Portsmouth (UK)

Children's Testimony in Legal Settings

There is a body of research showing that children have the ability to report precise information about events they have experienced or witnessed (Bull, 2010), especially when the interviews are developmentally sensitive (Lamb, Sternberg, & Esplin, 1995; Malloy, la Rooy, Lamb, & Katz, 2011). The National Institute of Child Health and Human Development Protocol (NICHD Protocol; Lamb, Hershkowitz, Orbach, & Esplin, 2008), is a structured protocol used to interview children in legal settings (Lamb, la Rooy, Malloy, & Katz, 2011). In this paper, the NICHD Protocol will be evaluated in relation to cognitive, social and psychological aspects of child development that can largely affect children's participation in legal proceedings.

The NICHD Protocol

The NICHD interview (see <http://nichdprotocol.com/NICHDProtocol2.pdf> for a full description of the NICHD protocol) instructs interviewers to use non-suggestive open prompts to encourage children to report meaningful and detailed information about past events. The interview aims at creating a supportive environment for the child and to build rapport (Lamb et al., 2008) to facilitate autobiographical memory retrieval and develop free-narrative recall (Hershkowitz, 2011).

At the beginning of the interview, there is a series of lie/truth probing questions to encourage truth-telling. In addition, the child is instructed not to guess and to say 'I don't remember/ know/ understand', or correct the interviewer when appropriate (Lamb et al., 2008). The interviewer starts with a free recall invitation, "Tell me everything that happened from the beginning to the end". Other cues are used to follow up: "And then what happened?", and "Tell me more about []" (Lamb et al., 2008).

Following the narrative of the incident, the child is asked if this occurred more than once, and if so, incident-specific prompts follow up. Exhaustive free recall is followed by open ended questions, and directive questions (e.g. closed or option-posing questions) that should not be suggestive, and posed only when crucial details are missing, to separate incidents, and to clarify the information mentioned by the child. The protocol advises interviewers to always use the same language as from the child's narrative. Another round of questions is posed to elicit information that has not been mentioned by the child. Lastly, disclosure if it has occurred is discussed. The interviewer should summarise the information gathered and provide time for questions from the child (Lamb et al., 2008).

To What Extent is the NICHD Protocol fit to Interview Children in Legal Settings?

Children Witnesses, Victims and Suspects

The NICHD protocol is a structured investigative interview used to interview child witnesses and victims. Nevertheless, there is version of the protocol to interview young suspects. A warning is recommended when interviewing suspects over the age of 12 years to remind children that their testimony may be used against them. In addition, interviewers are instructed to check the interviewee's level of understanding (Lamb et al., 2008).

Interviewing Young Children

The NICHD is a tool for interviewing children as young as 4 years old. However, its suitability with children under the age of six is constrained to the children's cognitive and communicative skills (Lamb et al., 2011), and its effectiveness may be reduced with preschoolers (Benia, Hauck-Filho, Dillenburg, & Stein, 2016).

Between the ages of three and five, young children start expanding their vocabulary, are able to formulate sentences, attribute meaning to words and are understood by adults. However, their ability to understand questions might be still limited, especially if questions are complex or compound (Ludlow & Gutierrez, 2014). Young children are also easily confused by ambiguous questions or the meaning of certain words, which are often posed in legal settings (Bruck & Ceci, 1993 as cited in Lamb et al., 1995). In addition, young children are unaware of these limitations; therefore, they would not ask for a clarification (Ludlow & Gutierrez, 2014), and are reluctant to say 'I don't know' (Lamb, Malloy, & la Rooy, 2011). Consequently, their competence as sources of information is hindered. Yet, young children when interviewed properly they may become competent witnesses (Lamb et al., 1995).

The protocol addresses some of these developmental limitations by posing open-ended invitations. Children report more accurate and more detailed and forensically relevant information when using free-recall instructions than when they receive closed and specific questions (Orbach & Pipe, 2011). However, younger children omit more information in open prompts. Nevertheless, young children can offer informative and detailed responses to general open-ended prompts, and performance may be improved by including the Protocol's cued-invitations (i.e. 'You mentioned []. Tell me everything about it; Lamb et al., 2008).

Eliciting Accurate Information

As children grow older their memory capacity increases; yet, like adults, children tend to forget over time (Lamb et al., 1995; 2011; la Rooy, Malloy, & Lamb, 2011). Children's ability to remember accurately increases when using recall memory processes compared to information gathered using recognition probes (Lamb & Sim, 2013). That is why, the NICHD protocol advocates the use of open ended prompts and favours free recall invitations to obtain a full account. Additionally, the pre-substantive phase of the interview serves as memory retrieval training (Malloy et al., 2011). The Protocol also addresses children's difficulty to differentiate and separate memories from repeated events by examining the events separately (Lamb et al., 1995; la Rooy et al., 2011).

Children are not used to being informants, thus the interviewing setting itself as it is an unfamiliar situation may negatively affect children's reports (la Rooy et al., 2011). In addition, children are often reluctant to disclose an offence due to feelings of embarrassment, shame and/or guilt, anticipation and/or fear of punishment. The NICHD in order to facilitate disclosure instructs interviewers to build rapport; to work on the children's cooperative attitude and willingness to disclose information (Bull, 2010; Lamb et al., 1995). Rapport motivates children to provide longer and more accurate reports and may encourage disclosure from reticent children as it alleviates distress and anxiety (Hershkowitz, 2011).

Interrogative Suggestibility

Children testimony is prone to errors, biases and it is especially suggestible to incorporation of information from the investigative interviewing process (Bartlett, 1932; la Rooy et al., 2011). Children may feel compelled to easily accept information from an authority figure. Similarly, instructions to think about past events can also lead to alter what children "remember" (la Rooy et al., 2011). Repeated questioning is another potential source of interrogative suggestibility as children think they ought to change their response, as the initial response must have been wrong (Lamb et al., 2011).

The use of open ended questions in the Protocol minimises the risk of (even inadvertently) presenting the child suggestive information (la Rooy et al., 2015). Due to the children's tendency to accept misinformation, it is better that content is produced by them. Thus, only at the end of the interview shall the interviewers question on elements not mentioned by the child. Further, instructions for the children not to guess, to say 'I don't know', and to correct the interviewer protect them from interrogative suggestibility.

Effectiveness of the NICHD Protocol

Training and implementation of the NICHD has shown to be successful internationally (la Rooy et al., 2015). Lamb and colleagues have demonstrated that employing the NICHD improves the interviewer's performance (e.g. using more invitations and fewer option-posing questions and suggestive prompts) and it also increases children's informativeness (e.g. more details and more accurate) in comparison to standard interviews (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007). A recent meta-analysis corroborates these benefits when using the NICHD in cases of suspicion of sexual abuse (Benia et al., 2016). However, it is noteworthy that most of the reviews to assess the implementation and effectiveness of the NICHD have been carried out by the same authors that created the tool losing its impartiality. Evidence also shows great variability in adherence to the protocol and training has not always led to appropriately conducted interviews (Cyr, 2011).

Conclusion

Ensuring effective forensic child interviewing is crucial to protect children at risk, for the rightful prosecution of perpetrators, and to protect innocent suspects avoiding wrongful convictions. Overall, the NICHD Protocol takes into account cognitive, social and psychological developmental factors and facilitates gathering information more accurately and more completely from children in a legal settings (Lamb et al., 2008), it even maximises the informativeness of young children (Lamb et al., 1995).

The NICHD shares principles with other interviewing tools, so its benefits may not be unique (Lamb et al., 2007). Further, its implementation has not always proven effective in practice (la Rooy et al., 2015). Moreover, evidence is lacking regarding the effectiveness of the NICHD when interviewing witnesses and especially young suspects.

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The National Institute of Child Health and Development Protocol: When and for whom does it work?

Emelie Ernberg

University of Gothenburg (Sweden)

The National Institute of Child Health and Development (NICHD) protocol (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007) is a protocol developed and used for forensic interviews with children. The protocol is being used for forensic interviews in fourteen different countries, including Sweden, The United States, Finland, Israel and Japan, just to name a few. (la Rooy et al., 2015). The protocol is a step-by-step guide in which the forensic interview is divided into phases. The interview starts with an *introduction* in which the interviewer introduces themselves and sets up the rules for the interview (e.g., that the child should say “I don’t know” if they don’t know the answer to a question and that it is important to tell the truth). The introduction is followed by *rapport building*, in which the interviewer should try and build a supportive environment. The interviewer asks the child about their hobbies or things they enjoy doing and encourages them to elaborate on this. The interviewer then transitions to the *substantive phase*, and hones in on the allegations by asking the child if they know why they are being interviewed (Lamb, la Rooy, Malloy, & Katz, 2011). The interview is conducted using open-ended questions and invitations (e.g., “Tell me more about what happened”), and the NICHD Protocol advises postponing specific questions (e.g., “Did he do something to you?”) as long as possible and avoiding leading questions altogether (e.g., “Did he pull your pants down?”; Lamb et al., 2007). The interviewer should finish the interview by introducing a neutral topic, such as asking the child what they will do after the interview. The NICHD Protocol has been shown to improve the quality of children’s testimony (Lamb et al., 2007). However, those interviewers trained to interview children using the NICHD protocol may fall out of the habit quickly if not given regular feedback (Cyr, Dion, McDuff, & Trotier-Sylvain, 2012) and there are possible limitations of its usefulness in forensic interviews with children. Below, the usefulness of the NICHD protocol in interviews with children of different ages and for different purposes, are reviewed.

While using the NCIDH Protocol in forensic interviews generally seems to improve children’s testimony, its use in interviews with preschool children have not produced as promising results and a recent meta-analysis suggests that NICHD interviews do not seem to substantially increase the informativeness of preschoolers testimonies (Benia, Hauck-Filho, Dillenburg, & Stein, 2015). There are a number of reasons as to why interviews with preschoolers may pose a special challenge for interviewers. Preschoolers are less likely to disclose abuse in the forensic interview (e.g., Orbach, Lamb, Sternberg, & Horowitz, 2006; Wood, Orsak, Murphy, & Cross, 1996). Preschoolers can however be competent witnesses and children as young as three can give a reliable testimony (Goodman & Melinder, 2007; Gordon, Baker-Ward, & Ornstein, 2001). Still, there are several considerations that need to be made when eliciting and assessing testimonies from children this young. Memory develops throughout childhood, and older children generally do better than do younger children on most memory tasks (e.g., Gordon et al., 2001). While open-ended questions are advocated in the NICHD protocol, they can pose a challenge for the youngest witnesses. Compared to older children and adults, there are limitations to virtually all aspects of preschooler’s’ memory (Malloy & Quas, 2009). Providing a free recall in

response to an open-ended question or invitation depends on the ability to hold information in memory while constructing a narrative. This is a challenging task and preschoolers generally struggle with providing a free recall (Eisen, Qin, Goodman, & Davis, 2007; Gordon et al., 2001). The NICHD Protocol is divided into phases, which each phase taking place within the same interview. Potentially, this can lead to interviews going on for relatively long periods of time. Long interviews can be exhausting for young children. Researchers and practitioners alike have raised concern that these aspects of the NICHD protocol might make it less appropriate for interviews with preschoolers and addressed the need for shorter, more directive questions in these cases (e.g., Burrows & Powell, 2014; Cantlon, Payne, & Erbaugh, 1996; Ernberg, Tidefors, & Landström, 2016).

As mentioned in the above section, children's memory performance generally improve with age, and older children are more likely to disclose abuse in the forensic interview (e.g., Gordon et al., 2001; Wood et al., 1996). Using the NICHD Protocol to interview children aged school-age and up seems to help elicit more central details and more details overall (Benia et al., 2015). Children this age also seem to be able to provide more accurate information in response to open-ended questions (Lamb, la Rooy, Malloy, & Katz, 2011). Overall, research suggests that using the NICHD protocol in interviews with children older than preschoolers yield promising results.

Thus far in this paper, the usefulness NICHD Protocol has mainly been reviewed in the light of research on children's memory and cognitive abilities. Cognitive ability is however not the only factor of relevance when eliciting testimonies from children, but social and emotional aspects needs to be considered as well. Special weaknesses (such as the ones mentioned earlier in this paper) in preschoolers' cognitive abilities mean that they typically are more susceptible to suggestion. Source monitoring (deciding whether a memory stems from firsthand experience or from the information provided from another source) is a task that preschoolers generally struggle with (Bruck & Ceci, 1999; Ceci & Bruck, 1993; Johnson, Hashtroudi, & Lindsay, 1993; Poole, Brubacher, & Dickinson, 2015). Suggestibility is the tendency for memory to be influenced by information from other sources. One potential source of such new information is misleading information that can be presented to children by way of leading questions during an interview, which is why this question type is discouraged in the NICHD protocol. Generally speaking, misleading information impair memory performance (Gordon et al., 2001). In the introduction phase of NICHD, the interviewer should tell the child that they may repeat a question, but that this does not mean that the child got it wrong the first time (Lamb et al., 2011). If the child forgets or does not understand this information, repeated specific questions may pose a risk in interviews with preschoolers, as they might change their answer thinking they got it wrong the first time (Poole & White, 1991). Adolescents typically have superior techniques for searching for information in memory compared to younger children (Lamb, 2011) and are capable of giving longer and more detailed testimony in response to open questions (Lamb, 2011). Older children and adolescents may be less susceptible to suggestion than are preschoolers (Ceci & Bruck, 1993). However, susceptibility to suggestion is not simply age-dependent, but seems to depend on a number of individual factors (Poole & Lindsay, 2001), such as source monitoring ability, self-confidence, knowledge and compliance and can occur in school age children and adolescents as well (Bruck & Ceci, 1999; Ceci & Bruck, 1999). Knowledge and experience can in some situations increase the likelihood of a witness incorporating incorrect information into their testimonies (Brainerd, 2013). Compared to younger children, adolescents are more prone to change their testimony in accordance with information from other witnesses (Candel, Memon, & Al Harazi, 2007). Seeing as children of all ages may incorporate suggested

information into their testimony, NICHD recommendations to avoid leading questions altogether are therefore well in line with research on children's testimony.

Even if most children can remember and retell instances of abuse, this does not always mean that they will do so in the forensic interview. Child complainants in sexual abuse cases may have difficulties disclosing this in the NICHD interview. Many sexually abused children experience feelings of guilt, shame and self-blame (Leander, Christianson, & Granhag, 2007; Leander, Granhag, & Christianson, 2005). Moreover, perpetrators of sexual abuse may ask the child to keep the abuse a secret and is often someone close to the child (Goodman-Brown, Edelstein, Goodman, Jones, & Gordon, 2003; London, Bruck, Ceci, & Shuman, 2005). These factors make it less likely that the child will disclose abuse, and those who do disclose abuse in the forensic interview, may omit sensitive details from their testimonies (Leander et al., 2005, 2007). These factors can affect children of all ages, and preschoolers as well as older children may delay disclosure or omit details as a result of these factors (Magnusson, Ernberg, & Landström, 2017). Rapport building, the second phase in the NICHD Protocol, can be an important step in reassuring these children and creating an environment where they feel safe to disclose abuse (Hershkowitz, 2006). A revised version of the NICHD Protocol was created in response to these issues. The revised version places a larger emphasis on rapport building, but has so far only been studied to a limited extent, although the one study does suggest that increased rapport building may decrease reluctance in children (Hershkowitz, Lamb, Katz, & Malloy, 2015).

So far, most research into the efficacy of the NICHD protocol has focused on children as witnesses or victims. Children may however, also be suspected perpetrators of a crime. The age of criminal responsibility varies between countries. As the effectiveness of NICHD interviews can vary with the age of the child, this section will be concerned with a general discussion on using the NICHD Protocol in interviews with child suspects. An important consideration in interviews with young suspects, is the risk of false confessions. Young age is a factor that increases the risk of confessing to a crime one did not commit, and leading questions further increases the risk (Redlich, Gheiti, & Quas, 2008). For this reason, the NICHD recommendations to avoid leading questions may be especially important to follow in interviews with child suspects. As reviewed earlier in this paper, children who are victims or witnesses to crime, may be reluctant to discuss this in the forensic interview (e.g., Leander et al., 2005; 2007). Such reluctance is likely to occur in child suspects as well, and building rapport may therefore be equally important in interviews with child suspects. Building rapport may however not be enough to elicit information from reluctant child suspects. Conducting ethical interviews in which reliable information is elicited, with young suspects who are reluctant to talk, likely presents a challenge to legal systems across the world.

Conclusion

The NICHD protocol is a widely used, research-based approach to forensic interviews with children. Generally speaking, using the protocol in forensic interviews with children seems to improve the quality of children's testimony (Lamb et al., 2007). The protocol may however, be difficult to follow, and research suggest that continuous feedback is needed, lest trainees may quickly fall out of the habit of NICHD interviewing (Cyr et al., 2012). Moreover, there are instances where the protocol may fall short. Using the protocol in interviews with preschoolers may not yield as promising results as using it in interviews with older children (Benia et al., 2015). Children who are reluctant to talk may require more

rapport-building, an issue that thus far has only been addressed to a limited extent in NICHD research (Hershkowitz et al., 2015). To conclude, the NICHD protocol does seem to a sound approach to forensic interviews with children in many cases, but further research into the areas where the protocol comes up short, is needed.

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Children in Forensic Interviews: the NICHD Protocol Discussed

Renate Geurts

University of Gothenburg (Sweden) & University of Portsmouth (UK)

Children who are victims, witnesses, or suspects of a crime often hold information that is of great importance to the criminal investigation. It is the task of forensic interviewers to elicit a complete and accurate account on what happened when the alleged crime took place. In order to provide such an account, the child must employ a complex set of memory, language, and social skills (Nelson & Fivush, 2004). Not only must the child remember and recollect what happened, they also need to understand the questions of the interviewer, and verbalize a coherent response. Moreover, the child needs to have a sense of one self, understand the interviewers' expectations, and resist compliance with incorrect information. All these skills develop throughout childhood, and hence, there is a risk that the children provide incorrect or incomplete accounts (Pipe, Lamb, Orbach, Esplin, 2004).

In spite of children's developmental limitations, research has shown that children can be reliable sources if the interview is carefully conducted (Goodman & Melinder, 2007). Decades of research on child interviewing has resulted in a fair level of consensus on how children in forensic settings should be interviewed (e.g., Memorandum of Good Practice, 1992). It is recommended to explain the roles and rules in the interview (e.g., permission to say "I don't know"), to create a supportive atmosphere, and to practice narrative telling on a neutral event. With respect to the questions interviewers are prescribed to use open-ended questions as much as possible, limit questions that draw on recognition (rather than recall), and avoid suggestive prompts.

These guidelines—although widely acknowledged—have had little impact on the quality of investigative child interviewing as practitioners struggle to follow them (Bull, 2010). One study has shown that even trained practitioners who were well aware of the guidelines, failed to maintain open questioning (Sternberg, Lamb, Davies, & Westcott, 2001a). In order to bridge the gap between theory and practice, researchers at the National Institute for Child Health and Human Development (NICHD) developed the NICHD Investigative Interview Protocol (Orbach et al., 2000).

The NICHD Investigative Interview Protocol

The NICHD Investigative Interview Protocol (from now on referred to as the protocol) is an operationalization of the recommended guidelines on child interviewing. Unique to the protocol is that it provides step-by-step guidance on what the interviewer should say, and when. Verbatim scripts are available for each phase of the interview ("NICHD Protocol", n.d.). In the initial phases, attention is paid to explaining the ground rules, rapport building, and narrative practice. In the substantive phase, the interviewer questions the child about the alleged crime. The interviewer uses a series of four prompts ranging from broad to narrow. These are, open-ended prompts (e.g., "Tell me everything.."), cued prompts (e.g., "You said that [...] tell me everything.."), directive questions (e.g., "When did it happen?") and option-posing prompts (e.g., "Was the jacket green or red?"). All directives should address issues that the child has already brought up. Suggestive questions, in which the interviewer introduces new information, are discouraged. The protocol uses a funnel approach. This means that broader prompts need to be exhausted, before narrower prompts may be used. In the final phase of the interview, the

child is asked about the disclosure (i.e., how, and to whom, the child first revealed information about the alleged crime). The interview closes with a talk about a neutral event (Orbach et al., 2000).

The protocol has been extensively evaluated in the field and promising findings were replicated in the US, the UK, Israel, and Canada (see for reviews, Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007; la Rooy et al., 2015). A meta-analysis was recently conducted on studies that examined the effectiveness of the protocol in cases of child sexual abuse. This analysis highlighted that the NICHD interviews included prompts that were open-ended to a higher degree and prompts that were option-posing and suggestive to a lower degree, compared to the non-protocol interviews (Benia, Hauck-Filho, Dillenburg, & Stein, 2015). Furthermore, children interviewed by the protocol provided more forensically relevant details when asked open-ended questions than did children interviewed without the protocol (Benia et al., 2015). These findings speak to the quality of the protocol interview because open-ended prompts typically elicit more accurate details than do narrow prompts (Dale, Loftus, & Rathbun, 1978; Hutcheson, Baxter, Telfer, & Warden, 1995). Importantly, it has been found that charges of child sexual abuse were more often filed in protocol cases (vs. non-protocol cases), and subsequent trials yielded more guilty verdicts (Pipe, Orbach, Lamb, Abbot, & Stewart, 2013). With translations in nine languages, the protocol is internationally recommended and used (la Rooy et al., 2015).

However, there are limits to the protocol. Even when using the protocol, large individual differences have been found in children's degree to which they are informative (Cyr & Lamb, 2009), with a small yet alarming number of children providing false accounts (Brown et al., 2013). Moreover, studies have shown that one third of child victims do not disclose abuse in investigative interviews at all (e.g., Hershkowitz, Horowitz, & Lamb, 2005). Problems with individual differences, erroneous information provision, and nondisclosure were found to be even more prevalent among young children (Benia et al., 2015; Brown et al., 2013; Keary & Fitzpatrick, 1994). These findings have raised the question whether or not the protocol is suitable for children of a young age.

Suitability to children of varying ages

Most research on child interviewing is conducted on children ranging from 3 to 15 years old. However, this group is typically divided into pre-schoolers (< 6) and older children. This distinction is rooted in the child's development as the autobiographical memory gradually emerges across the preschool years (Reese, 2002). The autobiographical memory can be defined as an explicit memory for specific points in the past, recalled from a unique perspective of the self in relation to others (Nelson & Fivush, 2004). The development of this memory is connected to several other cognitive structures, such as the episodic memory and a theory of mind. The episodic memory, for instance, holds information about specific events in time and place (Tulving, 2002). Moreover, the theory of mind concerns the understanding that others can have desires and knowledge that are different from one's own (Wellman, Cross, & Watson, 2001). The development of these (and more) structures are crucial for providing a reliable account about one's own experiences. Hence, children below 6 years old can experience extra difficulties being interviewed about their past, which typically results in brief and fragmented responses (see for a review, Nelson & Fivush, 2004).

Despite the difficulties, various studies have shown that even preschoolers interviewed by the protocol are able to provide accurate information about abuse they allegedly experienced (Hershkowitz, Lamb, Orbach, Katz, & Horowitz, 2012; Orbach et al., 2000; Sternberg, Lamb, Orbach, Esplin, &

Mitchell, 2001b). However, mixed results have been found on the effectiveness of the different prompt types. Some studies claimed no differences between younger and older children in the proportion of details provided in response to open-ended questions (Lamb et al., 2003a). Other research showed that preschoolers responded more informatively to cued prompts or directive questions, as opposed to open-ended questions (Hershkowitz et al., 2012). The latter finding fits well with developmental research showing that children between 2 and 3 years old need cues from adults to recall their memories (Hamond & Fivush, 1991). Thus, the use of open-ended prompts is generally preferred in child interviewing, but directive prompts are recommended for the youngest children as these prompts combine the benefits of focus and recall (Hershkowitz et al., 2012).

Suitability to child witnesses and child suspects

Most field studies on the effectiveness of the protocol involve alleged victims of child sexual abuse (Benia et al., 2015). This focus is legitimate considering the severity and the prevalence of child abuse (Barth, Bermetz, Heim, Trelle, & Tonia, 2013). Moreover, corroborative evidence is often missing in cases of child abuse, which places a heavy burden on the information provided by the victim (Herman, 2005). However, there exist more occasions for which children can be interviewed in forensic settings. For example, children often witness domestic violence (Osofsky, 2003) or the abuse of other children (Lamb, Sternberg, & Esplin, 1998). In addition, a substantial numbers of juvenile suspects are below the age of 14 (Snyder, 2002). Some countries even hold children criminally responsible from the age of seven ("Minimum Ages of Criminal Responsibility in the Americas", n.d.) meaning that very young children could end up being suspects in criminal interrogations. Practitioners may be using the protocol on witnesses and suspects already, but systematic field research on its effectiveness is lacking for these groups.

The author knows of one study in which the effects of the protocol was compared for witnesses and alleged victims of child sexual abuse (Lamb, Sternberg, Orbach, Hershkowitz, & Horowitz, 2003b). Similar response patterns were found for victims and witnesses, with both groups providing a substantial amount of forensically relevant details to the interviewers. This finding contrasts previous research showing that children typically provide less information about incidents they have witnessed compared to incidents they have experienced (Bates, Ricciadelli, & Clarke, 1999). The findings of Lamb and colleagues (2003b) suggest that the protocol may also be suitable for interviewing child witnesses.

With respect to child suspects, only one field study has tested the effects of protocol interviewing (Hershkowitz, Horowitz, Lamb, Orbach, & Sternberg, 2004). It was found that child suspects responded very similar to the protocol as child victims. They were willing and able to provide information and responded particularly informative to open-ended questions. Interestingly, the interviewers were found to use less open-ended prompts (19%) and more suggestive questions (24%), compared to the numbers known from protocol interviews with child victims (30% vs. 7% , respectively; Orbach et al., 2000). This finding was explained as a result of scepticism of the interviewers towards the suspects' motivation to cooperate (Hershkowitz et al., 2004). Thus, not the interviewees but the interviewers were found to change behaviour in child suspect interviewing.

Based on the suspects' response pattern, it could be argued that the protocol is helpful when interviewing child suspects. However, one should be careful with this recommendation for an important reason. That is, the protocol may elicit a complete and accurate confession from a guilty suspect but this

may not be in their best interest. As a confession can have severe consequences for the suspect, there exist the right against self-incrimination (*Miranda v. Arizona*, 1966). Research shows that young offenders have difficulties understanding their interrogation rights, that they frequently waive their rights, and that they often think that their best choice is to confess, as opposed to what older children think is best to do (Grisso, 1981, cited in Redlich, Silverman, Chen, & Steiner, 2004; Grisso et al., 2003). Supportive interview techniques such as the protocol may elevate the risk that the child does not realize the negative consequences of talking (Redlich et al., 2004). Thus, the protocol may generate reliable accounts from suspects but one should be cautious not to infringe their rights. In order to strike the balance between solving the crime and respecting the suspect's right, an additional section may be added 'to the protocol in which the rights of the child suspect are age appropriately explained.

Conclusion

Under the right conditions, children can deliver reliable accounts of past events. Decades of research has resulted in consensus on how investigative interviews with children should be conducted. The NICHD protocol draws on these best practices while guiding the interviewer step-by-step through the interview. Systematic evaluations revealed that practitioners were able to follow the protocol and that children provided informative responses. However, young children (< 6) may need more help directing their memories. The effectiveness of the protocol on child witnesses and child suspects (vs. child victims) is currently underexplored. Although the protocol may be equally helpful when questioning child witnesses, caution is warranted in suspect interviewing.

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Child victims, their memory and The National Institute of Child Health and Development Protocol

Jessica Westman

Karlstad University (Sweden)

In the 1980s, there was a change in how society viewed violence and sexual abuse suffered by children. There was an increased sensitivity to, and understanding of, the severity of the problems surrounding sexual abuse against children. It was also recognized that legal personnel needed to deal more effectively with child victims and defendants (Lamb, LaRooy, Malloy, & Katz, 2011). At this point of time there was also a dramatic increase in reported cases of child sexual abuse (CSA) alongside a detection of counterproductive interviews with child witnesses in many countries (Bruck & Ceci, 1999). However, a large number of assaults were suspected to remain undetected since children were rarely given the opportunity to come forward and describe their experiences to a person who had the possibility to properly aid them forward through a legal process (Lamb, Orbach, Hershkowitz, Horowitz, & Abbott, 2007). The aim of this paper is to investigate how developmental factors affect witness statements. Another aim is to investigate a technique that has been developed in the light of these issues aimed to enhance quality and quantity in child witness statements: the NICH protocol.

The estimated prevalence for child sexual abuse (CSA) in developed countries is somewhere between 20-35% (Pérez-Fuentes, Olfson, Villegas, Morcillo, Wang, & Blanco, 2012) but these cases are more than twice as likely as other reported assaults to *not* reach prosecution since the witness statements are often of too poor quality (Lamb et al., 2011). Since physical and other supporting evidence in CSA cases are rare (Brewer, Rower, & Brewer, 1997), it leaves the child as the only person (apart from the perpetrator) who can come forward with any information. This requires appropriate methods to help the child leave as accurate and detailed information as possible and procedures for helping abused children have been a focus for interdisciplinary scholars. Psychologists, memory researchers, social workers, legal and medical staff have for the last decades made extensive efforts to understand children's testimonies (Poole & Lindsay, 2001) and emphasis has been put on investigative strategies to maximize the amount and accuracy of the information that the children provide in interrogations (Hershkowitz, 2011).

It is particularly challenging for a child to leave correct statements in sexual abuse cases – not only because the perpetrator is often a person they have trusted – but also since their memory and language abilities are in development, making them more susceptible to error (Hershkowitz, 2011). One of the most critical parts in recalling and reporting abuse (or any crime) is for the child to identify the source or origin of the event (Powell & Wright, 2009). He or she must retrieve the memories as they really happened and report the exact source (often referred to as source monitoring). The source may be an action (e.g. who did it?), a voice (who said what?), the reality of the past event (did it happen or was it an imagination or a dream?), but also to identify one incident from another (e.g. last time we met or first time we met?) (Roberts, 2002), and the child must distinguish the target incident from other incidents such as from television programs or hearing/reading about similar experiences elsewhere. Thus, such pre- and post-events colour the actual memory that may consequently extort the retrieval.

The child's age is a known and crucial factor for the capacity of retrieval of memories (Roberts, 2002). Children between the ages of 2 and 3 can certainly remember experiences but may be unable to verbally communicate them as well as being susceptible to inaccurate information (e.g. leading questions, outer impressions etc.) making their testimonies more easily flawed (Lamb et al., 2007). Thus, a younger child has limited retrieval strategies, thought to remember less information, and retells briefer accounts of the relevant incident (Baker-Ward, Gordon, Ornstein, Larus, & Clubb, 1993; Lamb et al., 2011). As children grow older, their memory performances develop on all aspects and they are less inclined to be misled by suggestions or leading questions (though this ability is also dependent on other factors such as self-confidence and knowledge, Poole & Lindsay, 2001). Older children (thirteen and onwards) have developed even more retrieval strategies, memory storage functions, can produce more chronologically narratives, and are generally more knowledgeable about the world which increase the quality and quantity of the statements (Foley & Johnson, 1985). However, older children are more affected by social influence and may change their statements in order to be attuned with other witnesses (Cander et al., 2007). The major determinant for children's memory capacity is age and the concurrent development in cognitive and linguistic functioning (Goodman & Melinder, 2007; Lamb et al., 2011). To expect children (or any person) to fully remember details about conversations and interactions that may have happened a long time ago is to overestimate memory capacities. We can only recall a small amount of prior experiences, which tend to fade and also be influenced by events that happened pre and post the actual event (Lamb et al., 2011).

A vital factor regarding children's (especially children under 6 years of age) testimonies is the way in which questions are asked. Open-ended questions prompt the respondent to directly recall the memory whereas leading or closed-ended questions increase the risk of the child to feel obliged to choose one of the interviewers suggested options - even though none of them is correct (Lamb et al., 2007). Interviewers are also advised to avoid yes or no question since these types of questions more often elicit erroneous answers from children; they can lead the child to answer affirmatively to a non-experienced event (i.e. were you scared when he forced himself on you?) or suggestive questions often leading children to conform (Brady, Poole, Warren, & Jones, 1999). Responses to free-recall prompts (open-ended questions) are three to five times more informative than the responses to focused questions. They are also more likely to include correct information (Lamb, Hershkowitz, Orbach, & Esplin, 2008; Sternberg, Lamb, Hershkowitz, Yudilevitch, Orbach, Esplin, & Hovav, 1997). Younger children are however more responsive closed questions which show the complexity in interview processes as well as the importance of adapting questions appropriately to age (Roebers & Schneider, 2002). All in all, there is limited knowledge of just how much a child of any age can recall from an experience and how much accurate information of that very incident they can provide. What we do know is, as with any other cognitive function, memories are easily affected or flawed by a range of factors such as pre and post events, by how questions are asked, by age, by cognitive ability, linguistic skills, and so forth (Goodman, Bottoms, Schwartz-Kenney, & Rudy, 1991; Leman, Bremner, Ross, Parke, & Gauvain, 2012).

Today, we know that many of the earlier interrogations with child witnesses have been contaminated by suggestive questions and/or leading questions leaving the statements both flawed and inaccurate (Bruck & Ceci, 1999). Despite the fact that there are recommended interview practices for children, they not always followed by forensic interviewers, which results in children's testimonies being left unreliable. Thus, the National Institute of Child Health and Human Development (NICHD)

developed a reliable and validated (Hershkowitz, Lamb, Orbach, Katz, & Horowitz, 2012) interview protocol designed to translate professional recommendations into operational guidelines (Lamb et al., 2007; Orbach & Lamb, 2000). The aim of the NICHD protocol is not only to increase the reliability and maximize the amount of correct information from free-recall memories in children but also to aid the interviewer in all phases of the investigative interview.

The protocol is divided in several sections but two main phases (i.e. the pre-substantive and substantive phase) where the introductory section is aimed at making the child aware of the importance to tell the truth and with as many details as possible. The child is also made aware that he or she should say “I don’t know”, “I don’t understand”, or correct the interviewer at any time, if needed. The rapport-building phase is aimed at making the child feel comfortable and secure with the interviewer and in the environment. The child is then asked to describe a recently experienced neutral event. By doing so, the child receives some training in the process of the open-ended investigative interview (Lamb et al., 2007) and hopefully feels more secure in the process and with what is expected. Then, a transitional phase occurs which acts as a bridge between the pre-substantive and substantive phase where a series of non-suggestive and open-ended prompts are used aimed at targeting the relevant event. If the child has a difficult time identifying the event the interviewer continues with carefully worded and progressively focused prompts. If the child then identifies the abuse, the free-recall phase starts by inviting the child to continue by asking “Tell me everything about...” The interviewer encourages the child to reveal more incident-specific information by making reference to earlier details told by the child (Lamb et al., 2007). After exhaustive free-recall prompts the interviewer proceeds to direct questions which are asked if the child has mentioned detailed and specific information about the abuse where the questions urge the child to reveal more information on this specific category such as time and appearance (i.e. what colour was that, when did it happen?...).

The validity and reliability of the NICHD Protocol has been established through experiments and interviews with children of all ages (Hershkowitz et al., 2012), who have intellectual disabilities (Brown & Lamb, 2015), are witnesses of crimes, and are the alleged perpetrators (Brown & Lamb, 2015; Hershkowitz, Horowitz, Lamb, Orbach, & Sternberg, 2004). There are some different views on whether or not the protocol is suitable for younger children (since they are less likely to reveal an abuse especially when asked open-ended questions), and a recent Meta-analysis revealed that NICHD interviews do not significantly increase quality of young children’s testimonies (Benia, Hauck-Filho, Dillenburg, & Stein, 2015). However, there are other studies showing that children from the ages of four can successfully adapt to the interview methodology of the NICHD protocol (Lamb et al., 2007; Hershkowitz et al., 2004) and the NICHD can be used on children of various ages and intellectual capabilities. Also, investigators who use the protocol enhance the quality of information they receive from the child and they use at least three times as many open-ended prompts which seem to be a major gain with using the protocol (Lamb et al., 2007). The NICHD protocol seems to increase the amount of correct and detailed information from children who are victims of sexual abuse. However, investigations are still ongoing in how to help children to leave reliable witness statements and these research questions have direct implications on how efficiently the legal system is able to help and protect abused children and to prosecute the perpetrator (Burrows & Powell, 2013).

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Interviewing Child Witnesses: A Review of the NICHD Investigative Interviewing Protocol

Katherine Hoogesteyn

Maastricht University (the Netherlands) & Portsmouth University (UK)

For decades researchers have made extensive efforts to understand how children's memory for events works, aiming to provide recommendations for examining testimonies (la Rooy et al., 2015). A major focus of this research has been to develop a suitable and sensible protocol for interviewing children who are victims of abuse. In consequence, The United States National Institute of Child Health and Human Development (NICHD) produced an investigative interviewing protocol intended to consolidate extant research on the matter and provide a systematic questioning structure appropriate for children of different developmental stages.

The NICHD investigative interviewing protocol was developed due to concerning evidence that investigative interviewers were not adhering to empirically based and recommended best-practice techniques (e.g., asking open ended questions versus cued questions) in forensic interviews, even after extensive training (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007; Orbach, Hershkowitz, Lamb, Esplin, & Horowitz, 2000). This is problematic given the sensitive nature of interviewing children, who are more prone to suggestibility and consequently at higher risk of providing false information when improperly prompted by the interviewer. Thus, NICHD researchers teamed up to produce a structured protocol by incorporating recommended strategies in order to maximize children's retrieval and diminish the opportunities in which interviewers could engage in suggestive questioning (la Rooy, Brown & Lamb, 2013). The structure of the protocol is as follows:

Introductory phase

First, the interviewer introduces himself/herself and explains the purpose and expectations of the child's role in the interview. The child is encouraged to answer with "don't know" or "don't remember" responses as well as to correct the interviewer when appropriate. Research has found that brief pre-interview training (i.e., learning they can say "I don't know") diminishes children's susceptibility to suggestibility (Gee, Gregory, & Pipe, 1999; Mulder & Vrij, 1996). More recently, Dickinson, Brubacher, and Poole (2015) examined the understanding of ground rules with children of different developmental stages (age ranged between four and 12 years). The authors found that children across all ages were more likely to understand ground rules and keep them in mind when the interviewers provided extra effort in making sure they understood. Thus, simply telling children what to do is not enough; they must follow up with practice, such as asking questions the child should respond with 'don't know' statements (e.g., "So if I ask you, 'What is my dog's name?' what would you say? [Child responds] Right, you don't know, do you?"). The NICHD protocol is consistent with this literature on ground rules with children (Lamb et al., 2007).

Pre-substantive phase

In this phase the interviewer introduces rapport building. This is meant to create a comfortable and supportive environment for the child and develop an amicable interviewer-interviewee relationship, aimed to facilitate disclosure. For example, the interviewer asks about interests and activities the child

likes to do for fun. Substantial research supports the use of rapport-building when interviewing witnesses and suspects (Vallano, Evans, Schreiber-Compo, & Kieckhafer, 2015), and rapport has been shown to increase recall accuracy in children (Almerigogna, Ost, Bull, & Akehurt, 2007).

Following the rapport-building segment, children are asked to describe a recently experienced, but neutral event in detail. This is to familiarize children with the open-ended interviewing strategy as well as to demonstrate the level of detail that is expected of them (Lamb et al., 2007). This neutral event “practice” is important considering the nature of free-recall questioning that the protocol employs.

Transitional portion/ Substantive phase

During the transition between pre-substantive and substantive phases, the interviewer poses a series of non-suggestive prompts in order to identify the target event under investigation (i.e., “I understand that something may have happened to you. Tell me everything that happened from the beginning to the end”). If the child provides an allegation to any of the questions, then the substantive phase of the protocol begins and the interviewer follows up with open-ended queries regarding the incident (e.g., “Tell me everything about that” and “Tell me more about [person/object/activity]”). Interviewers are encouraged to use open-ended questions in order to elicit uncontaminated information (Orbach et al., 2000). It has also been shown that these prompts produce longer, more informative and more accurate responses than directive questions (see Myklebust & Bjørklund, 2010)

Following the free narrative phase of the interview, the investigator then employs direct questions if certain information is missing (e.g., “You mentioned [place], where exactly were you? Tell me about that [place]”). Only if the interviewer is unable to obtain specific information from the child during the last phase, he/she then asks for information the child did not provide before (e.g., “You told me about something that happened on the playground. Did somebody see what happened?”). Younger children may report more information when interviewed with direct questions (Davies et al., 2000). Therefore, by first exhausting the use of open-ended queries and then moving on to more directive questions if further information is needed, the interviewer is able to gather accurate and uncontaminated information first and then fill in missing gaps without influencing the child with leading prompts. Interviewers ask direct questions regarding information already provided by the child, not based on information that the interviewer believes to know. If the child does not mention information that is needed, then the interviewer uses prompts such as “I heard that you talked to [person] at [time/place]. Tell me what you talked about” (Lamb et al. 2007).

Information about the disclosure/closing

After the directive questioning phase, the interviewer moves on to inquire more information about the disclosure, or the main event for which the interview is taking place and then ends the questioning phases by asking if there is anything else the child would like to add. Lastly, the interviewer engages the child in a neutral topic (“What are you going to do today after you leave?”). This is the end of the NICHD protocol. For an example of the interview format in entirety, please refer to Lamb et al., 2007.

The NICHD Protocol’s Applicability

The NICHD protocol was developed in part after a series of high profile child sexual abuse cases (i.e., the 1983 McMartin and 1988 Kelly Michaels Day Care cases) that brought to light the highly suggestible interviewing techniques employed when interviewing children (la Rooy et al. 2013). Thus, the protocol

is mostly used when interviewing child victims and witnesses of sexual abuse. The majority of research on the protocol and its use also focuses on child victims. While little is known about the implementation of the protocol when interviewing suspects and plaintiffs, aspects of the NICHD guidelines can certainly be applied during most investigative interviewing. With ample research corroborating the positive use of rapport building and free narrative prompts, these components of the NICHD protocol can be extended to interviewing children in cases other than sexual abuse. Nevertheless, as most research focuses on the latter, it can only be recommended to employ the NICHD protocol in other settings after substantial empirical validation is available.

Assessing the NICHD Protocol

A main concern when implementing investigative interviewing guidelines is whether the guidelines properly account for children's developmental differences. Particularly, issues with free narrative discourse are of concern because substantial research demonstrates children's speech capability increases with age, with younger children typically providing less information than older children (Lamb et al., 2011). This may be attributed to the finding that memory for events is directly influenced by the correlation between age and the child's prior knowledge and understanding of the event (Pipe, Thierry, & Lamb, 2007). As such, interviewing younger children with free recall prompts poses significant challenges. A free narrative account is a personal story about a situation, and it is best understood when provided with adequate story grammar, or the logical sequence of the event. Therefore, younger children may have difficulties providing coherent free narrative accounts, which requires them to engage in perspective talking (i.e., assuming the standpoint of the interviewer) and to adjust their narrative according to the interviewer's perceived level of background information (Snow, Powell, & Sanger, 2012). Considering the heavy reliance on free narrative accounts in the NICHD protocol, interviewers are faced with this challenge. Nevertheless, free recall questions are best suited in order to prevent children from making source-monitoring errors. Source monitoring refers to the process in which children distinguish personal and vicarious experiences (Johnson, Hashtroudi, & Lindsay, 1993). Further, it has been shown that children as young as three years of age are capable of providing reliable and accurate free narrative accounts (Snow, Powell, & Sanger, 2012). Additionally, a pilot study by Dion and Cyr (2008) examined the use of the NICHD protocol with children of low verbal abilities between the ages of six and 14 years. The authors found that the use of open-ended prompts in the NICHD protocol yielded more detailed responses in children both with low and average verbal abilities. The children with lower verbal abilities did offer less detail, but the protocol helped them provide responses containing more central elements of the sexual abuse. Based on these studies, the use of open-ended questions remains an appropriate and recommended approach with children across different age groups. Further, if the child must be interviewed repeatedly, information obtained through free recall memory would be less problematic in court than information obtained through cued prompts (Pipe, et al., 2007). The challenge that the reliance on free narrative accounts poses highlights the need of proper and thorough training rather than the narrative capacity of children. As with any interviewing protocol, the NICHD guidelines can only elicit accurate and reliable accounts if the interviewer is well trained and adheres to the prompts without compromising the quality of information gathered by introducing suggestive cues.

The NICHD protocol has been adopted in several countries worldwide, including Korea, Israel, Portugal, Scotland, Norway, Japan, Finland, Canada and the United States. This speaks for the accessibility of the protocol to be incorporated into different training programs internationally (see la Rooy et al., 2015). Still, a salient limitation of the NICHD protocol research is that most has been produced by or in collaboration with the team of authors that constructed the protocol (i.e., Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007). Although both laboratory and field studies have shown promising results of the NICHD Protocol, it is essential for other researchers to replicate these findings and continue analyzing the implementation of the protocol for reliability and validity purposes.

In summary, the NICHD investigative interviewing protocol is a comprehensive and structured guideline for investigators, particularly for interviews of child victims of sexual abuse. The NICHD's team of researchers created an interviewing procedure that complies with the general recommendations when interviewing children: building positive rapport, preparing the child with a pre-interview training for their role, as well as relying on open-ended and non-suggestive questioning modes (Lamb, la Rooy, Malloy, & Katz, 2011). The protocol also emphasizes the need for interviewers to adjust to the child's developmental stage by minimizing linguistic complexity and avoiding interruptions (Hershkowitz, Fisher, Lamb, & Horowitz, 2007). Although further research is warranted, the NICHD protocol is a promising interviewing guideline that has consistently showed effective results with children of different developmental stages thus far.

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Interviewing Child Witnesses. The NICHD Investigative Interview Protocol

Aleksandras Izotovas

Portsmouth University (UK) & Gothenburg University (Sweden)

Children are vulnerable witnesses, which has been known as a risk factor of giving in to suggestive interviewing practices (Kassin et al., 2010; Gudjonsson, 2010). Suggestive and inappropriate questions during the investigative interviews can lead to memory distortions of genuinely experienced events, which, in turn, can have severe consequences, such as falsely accusing innocent people (Garven, Wood,

& Malpass, 2000; Thompson, Clarke-Stewart, & Lepore, 1997), or violating children's best interests (Katz, 2015; Westcott & Davies, 1996).

In this paper, I will review the National Institute of Child Health and Human Development (NICHD) Protocol and its use in the interviewing of child witnesses (Orbach et al., 2000). In the first section, I will explain the rationale and overview the structure of this technique. In the second section, the purpose and suitability for different age groups of the NICHD protocol will be disclosed based on the empirical findings and what is known from the cognitive perspective of developmental psychology. In the final part, I will give concluding comments about the protocol and its current state.

The NICHD protocol and its structure

The NICHD is a structured protocol that incorporates a wide range of strategies believed to enhance the memory retrieval of child witnesses (Orbach et al., 2000). First, the interviewer should ensure a relaxed and supportive environment (e.g., free of distractions: toys, noise, other people, etc. From a developmental perspective, it is important because especially younger children have little ability to display selective attention – to concentrate only on task relevant stimuli and to not be distracted by other surrounding things in the environment (Shaffer & Kipp, 2014). An appropriate environment is believed to aid to successfully build rapport with a child early in the interviews. Child witnesses tend to feel more comfortable and, therefore, more willing to disclose information, and enhance completeness and accuracy of their retrieval in a supportive and distraction-free environment (Cheung, 1997).

Second, the interviewer explains to the child that the information that the child has about the event is unique and as the interviewer – unlike the child – was not present when the event in question took place the child needs to tell the interviewer all the details about it. The child is also encouraged to tell the truth and report personally experienced events, admit lack of knowledge or understanding, and correct the interviewer when necessary. Clarification of the rules tend to diminish confusion and inaccuracy and it minimizes susceptibility to suggestion (Cessi & Bruck, 1995; Lamb et al., 1999).

Third, it is believed that children's narrative style is acquired through interactions with adults and is formed by the expectations of the adults (Orbach et al., 2000). Hence, the interviewer needs to train the child to provide spontaneous, descriptive responses and elaborate on his/her narrative about experienced events. Such training should enhance the retrieval of the event-specific details and minimize the skeletal information (Lamb et al., 1999; Orbach et al., 2000).

Fourth, using open-ended prompts instead of focused questions result in longer, richer and more accurate responses of children in both laboratory and field settings (Lamb et al., 1999). Moreover, open-ended questions early in the interview not only promote greater amounts of accurate information, but also reduce acquiescence to misleading information presented at the later stages of the interview (Warren & Lane, 1995; Orbach et al., 2000). The rationale is that when children learn to give accurate answers in the early stages of the interview, they become more resistant to direct or suggestive questions in later stages of the interview.

The standard NICHD protocol consists of eleven different phases (Lamb, la Rooy, Malloy, & Katz, 2011). The interview starts with an introduction (I.). The officer introduces him or herself, explains the conditions (e.g., that the interview will be recorded) and the ground rules (tell the truth, no guessing, and answers 'don't understand' or 'don't know' are appropriate) by training the child with the simple examples.

The next stage of the protocol includes rapport building (II.). The interviewer should encourage the child to talk about things s/he likes to do (“Tell me more about your dancing classes”). Importantly, the guide recommends avoiding focusing on TV, Videos, or fantasy. From a developmental point of view it is important to consider that especially younger children have limited ability to concentrate and their attention can be easily captured by distractions. Therefore, there is a risk that discussing on such topics as TV or video games can take away their further interest in talking about the alleged event (Shaffer & Kipp, 2014).

Afterwards, training in episodic memory (III.) phase follows. The session includes the interviewer’s invitation to tell more about the event that took place at about the same time as the alleged or suspected abuse (e.g. holiday, birthday party). If the child fails to provide or gives a poor description, the interviewer asks them to tell about the day before the event (“Tell me everything that happened yesterday, from the time you woke up...”). If the child still does not provide an adequately detailed narrative, the interviewer asks about the same day as the interview takes place. This pre-substantive phase is used to prepare child witnesses for the tasks they will have to perform during the substantive phase of the interview (Orbach et al., 2000).

In a transitional part to substantive issues (IV.), interviewer uses a series of prompts to identify the target event (or events) in a non-suggestive and carefully worded manner (“Now that I know you a little better, I want to talk about why you are here today”). If the child fails to identify the alleged event (-s), these prompts are increasingly focused (e.g. “I’ve heard you talked to a doctor at the hospital 3 days ago. Tell me what you talked about”, Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007). In this session, the interviewer should consider whether to take a break before going further. This part is important, as it determines if the interview continues (when the child confirms an allegation and/or gives a detailed description) or has to be finished (when the child does not make an allegation).

The next part of the NICHD protocol includes investigating the incidents (V.). Apart from general open-ended questions using the child own words (“You said he touched your wee-pee. Tell me everything about that.”), the section includes the other questioning types: focused questions relating information mentioned by the child (“Earlier you mentioned there was a neighbour. Tell me about that neighbour.”), separation of the incidents (“Did that happened one time or more than one time?”), exploring specific incidents when there were several (“Tell me everything about the last time something happened.”). This entire section must be repeated for all incidents mentioned by the child. A break has been recommended after this part (Lamb et al., 2011).

The next phases of the protocol are related to the elicitation of the information not mentioned by the child (VII.) (“When you told me about the last time, you mentioned he touched you. Did he touch you over your clothes? Did he under the clothes?”) or information that the child did not mention but was expected by the interviewer (VIII.) (“I see you have bruises on your... Tell me everything about that.”). The following part is related to the disclosure to other people about the alleged event (IX.) (“Does anybody else know what happened?”). The interview should end with the closing part (X.) in which the interviewer thanks the child for the information given and asks if there is anything they want to add or ask the interviewer. In addition, the interviewer gives their contact details in case the child wants to talk to them again. Finally, the interviewer should talk about the neutral topic with the child before leaving (XI) (Lamb et al., 2011).

The structure of the protocol suggests that the interview with child witnesses primarily focuses on the open-ended prompts and invitations. Close-ended (with yes/no alternatives) and forced-choice

questions are given only when free recall and directive prompts have been exhausted (Lamb et al., 2007). Such interviewing strategy can produce resistance towards suggestive questions and, thus, prevent from inaccurate information from the child witnesses. In the Orbach's et al. (2000) study, 55 NICHD protocol forensic interviews of the alleged sexual abuse were compared with 50 non-protocol interviews. It was found that protocol-guided interviews provided significantly more accurate details in response to open-ended invitations and significantly less information in response to option-posing and suggestive utterances than non-protocol interviews.

Furthermore, Orbach et al. (2000) noted that NICHD interviews when used appropriately contain at least three times more open-ended prompts overall and twice less suggestive and option-posing utterances than standard interviews. Thus, the method itself presupposes that the risk of inaccurate and incomplete accounts is minimized.

Purposes and suitability of the NICHD protocol

The NICHD protocol was developed with reference to child developmental challenges, such as linguistic capabilities, memory, suggestibility, forensic needs, interviewer behavior and effects of stress and trauma (Stewart et al., 2011). It mostly concentrates on interviewing alleged child victims of abuse (physical or sexual) (Orbach & Lamb, 2000; Orbach et al., 2000; Lamb et al., 2007; Hershkowitz, Fisher, Lamb, & Horowitz, 2007a). Nevertheless, the other versions of the protocol have been developed for the other types of youthful interviewees, including witnesses (Lamb, Sternberg, Orbach, Hershkowitz, & Horowitz, 2003), suspects (Hershkowitz, Horowitz, Lamb, Orbach, & Sternberg, 2004) and children with learning disabilities (Hershkowitz, Lamb, & Horowitz, 2007b). For example, Hershkowitz et al. (2004) introduced the protocol for youthful suspects. Their study with seventy-two young suspects (from 9 to 14 years of age) of alleged various sexual offences has shown that although investigators used more suggestive and option-posing prompts than in the cases when interviewing young victims, more information was elicited using free recall prompts with the suspects who fully or partially admitted the allegations. In addition, Hershkowitz et al. (2007b) suggested that NICHD protocol could be used for children with different disabilities (emotional, behavioral, cognitive, physical impairment, etc.), as it takes into account the limited cognitive abilities of young informants (shorter attention spans, limited linguistic skills, partial mastery of concepts and poorer memory retrieval skills). The special guidelines are included for enhancing rapport and support for children with disabilities.

One of the biggest challenges in the interviewing room is reluctant informants. Rapport building is a helpful and recommended technique for dealing with reluctant sources (Hershkowitz, 2011). Hershkowitz, Lamb & Katz (2014) introduced the revised version of the NICHD protocol developed for the victims who might be reluctant to make allegations. In this version, rapport building precedes the explanation of the rules part (introduction). Also, interviewers should put more emphasis on addressing the children by name, welcoming them, expressing interest, echoing and acknowledging children's feelings, encouraging them verbally and non-verbally (e.g. leaning forward, smiling, and maintaining eye contact). Recent analyses revealed that children unwilling to make allegations were significantly more likely to disclose information when a revised rather than standard protocol was employed (Hershkowitz et al., 2014; Ahern, Hershkowitz, Lamb, Blasbalg, & Winstanley, 2014).

Other benefits of the NICHD investigative interview protocol over unstructured interviews include that it can be more helpful with credibility assessments (Hershkowitz et al., 2007a). Moreover,

it has been shown that it can be used in repeated interviews with child witnesses, as the interviews are less harmful for the victims and elicit new forensically relevant information (Hershkowitz & Turner, 2007).

The NICHD protocol has been shown suitable for child witnesses of the different age groups (Orbach & Lamb, 2000; Hershkowitz, 2007). However, there is a debate between researchers and practitioners about the applicability of the technique among pre-school (4-6 years of age) child witnesses. Lamb et al. (2007) indicated scepticism of forensic interviewers about the effectiveness of the NICHD protocol when interviewing young children, namely due to the concern that they would experience difficulties responding to free-recall prompts. Thus, practitioners tend to rely more on option-posing (“Were you at home or at school?”), leading or suggestive questions to ensure answers. However, Lamb et al. (2003) demonstrated that children as young as four years old can provide substantial amounts of forensically important information about alleged abuse in response to free-recall information. Lamb et al. (2007) proposed that cued invitations can be helpful interviewing young children. By structuring recall of experienced events, associating them with actions that have been mentioned, and breaking them into smaller units of time, cued invitations can help young witnesses to reconstruct the events and elaborate upon the narrative accounts. In the study of Orbach & Lamb (2007), action-based cues (“Tell me more about touching.”) were consistently more effective than all other type of cues (e.g., referring to objects or people) regardless of age, whereas time-segmenting cues were only effective with children 8 years and older due to major changes of temporal concept at this age.

Certain challenges should, however, be particularly considered by the interviewers when using NICHD protocol, especially with pre-school witnesses. For example, too long rapport building can be counter-productive at the substantive part of the interviews (Hershkowitz, 2009; Teo & Lamb, 2010). Furthermore, a recent meta-analytic review conducted by Benia, Hauck-Filho, Dillenburg & Milnitsky Stein (2014) showed protocol advantage over standard interviews informativeness of children, however it was not found with regard to preschool children.

Conclusion

The structured interviewing technique has solid foundation for practical application with interviewing child witnesses. First of all, the NICHD protocol has been empirically tested not only in the lab-based, but also field studies (Orbach et al., 2000; Orbach & Lamb, 2000; Hershkowitz et al., 2007; Hershkowitz et al., 2014). Moreover, the interviewing method relies on the developmental aspects and needs of the child witnesses (e.g. interviewer’s vocabulary corresponding the level of the child, avoiding suggestive practices, interviewing in a supportive way). It can also be used for different purposes (e.g. credibility assessment) and with different type of informants (preschool children, youthful suspects, children with disabilities, or reluctant witnesses). However, it should be applied with caution in some settings (for example, interviewing young suspects) because not many research has yet been conducted.

Some aspects should still be addressed in the future research to ensure the best practices of the NICHD investigative interviewing protocol and its versions, i.e. rapport building length and revision of some parts when interviewing preschoolers, also the optimal duration of the whole interview and time intervals between different phases and brakes of the interviews. Furthermore, the differences between the status of interviewees should be considered. For example, reluctant victims and reluctant suspects

can have different motives of not disclosing relevant information, e.g. maybe young suspects would be afraid of the consequences, whereas victims would be unwilling to upset their parents?

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Interviewing Child Witnesses and Victims Using the NICHD Protocol

Shiri Portnoy

University of Portsmouth (UK) & Gothenburg University (Sweden)

In this paper, I will present an established legal interrogation technique developed at the United States' (US) National Institute of Child Health and Human Development: the NICHD structured forensic interview protocol. Drawing on findings from developmental literature, I will further support that this protocol can assist forensic interviewers with maximizing the amount of details provided by young alleged victims.

Children and the Legal System

On September 2nd 1984, a 4-year-old boy from Massachusetts, United States, told his mom that Gerald Amirault has been abusing him on a daily basis in the Day School operated by Gerald's mother. Based on those allegations, the Police closed the school, arrested Gerald, his sister, and mother, and advised the other parents at the school to question their own children until they provided answers to their question. Social workers, therapists, and prosecutors followed up and repeatedly interviewed these children. Despite the sexual allegations made against Gerald and his family members (which led to them being sentenced to 40 years in prison), no evidence was found against the three adults (Bruck, 1999). The Amirault case is one of many that represent the increased involvement of children in the legal system since the beginning of the 1980s. Since then, significantly more witnesses and victims within the legal system have been individuals aged less than 18 years (e.g., Lamb & Sim, 2013; McCauley & Fisher, 1995).

Children may be asked to testify as witnesses or victims in different cases of maltreatment, such as domestic abuse, neglect, sexual and/or emotional abuse, and child trafficking (Malloy, la Rooy, Lamb, & Katz, 2011; NSPCC, 2016). According to the National Society for the Prevention of Cruelty to Children in the United Kingdom (UK), by the end of March 2015, 57,345 children in the UK were on child protection registers (NSPCC, 2016).

In contrast, children might also be interviewed as suspects, being questioned regarding their alleged illegal involvement in instances such as of domestic burglary, drugs offences, and motoring offences (Civitas, 2016). As of July 2016, 948 children were being held in custody in England and Wales (Youth Justice Board, 2016).

Investigative interviews conducted with children elicit information that may significantly affect legal and administrative decisions; those, in turn, may profoundly affect children, families, and suspects (such as in the Gerald Amirault case). Moreover, accurately identifying child maltreatment and those victimized by it is critical when wishing to end victimization, protect children, and provide children, families, and perpetrators with suitable services and treatment. Thus, children's reports must be coherent, detailed, and accurate (Malloy et al., 2011).

The NICHD Structured Investigative Protocol

The amount of information provided by children, as well as the reliability of this information, are subjected to the children's developmental level, the nature of the investigated event, and the interviewing method used (Lamb, Malloy, & la Rooy, 2011). One interviewing method that has been found to improve the quality of the information reported by children is the structured investigative protocol developed by scientists at the US National Institute of Child Health and Human Development (NICHD; Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007; la Rooy et al., 2015; Orbach et al., 2000). The NICHD was developed in the 1990s (la Rooy et al., 2015) to fulfil the need for having an investigative interviewing protocol that would be used nationally to interview child witnesses and victims (Bull, 2010). At the core of the NICHD protocol is the use of free-recall prompts, which should maximize the amount of information provided from memory. Eleven phases comprise the NICHD protocol.

In the first, introductory phase, the interviewer introduces her/himself and explains the ground rule to the child interviewee. For example, if the child does not understand a question, s/he should say so and if the child does not know the answer to a question, s/he should reply with "I don't know" (Lamb et al., 2007).

The second phase is focused solely on rapport building. In the first section of this phase, efforts are made to create a supportive environment for the child (Lamb et al., 2007). The child is encouraged to share personally meaningful information about positive and negative life experiences (Hershkowitz, 2011). According to Saywitz, Goodman, Nicholas, and Moan (1991), some children might be reluctant to discuss experiences of sexual abuse (i.e., genital contact) with unfamiliar adults. Thus, it is imperative that the interviewer – an unfamiliar adult and an authoritative figure – first establish rapport with the child before mentioning the suspected abuse (Hershkowitz, 2011). In this second section, the child is familiarized with the open-ended investigative strategies which will be used more extensively later in the interview. This is done by asking the child to describe in detail a recent neutral event that the child has experienced; this also helps with demonstrating the child the level of detail that the interviewer expects of him/her (Lamb et al., 2007). According to Saywitz, Snyder, and Nathanson (1999), the performance of a child in an interview may be enhanced if s/he is provided with instructions and preparation measures that facilitate her/his communicative capability.

In the third phase, the interviewer seeks to non-suggestively identify the target event/s about which the child is interviewed by using cues that are open as much as possible (as opposed to recognition prompts such as "Did he touch you?", which are only encouraged to be used as late in the interview as possible). This is done by asking the child to describe the recent days that preceded the interview, in the hopes that s/he would mention the target event/s without the interviewer asking about it/them directly (Lamb et al., 2007). Avoidance from using suggestive words and questions appears to be a prominent factor of the NICHD. Ceci and Bruck (1993) referred to suggestibility in child context as "the degree to which children's encoding, storage, retrieval, and reporting of events can be influenced by a range of social and psychological factors" (p. 404), noting that this definition is consistent with the legal use of this term. According to them, specifically in the legal domain, such influence can appear in the forms of, for example, minor suggestions and leading questions. While adults are also prone to suggestibility, its effects on children is more disproportionate (Ceci & Bruck, 1993). For example, Ackil and Zaragoza (1995) had seven-, nine-, 11-, and 20-year-old participants watching a film. Then, all participants listened a summary of the movie read by the experimenter; this summary contained suggested

information. Eventually, the participants completed a source memory test in which they decided whether a specific item read by the experimenter had appeared or not in the film. Although suggestibility was evident in all four age groups, it was found that, when asked to complete this test immediately (Experiment 1), seven-year-old children were more likely than nine-year-old children to claim that they remembered seeing the suggested items in the film. This tendency was equal among nine- and 11-year-old children, and 20-year-old participants were least likely than all age groups to claim they remembered seeing the suggested items. This pattern of results was even more pronounced in Experiment 2, in which the participants completed the source memory test a week after seeing the film and listening to the summary. Given these results, it seems that this goal of the NICHD protocol to avoid suggestive cues, words, and questions as much as possible embodies a translation of scientific research, as was justifiably aimed by those created this investigative protocol (see Lamb et al., 2007). In fact, even the measures taken in the previous, rapport-building phase can reduce the child's suggestibility and also increase the accuracy of the details s/he provides (e.g., Hershkowitz, 2001). It may be that the social support provided during that phase leads children to feel less anxious, and hence, less intimidated, and that in turn results in a better ability of the child to resist misleading suggestions communicated by the interviewer (Carter, Bottoms & Levine, 1996). If measures are barely taken to minimize suggestibility or to lower the child's anxiety, the information s/he provides may include omissions and distortions of details. In that case, these issues are more a result of the interviewer's inability to conduct an age-appropriate interview rather than of the child's linguistic abilities (Saywitz & Camparo, 1998).

The following phases of the NICHD protocol comprise the "Substantive Part of the Interview". The transition to this free-recall part is made if the child had made an allegation during the third phase, or if s/he has provided an adequately detailed narrative about the days that preceded the interview (also in the third phase). At the beginning of the free recall, the child is encouraged to tell the interviewer about the reasons that led to conducting this interview (i.e., "I want to talk about why you are here today"; Lamb et al., 2007, p. 1221). The interviewer makes several such attempts with different prompts in order to invite the child to disclose information (e.g., "I've heard that you talked to a teacher.... Tell me what you talked about [with that teacher]"; Lamb et al., 2007, p. 1222). Once the child has disclosed the incident that led to the interview, that interviewer then asks specific open-ended questions in order to receive more information about what the child has disclosed. The NICHD protocol specifically guides the interviewer that, if the child's age is under six years, the interviewer should first repeat the child's allegation in the child's own words before moving on to further questioning (Lamb et al., 2007). Indeed, according to Saywitz and Camparo (1998), interviewers should refrain from using concepts and language that are too abstract for children to understand. Saywitz and Camparo explain that, after the child has already provided an account of the events in her/his words, questions that contain confusing words (for the child) may mislead the child's following reports. They further explain that children, especially young ones, tend to create their own explanations to the surrounding they observe. For example, a child might describe semen – an unfamiliar substance to her/him – as glue (a familiar substance). Thus, it is important that the interviewer will put the child's response in an appropriate developmental context.

After a break phase, the interviewer turns to asking the child about details already known to the interviewer regarding the alleged abuse, but that have not been mentioned by the child. Only at this stage of the interview does the interviewer use closed-ended, yes/no questions, while avoiding the use of suggestive utterances that may communicate the interviewer's expectation regarding the child's

response. Such suggestive utterances might include “He wanted you to kiss him, didn’t he?” (Lamb et al., 2007, p. 1206). Then, the NICHD protocol guides the interviewer to elicit information from the child about previous instances in which the child may have talked with someone else about the alleged abuse. According to Orbach and Pipe (2011), this may lead to the elicitation of further investigative cues that can consequently help to obtain more details about the alleged abuse.

At the penultimate, closing phase, the interviewer allows the child to ask questions and to provide any more information s/he wishes to, and also provides the child with contact details of the interviewer should the child wishes to talk with the interviewer again. Finally, the interviewer talks with the child about a neutral topic, such as the child’s plans for after leaving the interviewing room (Lamb et al., 2007).

Summary

The researchers who developed the NICHD protocol hoped that it would provide forensic interviewers with an interview tool that would easily translate professional interviewing practices into easy-to-follow operational guidelines. Being full with illustrated free-recall prompts and techniques, together with its structured format, the NICHD protocol can assist forensic interviewers with maximizing the amount of details provided by young alleged victims (e.g., Lamb et al., 2007). The NICHD protocol is already being used internationally in countries such as Israel, Canada, Norway, Japan, and Portugal. In Japan, for example, a translated version of the NICHD protocol has become the preferred tool for interviewing children, partly because it contains examples for specific words and phrases that the interviewers should and should not use during the interview (la Rooy et al., 2015).

The standardized aspect of the NICHD protocol provides all child interviewees an equal opportunity to disclose or not to disclose details about an alleged abuse. By striving to avoid suggestive prompts and questions, by confirming the disclosed information with the child using age-appropriate vocabulary, and by ensuring a supportive environment, the NICHD protocol helps to minimize personal biases that would result from a hostile atmosphere or underestimation of the children’s capabilities to understand the interviewer (e.g., la Rooy et al., 2015).

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Best fit and best practice: Interrogation of Children using the NICHD protocol

Tameka Romeo

Maastricht University (the Netherlands) & University of Gothenburg (Sweden)

One commonality between the differing theories of human development is that beginning at birth people progress through a series of stages (Santrock, 2006). Further, a person's location on any point in the trajectory of stages is reflected by their physical, psychological, emotional and cognitive maturity. As such the aggregate maturation of the whole person and self informs an individual's capacity to interact with the encapsulating ecological systems (Bronfenbrenner, 1994) wherein they exist. Most children arguably possess a lower reserve of intrapersonal resources and interpersonal abilities in contrast to adults. Therefore the legal and forensic arenas and the sub-systems, policies and protocols contained therein should be adapted to accommodate for children's age appropriate cognitive limitations.

This paper will present a review of a well-established legal interrogation technique, namely the National Institute of Child Health and Human Development Investigative Interviewing (NICHD) protocol. Firstly, a synopsis of the general format of the NICHD will be provided. Next, an argument for the appropriateness of use of the NICHD in child populations will be framed within evaluations of several factors: best practice guidance, human development and proof of efficacy. Limitations of the protocol and final analyses will conclude the discussion.

The NICHD format

As a tool, the NICHD protocol enables the credibility of children's statements to be assessed and has been found to improve the quality of interviews conducted with children (Hershkowitz, Fisher, Lamb, & Horowitz, 2007). The NICHD protocol implements all universal structural best-practice stipulations. As such, as with other child interview models, the NICHD protocol consists of a rapport-building phase, substantive phase and closure phase (Newlin et al., 2015). During the protocol's introductory phase the interviewer introduces him/herself, expresses to the child what is expected of him/her and explains the ground rules (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007). This is followed by a rapport-building phase and transitional part. The transitional point is used to un-suggestively identify target events of interest to the investigation. In the event that the child makes an explicit allegation, the free-recall of details is facilitated. Once the child has been prompted to the limits of his/her free-recalling capacity, only then are direct questions posed.

Best practice in child interviewing

The selection of a child appropriate interrogation tool initializes the actual start of a potentially fruitful forensic interview. One important consideration is the fact that the interplay between children's age and memory processes is a complicated one. For example young children are less adept at recalling information (Lamb et al., 2007). As such, it is quite befitting that some consensus exists throughout the literature and between regulatory bodies as to how child plaintiffs should be interviewed. As the component of investigative legal process which steers other related procedures, a well conducted

interrogation of a child plaintiff is paramount (Newlin et al., 2015). According to Newlin, special considerations which should be taken into account when interviewing children are:

- Conducting interrogations soon after disclosure.
- Documenting the discourse between the child and interviewer.
- Holding interrogations in a child friendly setting.
- The interviewer must understand their role in the process.
- Question structures (e.g, using open-ended questions).

There is also the matter of the quality of child interview training that investigators receive. Research has shown that some professionals in the legal process do not understand some aspects of interviewing guidance for child witnesses (e.g, the definition of leading questions) (Krähenbühl, 2011). As such, the professional integrity (in terms of acknowledging practical deficiencies) and skill-set development of investigative interviewers such as those who use the NICHD protocol cannot be underestimated.

Issues of development when interviewing children

Child plaintiffs present a unique set of challenges pertaining to their ability and or willingness to relay details of witnessed or experienced events. According to (Saywitz & Camparo, 1998) children's statements can be contaminated thus leading to misunderstandings and errors if they are interviewed as if they are adults. The authors also advised that investigators should assess child plaintiff's level of development before commencing an interrogation. This preparatory pre-interview step according to (Saywitz & Camparo, 1998) would aid in adjusting the interviewer's expectations regarding the type and level of detail of information that could be elicited from the child. Developmental limitations in children related to language have been specifically documented. Linguistic complexity and age inappropriate vocabulary are some of the undermining factors identified in poor child interviewing (Saywitz et al., 2009). However once children's linguistic limitations are accommodate for, it has been found that they tend to be less anxious, more cooperative and less likely to respond in dismissively abrupt manner, Cashmore (1992) (as cited in Saywitz & Camparo, 1998) Undoubtedly, precursory findings such as these would have in part informed the evolution of the improved child interviewing protocols in use today.

Proof of efficacy and limitations

As it pertains to evidence-based performance, the NICHD has been shown to improve the quality of interview elicited information from alleged victims (Lamb et al., 2007). In contrast to non-protocol interviews, the NICHD's utilization of open-ended prompts resulted in more detail elicitation (Orbach et al., 2000). In investigations using the NICHD protocol it was found that there was a higher likelihood of charges being filed (Orbach, Pipe, Lamb, Abbott, & Stewart, 2008); this was determined after examination of 729 cases involving children, during which police lead interviews were conducted.

Some commenters argue that the open-ended style of questioning contained in the NICHD protocol fails to extract information from children that is forensically valuable (Lamb et al., 2007). However (Lamb et al., 2003) found that young children could provide information when interviewed by

supplementing the process with cued-invitations. Another critique of the protocol is that the requisite short, intensive training for users may be counter-productive and result in the over-use of leading questions during the interrogation of child plaintiffs (Aldridge & Cameron, 1999). However this concern was raised based on the analysis of interviews of police officers who were trained using an older training model. These officers' subsequent interviews involved children between 1986 and 1988; a substantial period of time before the arrival of the NICHD protocol, which is unarguably the current gold-standard child interviewing tool. Still some consider the extensive training and continued feedback sessions which are required for one to remain versed to be a drawback of the NICHD protocol (Cyr & Lamb, 2009). One possible opportunity for redemption for these shortcomings is the fact that NICHD protocol has displayed efficacy when used with children with low verbal abilities (LVA). The protocol's effectiveness with this particularly vulnerable population is important to note since children with LVA have been found to be susceptible to the influential effects of misleading questions (Bull, 2010). In a study by (Dion & Cyr, 2008) the protocol was found to increase the amount of information obtained from children with LVA. Additionally, the protocol helped children with LVA to provide twice as many details in contrast to details ascertained when the protocol was not used (Bull, 2010).

Conclusion

In summarizing, the development of the NICHD protocol was driven by wide spread professional concern about the challenges that child interviewees present due to age appropriate limitations and non-adherence to recommended child interviewing procedures by interviewers (Cyr, 2011). The protocol's creation was guided by best practice guidelines which include considerations of age, documentation accuracy, interview setting suitability, interviewer competence and question structure. For instance, the lay-out of the protocol's interview phases (e.g., the rapport building phase) allows for the controlled gradual development of a cooperative relationship between the interviewer and interviewee.

One of the concerns raised about the protocol's effectiveness is related to the issue of 'fit' for young children. However this limitation was found to be easily surmountable by the use of cued-invitations (Lamb et al., 2003). Training in the use of the protocol is quite laborious and the subsequent maintenance which is required to remain competent is considered to be a disadvantage (Cyr & Lamb, 2009). In spite of these drawbacks professional praise and evidence based support for the protocol's utility are numerous. The NICHD elicits more details (Orbach et al., 2000), results in greater odds of charges being filed (Orbach et al., 2008), and circumvents the communicative limitation of some children (Dion & Cyr, 2008). These features of the protocol lessen the likelihood of children's credibility being called into question and promote the construction of stronger cases in a bid to holding perpetrators of crimes against children accountable.

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Developmental Considerations for Interviewing Children: Reviewing the NICHD Protocol

Nina Tupper

Maastricht University (the Netherlands) & University of Portsmouth (UK)

Children, it seems, are both the most and least trusted witnesses in the legal arena. On the one hand, the *Satanic Panic* of the 1980's— a time of widespread (and later disproven) allegations of satanic ritual abuse of American children— is demonstrative of how readily child complainants are believed by parents and legal decision-makers alike, even when their stories are unrealistic, bizarre, and even supernatural (e.g., Wright, 1994). In one striking case, Paul Ingrahm was so convinced by his daughters' allegations against him, that he turned himself into police and spent his time in jail “recovering” what he believed to be repressed memories of leading Satanic cult, sexually abusing his daughters, and committing animal sacrifices. Like the Ingrahm case, many of the allegations were based on false memories, and not one of the hundreds of cases investigated by the FBI provided evidence to support a link to satanic cults (Lanning, 1992). On the other hand, children are also painted as inherently unreliable; In the Netherlands, for example, a clinical psychologist testified that a six-year-old witness, who accused her father of murdering her mother in a domestic dispute, likely formed a spontaneous false memory due to autosuggestion— something he (incorrectly) claimed is common in young children (Brackman, Otgaar, Sauerland, & Jellicic, 2016). This is not the only issue children are accused of; one prominent legal scholar in Australia argued that children are prone to make-believe, and that they are highly suggestible, egocentric, lacking in capacity to observe and remember, and may make false allegations for lack of understanding of consequences or with intent on revenge (Heydon, 1984).

These cases exemplify the precarious position of the child witness, whereby children's testimony can be implicitly believed or uncritically rejected because of their youth. Yet both perspectives have some kernel of truth: children can be reliable witnesses and provide accurate reports of events, but developmental deficits can also make that information difficult to obtain and can leave the children more vulnerable to the well-documented factors that have the potential to influence even adult investigative statements (e.g., leading questions, misinformation; Roebbers & Schneider, 2000). Therefore, any investigative interview technique to be implemented with children must be sensitive to developmental stages when attempting to elicit information about an event without contaminating that information. The National Institute of Child Health and Human Development (NICHD) Investigative Interview Protocol is one such interview. The current paper provides a developmental overview of the cognitive and social elements that affect both quantity and quality of the information in eyewitness statements provided by children in investigative interviews. It furthermore examines the NICHD protocol as an interview for child witnesses and victims with these factors in mind.

Developmental Issues Affecting Quantity and Accuracy of Details

Linguistic competence affects memory through the ability to store information in a meaningful way and later retrieve and communicate that information— it is thus related to the amount of information a child can provide about a witnessed event. Children's capacity to recall episodic memories improves as language skills develop: Pre-schoolers (generally under 6 years old) who are capable of articulating

temporally structured, personal narratives also provide more information about a specific past event (Kleinknecht & Beike, 2004), however their reports are more likely to be obtained through closed, direct questions (Hershkowitz, Lamb, Orbach, Katz, & Horowitz, 2012). By contrast, children provide more information as they get older (9-11 vs. 14-16 –year-olds: Jack, Leov, & Zajac, 2013; 6- to 8-year-olds: Lamb et al., 2003), even to open-ended questions, and gain the ability to produce more complex and chronologically consistent narratives (e.g., forwards and backwards; Fivush and Mandler, 1985).

Developmental stages also affect the accuracy of children's statements. Children are disinclined to admit when they do not understand complex questions, but try to answer them anyway (Saywitz, Snyder, & Nathanson, 1999). Notably, those reports are less accurate than for children for whom the questions are adapted to be developmentally suited, and for children who are given instructions and practice in voicing when they do not understand the question. Children of all ages are also more susceptible to external information provided by the interviewer, including leading questions and the introduction of false information (see Bruck & Ceci, 1999). While pre-school children are more responsive to closed questions, they are also more susceptible than school-aged children to influences like leading questions (Roebbers & Schneider, 2002). This may be because of poor executive control leading to poor source monitoring (i.e., the inability to correctly attribute a memory to its contextual origin; Ackil & Zaragoza, 1995) and compliance to adult authority (Bruck & Ceci, 1999). Adolescents, by contrast, are more susceptible to social influences like memory conformity of co-witnesses than younger children (Candel, Memon, & Al-Harazi, 2007). Adolescents are also particularly more sensitive to yielding than adults, meaning that they shift responses to socially desirable ones in reaction to interviewer feedback, or even simply asking the question again (Bruck & Ceci, 1999).

In summary, the amount and accuracy of children's witness statements is highly dependent on the child's cognitive function, linguistic competence, and susceptibility to social influence, all of which develop with age. Statements by children are subject to great variability as these developmental issues interact with external influences (Goodman & Melinder, 2007). Thus, interview techniques implemented for children must provide structure for the interviewer to avoid external influences on children's memory, but also allow the interview flexibility to be developmentally sensitive to the child. This brings us to the NICHD.

NICHD Protocol: Theory and Practice

The NICHD protocol is a structured child-interview that operates as scaffolding for the interviewer—aiming to support interviewers to elicit statements from children of varying ages in a way that is sensitive to their cognitive and social developmental stages (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007). There are two phases of the interview. The first, the pre-substantive section, begins with the interviewer introduction, and is followed by rapport building and then a practice narrative with a neutral event. The second, the substantive section, identifies the reason for interview, begins information-elicitation with open-ended questions followed by increasingly more closed questions as needed. Each section is discussed in turn.

The protocol

The first phase in the interview is considered the non-substantive phase. To begin, the interviewer introduces him/herself defines their own role during the interview (i.e., to listen to the story and ask questions when needed), as well as the child's role (i.e., to tell their story truthfully and in great detail).

The interviewer sets rules and expectations for the interview, including the responsibility to say “I don’t know” when needed, or to correct the interviewer if he/she says anything inaccurate. Typical rapport building follows, with the intent to establish a positive relationship between the interviewer and the child and facilitate disclosure. Then, the interviewer asks the child to recall a neutral event in order to give the child experience with the open-ended questions of free-recall.

Next, the interview progresses into the second, substantive stage. The interviewer transitions into this phase by using open-ended questions to prompt the child to identify the events that are under investigation (i.e., the reason the child is being interviewed). Once the critical events are clearly identified, the child is asked to tell their story in full without interruptions from the interviewer (*Tell me everything...*). Following the conclusion of this first telling, the investigator begins with open-ended questions using the information provided in the child’s narrative in order to encourage elaboration within the narrative (*You mentioned the person was wearing____, can you tell me more about that?*). Once the free-recall is as complete as possible, the interviewer moves into focused recall questions (*What color was ____?*) and, if absolutely necessary, choice-selection (e.g., *yes/no*) questions to clarify particular details. Finally, the interview closes with a neutral topic.

Efficacy of the NICHD protocol

The pre-substantive section is of particular importance because it engages techniques that have been shown to increase both amount and accuracy of child witness statements: 1) giving the child instructions on the task and permission to admit noncomprehension or lack of information and 2) allowing the child a chance to practice their role (Saywitz, et al., 2010). However, while rapport-building is assumed to facilitate disclosure, some recent findings suggest that there is an *inverse* relationship between the amount of time spent rapport building *and the child’s* willingness to disclose details during interviews (Teoh & Lamb, 2010). This should be examined in future research to determine what might have negatively affected disclosure (e.g., length of pre-substantive phase, topics discussed, style of rapport-building questions, etc). Meanwhile, some jurisdictions include a portion in which the interviewer tests the child’s understanding of and willingness to follow the established expectations before moving on (Lamb et al., 2007). The interviewer might pose a hypothetical situation, saying, “So, if I say you are fourteen years old now, how would you respond?”. This gives the child the chance to demonstrate understanding of the rule, and to practice using it by saying he is actually twelve, for example. This should be added officially to the protocol since research demonstrates that, while providing instructions increases quality of statements, allowing the child to internalize those expectations through practice does so even more (Saywitz et al., 1999).

This substantive section attempts to elicit the child’s version of events, while safeguarding that narrative from external influence. Investigators are burdened with the task of exhausting their use of open questions before turning to more specific, closed questions. In theory, and perhaps for adolescents, this technique is ideal because it provides the simplest type of questions (developmentally suitable) with the lower risk of introducing misinformation or misleading questions (see Lamb et al., 2007). In practice, research suggests that younger children will be unlikely to contribute much until more specific questions are used (Hershkowitz, et al., 2012). However, this structure allows for the flexibility to adjust by age as long as the interviewer progresses from attempts of open-ended questions until they funnel inwards to closed questions.

The NICHD Implemented

Another important aspect is in implementation of the techniques used in the NICHD protocol. Training to use this protocol could take one week, followed by role-playing exercises to apply the techniques learned (Lamb et al., 2008). This training is indeed effective to encourage appropriate questioning: in one field study in Quebec (CA), interviewers used three times as many open questions and half as many closed questions when using the NICHD protocol compared to their previous interviews (Cyr & Lamb, 2009). Furthermore, according to studies in the U.S., U.K., Canada, and Israel, the use of the NICHD elicits more valuable information compared to non-structured interviews. However, these studies are not without critique. First, the NICHD is generally compared to pre-training interviews (Lamb et al., 2007). Given that tests with techniques such as the cognitive interview (CI) and modified versions of the CI have also successfully been conducted with children (see Memon, Meissner & Fraser, 2010), it would be logical that such standardized interviews as a whole, but also each of their parts, are compared in order to determine best practices. Secondly, the techniques have been employed by police officers with previous interview experience; While these investigators improve immediately following the training, they appear to return to their previous poor habits without follow-up supervision to the training (Lamb, Sternberg, Orbach, Esplin, & Mitchell, 2002). It would therefore be ideal to both maintain supervision for training and to conduct such training in the police academy with new recruits in order to instill interviewing values from the beginning.

Conclusion

Children can indeed provide reliable witness statements, but their capacity to do so is influenced by their cognitive and social development, as well as external influences of the interview context (e.g., leading questions, misinformation). The NICHD appears to be a beneficial protocol for interviewing child witnesses, in that it considers these cognitive and social skills. However, other interviews have also been shown to be beneficial for children, including an adapted version of the CI. In discerning whether the NICHD is the *best* protocol for child witnesses, and examining how it might be improved, each of its contributing parts should be empirically examined and the protocol should be tested in direct comparison with other interviews. Perhaps its greatest challenge is in implementation: both the time it takes and the training and maintenance required for interviewer's skills, but this is not a problem unique to the NICHD (e.g., the CI: Clifford & George, 1996).

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THE STEPWISE INTERVIEW

The Stepwise Interview: A Protocol for Increasing Accuracy in Child Witnesses' Statements

Haneen Deeb

University of Portsmouth (UK) & University of Gothenburg (Sweden)

The Stepwise Interview has been developed to enhance child witness's recall and accuracy, minimize contamination of recalled information and suggestibility, and decrease negative affect experienced during the interview (Goodman & Melinder, 2007; Hardy & Van Leeuwen, 2004). The interview has been tested empirically and demonstrated promising results with child witnesses, particularly sexually abused children (Lindberg, Chapman, Samscock, Thomas, & Lindberg, 2003; Marxsen, Yuille, & Nisbet, 1995; Yuille, 2002). It is also widely implemented and favoured by professionals in Canada, the United Kingdom, and the United States (Marxsen et al., 1995). In this paper, I present an overview of the phases of the Stepwise Interview as well as its strength and flexibility for application with different age groups.

The guidelines for the Stepwise Interview give a central role to interviewers (Hardy & Van Leeuwen, 2004; Yuille, 2002). Interviewers are expected to demonstrate patience, adjust their language to the child's developmental abilities, give the child control over the interview, allow the child to talk at his/her own pace, refrain from interrupting the child, minimize leading and suggestive questioning, and avoid confirmation biases. Interviewers should not show anxiety, enthusiasm or repulsion as this may deter the child from giving a rich narrative. Similarly, when the child is overly stressed, it is important to have breaks, because a stressful interview depletes the cognitive resources of the child who will have to focus on emotions rather than event recall (Lamb, la Rooy, Malloy, & Katz, 2011).

The Stepwise Interview starts by the interviewer building rapport so that the child feels at ease. Research findings emphasize the importance of this stage in encouraging the child to later provide detailed and accurate reports (Cooper, Griesel, & Ternes, 2013; Saywitz, Larson, Hobbs, & Wells, 2015). The child's interests and the rules of the interview (such as stressing the importance of 'not guessing' the response to a question) may be discussed (Goodman & Melinder, 2007; Yuille, 2002). The child is also asked to recall past activities irrelevant to the crime to allow the interviewer to assess the child's memory capacity, language abilities, affect, and baseline for providing information. This step also allows the child to understand the type of recall that is needed throughout the interview (i.e., for crime relevant questions). This assessment is critical, because children younger than five years of age do not have fully developed metacognitive and metalinguistic skills; even older children's developmental abilities vary within the same age group (Hardy & Van Leeuwen, 2004; Lamb et al., 2011). Moreover, some children may not understand the concepts of truths and lies because of their underdeveloped metacognitive abilities (Yuille, 2002). In such cases, the interviewer should explain the difference between the two concepts and teach the child about their consequences.

During the questioning phase, the Stepwise Interview protocol follows a funnel approach. The interviewer first asks general questions and, only if necessary, narrows down the interview to more specific questions (Goodman & Melinder, 2007). The first question should be the most general question possible (e.g., Do you want to talk to me about anything that happened to you?). Younger children who cannot provide verbal reports without some form of cueing (Lamb et al., 2011) and who do not understand sexual concepts might draw or point to body parts on a diagram (with the interviewer's assistance) and then answer a general question about who saw/touched their parts (Yuille, 2002). The Stepwise Interview guidelines caution against the use of interview aids, noting they should be used only when necessary. Even though these aids may increase elicited information, they may also increase inaccurate information as a result of children's imagination and fantasy (Goodman & Melinder, 2007; Yuille, 2002).

The child is then asked for a complete free narrative, followed by open ended questions if more details are needed. Open ended questions prompt children as young as four years old to elicit the most accurate, but also the least detailed, reports (Goodman & Melinder, 2007; Hardy & Van Leeuwen, 2004). This shortcoming of open ended questions might make it necessary for the interviewer to prompt for additional information, particularly when it is suspected that the child is a victim of abuse (Thoresen, Lønnum, Melinder, & Magnussen, 2009; Yuille, 2002). Repeating open ended questions demonstrate to the child that more information is needed (Lamb et al., 2011). In such cases, however, the interviewer should reemphasize the importance of providing only truthful and accurate information as the child might be inclined to provide inaccurate information to please the interviewer. If more information is still needed following repeated questioning, specific questions may be essential.

Specific questions are difficult to respond to and they decrease recall accuracy of children of all age groups compared to open ended questions (Bull, 2001; Hardy & Van Leeuwen, 2004; Lamb et al., 2011; Thoresen et al., 2009). These effects are particularly true for children under the age of six who are more likely to be suggestible, to exhibit a response bias, and to fail to provide 'don't know' responses. The Stepwise Interview guidelines acknowledge the consequential effects of specific questions and recommend using them only when absolutely required (Lindberg et al., 2003; Porter, Yuille, & Bent, 1995). Even though some researchers suggested dismissing specific questions in forensic interviews (Lindberg et al., 2003), it can be argued that there is evidence that specific questions may increase accuracy under stress, and these questions are the only alternative when open ended questions are insufficient (Bull, 2001; Lamb et al., 2011). Specific questions should be asked based on the child's earlier recall attempts and using the child's language as much as possible. Option posing questions should include more than two alternatives and should be asked again later in the interview by presenting the alternatives in a different order (Yuille, 2002).

The next phase of the Stepwise Interview involves asking the child to clarify any inconsistencies and/or elaborate on vague statements provided earlier in the interview. Finally, the interviewer

concludes the interview and explains what will happen next while welcoming any questions from the child (Yuille, 2002).

The Stepwise Interview has been extended by its founder Dr. John C. Yuille to interviewing forensic suspects (The Stepwise Suspect Interview, n.d.). The guidelines of the modified protocol, however, are unclear and their effectiveness have yet to be scientifically examined. Researchers have shown that the Stepwise Interview is not very effective at enhancing deception detection (Cooper et al., 2013). This may be expected as the interview was originally developed to elicit accurate information from memory. Moreover, given the recommendations of the Stepwise Interview to refrain from using specific questions, it might have limited applicability and effectiveness in suspect interviews for which the importance of specific questions is well-established (Deeb et al., 2016; Hartwig et al., 2011).

In sum, the Stepwise Interview is a flexible interviewing technique that is very successful at eliciting accurate information from witnesses. The interviewer plays a central role in the interview, focuses on the developmental abilities of the witness, and ensures the witness understands relevant concepts as well as the interview rules before proceeding to the questioning phase (Lindberg et al., 2003; Yuille, 2002). This in turn allows its use with children of different ages and even with adults. The guidelines capitalize on these age differences by providing examples of different techniques that may be used with different age groups. One of those examples are interview aids which may be implemented with preschoolers but are inappropriate with adolescents.

The Stepwise Interview was criticized for not guarding against susceptibility to suggestion (Goodman & Melinder, 2007; Hardy & Van Leeuwen, 2004; Lindberg et al., 2003). No other interview protocol, however, succeeded at reducing child suggestibility (Lindberg et al., 2003). Young children are more suggestible than older children and adults. The latter groups have a more elaborate knowledge base to interpret events, can employ strategies to retrieve information independently, are less dependent on external cues, and are more likely to disagree if the interviewer distorted their responses (Bull, 2001; Lamb et al., 2011; Marxsen et al., 1995; Thoresen et al., 2009). Nonetheless, not all young children acquiesce to suggestion. Familiarity with the event as well as individual differences between children such as higher IQ, effortful control, language abilities, and secure parental attachment, play an important role in increasing resistance to suggestibility (Lamb et al., 2011). The Stepwise Interview guidelines carefully consider many of these factors with special attention to the dynamics within the interview by decreasing social pressure and minimizing leading questions. Furthermore, interviewers are advised to ask leading questions that are irrelevant to the crime at the end of the interview to assess whether or not the child is suggestible (Yuille, 2002).

Some empirically based interviewing techniques incorporate elements of the Stepwise Interview in their protocol (Cooper et al., 2013; Lindberg et al., 2003; Thoresen et al., 2009). Similarly, the Stepwise Interview incorporates elements that have been empirically demonstrated to significantly enhance recall, such as rapport building (Cooper et al., 2013; Hardy & Van Leeuwen, 2004; Yuille, 2002). Hence, the Stepwise Interview is theoretically based, involves techniques that have been shown

to improve interview quality, and elicits uncontaminated statements from witnesses (Cooper et al., 2013; Marxsen et al., 1995). These factors paired with its advocacy by professionals and academics and its flexibility for use with all ages present it as a promising interviewing technique with witnesses and possibly with suspects.

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The Step-Wise Approach to Child Interviewing: A Brief Exploration of its Suitability and Applicability in Legal Contexts

Brianna Leigh Verigin

Maastricht University (the Netherlands) & University of Portsmouth (UK)

Over the past several decades, a substantial body of research has focused on children's involvement in legal proceedings. One focus has been on "individual difference" factors that can influence children's credibility in legal settings, in particular the age and cognitive development of the child (Ceci & Bruck, 1993). Children's age and developmental abilities influence their perception of an experience and their ability to internally represent events in ways that contribute to their long-term memory (Lamb, Malloy, Hershkowitz, & la Rooy, 2015; Pipe & Salmon, 2002). As children age, they are better able to comprehend and describe their experiences verbally, relating to improvements in metacognition (Larkin, 2010), the expansion of semantic, syntactic, and pragmatic skills (Hoff, 2009) and the increased organization of memory traces as children mature (Farber & Beteleva, 2011). Another focus has been on the ability of children to accurately encode, store and retrieve different types of information. This research line has found that memory skills improve with age (e.g., see Ceci & Bruck, 1993; Kail, 1989) but that even young children's memory may be accurate over long delays if the experience was personally meaningful and if they are provided with optimal conditions under which to recall such accounts (e.g., see Perris, Myers, & Clifton, 1990).

Research indicates that interviewers must be especially cautious not to influence the content of children's accounts by using interview techniques that are known to produce distorted memories and reports. As such, a great deal of research has centered on how to accurately elicit information regarding criminal allegations involving children – whether they are involved as victims, witnesses, suspects or in another capacity. With the above literature in mind, the following paper will provide a brief, critical overview of the Step-Wise Approaches to child interviewing, with an emphasis on the suitability and applicability of the technique across a variety of legal contexts.

The Step-Wise Approach: An Overview

As a result of extensive research on interviewing children, there is now an accepted manner in which child interviews should be conducted; that is, they should be of a legally sound, neutral and fact-finding nature ("National Children's Alliance," 2011). One such method, widely accepted as a "gold star" approach for effectively interviewing children and adolescents, is the Step-Wise Interview by Dr. John Yuille (Yuille, 1993). This approach is semi-structured and has the following components: 1) introducing the purpose of the interview in a non-leading fashion, 2) rapport-building, which has several goals including putting the child at ease and modeling the interview style, 3) discussion of truth and lie-telling (promises by children to tell the truth do appear to lead to a higher level of truth-telling; Evans & Lee, 2010), 4) eliciting elaboration of responses to open-ended questions (e.g., "Is there anything else you can recall about..."), 5) re-stating responses in a non-leading way and with "I want to make sure I am understanding correctly...", 6) direct questions following up from responses to open-ended questions, and 7) final clarifications. Simply put, the Step-Wise Interview uses a funnel approach beginning with an open-ended, free recall of the child's experience and – if necessary – moves gradually

to more narrow forms of questioning. The avoidance of leading questions (i.e., questions that contain a presumption or detail not already provided by the child) is paramount, although the protocol acknowledges that they may be necessary in some circumstances. For instance, if an interviewer suspects a child was susceptible to suggestion during the interview they may employ leading questions, unrelated to the allegations, at the end of the interview to assess the child's level of resistance. Moreover, the use of affirmative comments (e.g., "um hmm", "okay", "yes") or non-verbal behaviours (e.g., head nods, smiles) is encouraged, although the protocol cautions interviewers about using ingratiating or overly complimentary comments (e.g., "you're doing really well", "you are really smart") to avoid shaping the child's story via social reward (e.g., see Bruck & Ceci, 1995). The protocol also includes general recommendations for the interview(er), such as how to prepare for the interview and how to address children's emotional and physical needs, as a function of their age and development.

The Step-Wise Approach was designed to maximize the amount of accurate and reliable information gathered during the interview and to minimize further distress or trauma for the child, while at the same time, maintaining the integrity of the investigative process (Yuille, 1998). Particularly for cases involving children, the forensic interview is often the centerpiece of the investigation, and accordingly, it is of utmost importance to adhere to empirically validated, legally sound interview techniques such as those encompassed in the Step-Wise Approach. Indeed, this approach was built upon a strong foundation of research, theory and practice specific to interviewing children and adolescent victims and witnesses in cases of alleged sexual abuse, physical abuse and/or neglect (Yuille, 2002). In light of its foundations, it is critical to address the intended purpose(s) of the Step-Wise Approach.

Application of the Step-Wise Interview to Children in the Justice System

Children are increasingly called upon in legal proceedings for a wide array of roles ranging from victims and witnesses, to plaintiffs, asylum seekers and suspects. With greater participation of children in a diverse range of legal contexts, the need to differentiate suitable interview approaches has become crucial. The Step-Wise Approach is an investigative interview protocol that provides a framework for interviewers to reliably and appropriately conduct sensitive interviews of children and adolescents in cases of alleged abuse or neglect. The Step-Wise Approach is tailored to interviewing child *victims* and *witnesses*. The protocol does not appear to explicitly extend the Step-Wise Approach to interviews of children involved in legal proceedings for different matters (e.g., child plaintiffs or child suspects). Many facets of child interviews will remain consistent across contexts (e.g., rapport building, assessing cognitive development); however, there are fundamental differences in the considerations and strategies employed by interviewers conducting witness and/or victim interviews, versus suspect interviews. Namely, both types of interviews are (theoretically) driven by an objective, information-gathering process. Though, a suspect interview is geared towards the elucidation of reliable evidence *against* the suspect (i.e., uncovering inconsistencies and deceit in one's story), whereas a victim or witness based interview is typically aimed at generating evidence *for* the interviewee (i.e., obtaining information that can be further corroborated in the investigation against a suspect). The Step-Wise Interview is a strong tool for obtaining statements where the accuracy of information is a principal concern (Colwell, Hiscock, & Memon, 2002); though, there is research to suggest that this approach is less effective at detecting deception as compared to other investigative interviews (e.g., the Cognitive Interview [Fisher,

Geiselman, & Amador, 1989] or the Reality Interview [Colwell et al., 2002]). The Step-Wise Approach can still be used to detect deception, though it is not the primary aim of the technique (Yuille, 1998).

Recently, the Step-Wise Suspect Interview has been introduced as an additional application of the Step-Wise Approach. Though, seemingly not yet subjected to empirical evaluation – and not designed specifically for children and adolescents – the Suspect Interview provides an investigative interview model based upon research on human memory, motivation and a psychological understanding of criminality (“The Forensic Alliance,” 2013). This adapted protocol can, in theory, also be applied to interviews of child or adolescent suspects. However, further legal and ethical considerations must be undertaken in order to adhere to overarching requirements of child interviews and to facilitate developmentally-sensitive techniques that elicit reliable, accurate information (e.g., interviewers must ensure the child/adolescent has the capacity to understand the circumstances and legal proceedings). According to The Forensic Alliance, a Canadian forensic behavioral sciences research, consulting, educational, and training corporation, many aspects of the Suspect Interview have been adapted from the original Step-Wise Interview (“The Forensic Alliance,” 2013). As such, this protocol may represent a promising method to be implemented in cases involving adolescent suspects, provided it holds up to empirical scrutiny.

For all types of child interviews, it is paramount that the child’s age – and conjointly, their developmental ability – is considered along with their intelligence, experience, and background. The Step-Wise Approaches require interviewers to use vocabulary and concepts that are tailored to the child’s developmental level and cognitive capacity. Largely due to their developing biology and cognition (e.g., immaturity of the prefrontal cortex and executive functions; Farber & Beteleva, 2011), children and adolescents are particularly vulnerable to the stress and pressure of a police interview. This increased susceptibility to the effects of suggestion and leading questions is amplified when youths are subject to inappropriate interview techniques, which may lead them to provide contaminated memory reports, unreliable information, and/or involuntary, false confessions. Both the traditional Step-Wise Approach and the Step-Wise Suspect Interview present a systematic (albeit semi-structured) way of obtaining statements from individuals that emphasizes the protection of memory and the avoidance of suggestive interview methods (“The Forensic Alliance,” 2013). These approaches adhere to the fact-finding process, insofar as the protocols require interviewers to maintain several hypotheses, rather than trying to “prove” a specific hypothesis (i.e., to avoid confirmation biases). Moreover, both approaches keep several important factors in the forefront of the interview format – the age, cognitive development, intellect and memory capacity of the interviewee, as well as the interview tactics employed by the interviewer.

Suitability of the Step-Wise Interview for Children of Varying Ages

The traditional Step-Wise Approach allows for a flexible, developmentally-sensitive interview protocol tailored to meet the needs of children of different ages and abilities (Yuille, 1998). In line with the empirical findings outlined earlier, it is crucial for interviewers to conform to the developmental ability of the child, paying particular attention to individual difference factors and children’s differences in language and memory. Children as young as three years of age have been shown capable of providing detailed and accurate disclosures of events, though a range of factors (Ceci et al., 2002) complicates their ability to do so. For instance, the means through which memories are explored during an interview

may dramatically affect the accuracy of information retrieved (e.g., see Dent, 1982). At the outset of the interview, the Step-Wise protocol requires the interviewer to assess the child's emotional and social functioning, body language, level of linguistic and cognitive development, language and memory skills. Each component of the Step-Wise Approach has been designed, based on empirical research, to be suitable for use with young children and adolescents (Yuille, 2002). For instance, in the opening stages of the interview, it is suggested (depending on the age of the child) the interviewer determine the child's understanding of key concepts (e.g., over versus under, inside versus outside). Further, some components of the protocol are only recommended for certain age groups; for example, reviewing interview rules with the child (e.g., "Even if you think I already know something, please tell me anyway") would be beneficial for primary school age children, whereas it may be more confusing than useful with pre-school age children (Yuille, 1998). Flexibility is an integral part of the Step-Wise Approach. The protocol is in keeping with the body of research on effective ways to interview children (e.g., the avoidance of suggestive or leading questions), and provides an investigative model with which to facilitate, rather than contaminate, memory reconstruction. The Step-Wise Approach is structured enough to adhere to empirically validated recommendations, yet is flexible enough to allow for modified use with children of varying ages, from pre-school aged children to adolescents.

In sum, the Step-Wise Approach is a clinically derived, field tested approach to interviewing child victims and witnesses that is both suitable and effective for children of a variety of ages. Its derivative, the Step-Wise Suspect Interview, presents a framework for conducting suspect interviews and can theoretically also be applied to interviews of older children and adolescents suspected of committing a criminal offence. Both approaches aim to increase the amount of accurate information gathered, whilst decreasing the likelihood of eliciting a contaminated statement or further traumatizing the child.

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THE NARRATIVE ELABORATION PROTOCOL

The Narrative Elaboration Protocol

Irena Boskovic

Maastricht university (the Netherlands) & University of Portsmouth (UK)

A level of accuracy and details in child's report highly depends on the way the child is interviewed. This applies especially in cases in which evidence is missing and in which the child, as a suspected victim or a witness, is the only resource of information. Therefore, the body of research aimed to improve the interviewing procedure of children has grown rapidly in the previous years (Malloy, la Rooy, Lamb, & Katz, 2011).

The studies examining interviewing techniques tend to use a variety of different definitions and terms introducing the same or similar aspects of the interview, as well as different coding and interpretations of children's responses. This restricts the possibility of making the general conclusion about the utility of one specific interviewing technique (Cronch, Viljoen, & Hansen, 2006). Nevertheless, there is a consensus among researchers and practitioners about general guidelines that need to be followed in order to properly interview a child. Some of those guidelines are: Adapting to the child's developmental level, building a solid rapport with the child, providing an age-appropriate and comfortable environment with a supportive atmosphere, beforehand practice reporting about the events and educating a child about the difference between truth and a lie (see Cronch et al., 2006). An interviewer should also set the ground rules with a child, such as what to report and how to report it (e.g. only what they actually saw or heard, usage of "I don't know" etc.). Furthermore, these guidelines especially emphasize staying objective and neutral, avoiding suggestive techniques, such as misleading questions or applying peer pressure, but instead an interviewer should use open-ended and "Wh" (What, where, who, when, etc.) questions. Finally, an interviewer should take enough time to close the interview (Saywitz & Camparo, 2009). Many of these guidelines gained empirical support (see Roberts, Lamb, & Sternberg, 2004; Sternberg, Lamb, Esplin, & Baradaran, 1999) and some of them are now strongly recommended as inevitable part of any interviewing protocol, such as open-ended questions (Cronch et al., 2006).

One of the techniques that incorporates many of the previously stated guidelines is the Narrative Elaboration procedure (NE; Saywitz & Snyder, 1996). The NE procedure was designed to help children overcome developmental limitations, such as memory or verbal fluency, through usage of four reminder cards (Camparo Wagner, & Saywitz, 2001). Each card is design for one of the following target information: participants, setting, conversations and emotional state relevant for the target event (eg., people card, feeling card etc.). By using cards, the interviewer educates children about reporting strategies, and about the quality and quantity of information they should provide about four categories of information (Saywitz & Snyder, 1996).

Camparo et al. (2001) presented four different components of the NE, which make it suitable both as the procedure of educating children about giving the report and as the independent interviewing technique: 1) preparation for an interview; 2) free recall; 3) cued recall, and 4) specific follow-up questions. The first component includes the introduction of reminder cards, followed with practicing and giving feedback. Before the interview starts, the instructions are repeated to a child (Malloy et al., 2011). After this phase, the interviewer begins questioning with free-recall questions, which are followed by the third phase that includes the presentation of one of the cue cards and a question: "Does

this card remind you to tell me anything more?”. This intermediate phase gives an interviewer an opportunity to elicit more information and expand the report. After this step, the interviewer continues with asking more specific questions concerning the target event, such as “Where”, “Who”, “When”, which is especially needed with working with younger children whose reports usually lack richness in detail (Camparo et al., 2001). One of the explanations of young children’s skeletal free recall report is that they have limited access to effective retrieval strategies (Flavell, Miller, & Miller, 1993). Therefore, using external visual cues triggers retrieval of details of any of four relevant categories (Bowen and Howie, 2002).

There are numerous benefits of using the NE during the child interviewing. First of all, the beginning of the NE procedure includes a presentation of all the interview steps to a child, which is beneficial both in the cognitive and motion aspect of a child’s performance (Roberts et al., 2011). Familiarizing a child with a procedure and with the interviewer was found to decrease children’s suggestibility (Hershkowitz, Orbach, Lamb, Sternberg, & Horowitz, 2006), and to lower children’s distress, which is beneficial for memory performance (Nathanson & Saywitz, 2003; Goodman et al., 1992). Furthermore, the part in which interviewer and child are practicing rules together gives an opportunity for rapport building (Hershkowitz, 2011). It has been shown that better rapport building significantly correlates to longer and more detailed responses (Ruddock, 2006). During the free recall phase a child is asked to report whatever s/he remembers about the event. However, free recall often present a problem while working with young children or, whose reports are usually poor in details and require additional questioning (Saywitz & Snyder, 1996). In this situation, the interviewer encounters a danger of asking suggestive questions or using complex language which young children may have difficulty understanding (Lamb, Malloy, & la Rooy, 2011). In contrast, the usage of cue cards and/or verbal cues was shown to be very successful and reduces the need for leading questions (Saywitz & Snyder, 1996; Camparo et al., 2001; Dorado & Saywitz, 2001). The NE provided good results among school-age children (Brown & Pipe, 2003; Camparo et al., 2001), and among pre-schoolers as well (Dorado & Saywitz, 2001). Precisely, these studies found that the children who were trained with NE protocol produced significantly more detailed and more accurate reports than children who were interviewed in a standard manner (Brown & Pipe, 2003; Dorado & Saywitz, 2001; Camparo et al., 2001).

The NE was also tested in different contexts and in relation to specific problems, such as low IQ or learning disabilities. It has been shown that IQ correlates positively with the event recall and that children with learning disabilities or with lower IQ report significantly less detailed and less accurate statements (Nathanson, Crank, Saywitz, & Ruegg, 2007; Elischberger & Roebbers, 2001). However, research showed that the NE reduces the effect of lower IQ on a number of details children provide (Brown & Pipe, 2003) and that it is highly effective among children with learning disabilities (Nathanson et al., 2007). As an answer to the criticism that usage of cued cards could inforce production of false information, the NE was tested in the context of false events. Camparo et al. (2001) wanted to investigate whether using the cue cards can enhance the amount of false information in the free-recall when children were questioned about the events that did not happen. They found that children who were interviewed following the NE protocol did not provide any more false information than children who were interviewed without using the cards (Camparo et al., 2001). Another important finding is that the positive effect of the NE technique was found across cultures despite long or/and short delays of up to 9 months after the event (Brown & Pipe, 2003a).

However, there are few limitations of the NE studies. First, the reason why the majority of the studies in this field have to be taken cautiously is the fact that they do not fully imitate reality. In these studies, the interviewer knows the ground truth, and therefore it is possible to compare and measure the accuracy of children's reports, while in real life that is not the case (la Rooy, Malloy, & Lamb, 2011; Cronch et al., 2006). Second, the majority of studies used pre-school or school age children, however, the data about adolescents is lacking. Therefore, the utility of the NE technique is still unknown in cases involving adolescents (Saywitz & Camparo, 2009). On the other hand, one can speculate that older children might not be as open to the cued cards, and might find them undermining for their age. Furthermore, the NE has not been investigated in cases of multiple events reports (Darado & Saywitz, 2001), or with children who are reluctant to talk. Also, it remains unknown how children would respond to the cue cards while reporting about the traumatic events, such as maltreatment or sexual abuse. However, those types of events are frequently the main cause of interviewing children in a legal setting (Lamb, Hershkowitz, Orbach, & Esplin, 2008). An additional limitation is the possibility that using the cue cards for some children still can force false reports, especially when they are given a hint as to which information is wanted (Lamb et al, 2011).

All in all, the NE seems to be an effective technique of interviewing young children, which facilitates reports both rich in detail and with a higher level of accuracy (see Camparo et al., 2001; Ruddock, 2006). However, when it comes to individual differences, except from the study by Brown and Pipe (2003), showing that individual differences did not influence the effectiveness of the NE technique, there is a lack of findings. Therefore, further studies should establish for which population and under which circumstances the NE protocol is the most effective (Brown & Pipe, 2003).

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EXTENDED FORENSIC EVALUATION

Interviewing Children Using the Extended Forensic Evaluation

Mikaela Magnusson

University of Gothenburg (Sweden)

Investigating alleged crimes against children is a complex task that requires special education, consideration, and practical skills. As the child interview often constitutes a central part of the police investigation, its quality and outcome can have a significant impact on subsequent investigative, prosecutorial, and judicial decisions. Hence, a child's right to a fair trial is clearly limited if their forensic interview does not meet legal and scientific standards. The present paper will provide a critical overview of an interview technique intended for use during child sexual abuse investigations with young plaintiffs: *the Extended Forensic Evaluation* (EFE). After facing prosecutorial challenges in cases where suspected child victims avoided to address the crime allegation, researchers at the National Children's Advocacy Centre in Alabama started to search for a solution to improve interviews with this subgroup of plaintiffs (Carnes, Wilson & Nelson-Gardell, 1999). From clinical research on disclosure processes, Carnes and colleagues concluded that a standard interview might not be sufficient in cases where a range of psychological barriers (e.g., trauma reactions and post-traumatic stress disorder, loyalty to the perpetrator) can hinder a child from disclosing. Likewise, investigations involving preschool-aged children were identified as highly complex and in need of supplementary tools. Their aim was therefore to create a flexible interview protocol for use with young and/or traumatized children that combined both clinical and investigative aspects.

The EFE protocol is, in part, anchored in established best-practice guidelines (e.g., see Goodman & Melinder, 2007, for a review). This includes the incorporation of aspects such as; introducing ground rules for the interview (e.g., telling the child it is okay to say 'I don't know', and to ask for clarifications), employing a hypothesis-testing approach, and to be aware of the risks of suggestive influence (Carnes et al., 1999). However, the EFE also comprises several features that distinguish the technique from other child interviewing protocols. First, a central focus is placed on establishing and maintaining rapport using repeated interviewing. The EFE protocol initially recommended conducting seven separate sessions with the child (Carnes, Nelson-Gardell, Wilson, & Orgassa, 2001). After a closer examination of the cost-benefit aspects of repeated interviews, the recommendation changed to five sessions (Faller & Nelson-Gardell, 2010). The first two sessions focus primarily on building rapport and assessing the child's developmental and socio-emotional level. A second purpose is to introduce the child to the interviewing format. Investigative questions concerning the alleged crime are typically postponed until the third session, if not raised by the child earlier. In the latter scenario, the interviewer is instructed to be flexible and follow the child's own disclosure pace (Faller, Cordisco-Steele & Nelson-Gardell, 2010).

A range of different strategies can be employed to approach the crime allegation during the investigative phase. This includes open-ended questions concerning secrets, the abuse context (e.g., "*I understand that something happened at your kindergarten, tell me everything*"), and discussions about different types of touching (see Carnes et al., 2001, for a more detailed description). To gain further information, the EFE includes training in different memory retrieval strategies (e.g., mnemonics from the Cognitive Interview [CI; Saywitz, Geiselman, & Bornstein, 1992] and props (e.g., cue cards from the Narrative Elaboration technique [NE; Saywitz, Snyder, & Lamphear, 1996]). The CI, the revised CI, and the NE have all received robust empirical support in child interviewing studies (e.g., Memon,

Meissner, & Fraser, 2010; Peterson, Warren, & Hayes, 2013). However, the techniques are only intended as additional tools in the EFE protocol. Faller, Grabarek, Nelson-Gardell, and Williams (2011) for example reported that only 34% of 137 EFE cases employed the CI and 17% used NE. After the investigative phase (sessions 3 – 4), the interviewer can ask questions to clarify inconsistencies or ambiguities during a separate closure session. The closure session also involves training in body safety issues. In line with best-practice guidelines, interviewers are instructed to end the interviews with neutral topics (Carnes et al., 2001).

Unlike most techniques that are developed for police investigators, EFE interviews are intended to be used by therapists. Most commonly, the therapists have a masters' degree in social work, psychology, or a related subject (Williams, Nelson-Gardell, Faller, Tishelman., & Cordisco-Steele, 2016). No formal juridical background is required, but the therapists receive some legal training in connection to their field training (Connell, 2009). Furthermore, the EFE provides structured guidelines for assessing the likelihood of sexual abuse through a framework inspired by the Statement Validity Assessment (SVA; e.g., Vrij, 2015) method (Carnes, Nelson-Gardell & Wilson, 2000). After an extended evaluation is completed, the investigative team (e.g., the therapist, police officers, child protection service professionals) are expected to report their conclusions to the prosecutor and other involved parties. This also involves opinions regarding child protection and foster care placement. Consequently, a secondary goal of the child interview, beyond information-gathering, is to determine the credibility of the child's statement (Connell, 2009).

In 1999, Carnes, Wilson and Nelson-Gardell presented the first preliminary findings on the extended evaluation technique. Fifty-one child cases handled by EFE trained therapists in Madison County during 1995-1997 were analysed, with promising results. In 47% percent of the cases, children who had not disclosed during a standard police interview made a *credible disclosure* during their forensic evaluation. Furthermore, 12% of the children made a disclosure that was deemed unreliable (henceforth, *noncredible disclosures*) and likely to be the result of coaching. Another 18% were classified as *credible nondisclosures* (i.e. the initial suspicion could be explained by other non-criminal acts) and the remaining 23% could not be determined (*unclear*). Although most credible disclosures could be corroborated by other evidence, the strength of evidence varied across investigations (e.g., from photo documentation to failed polygraph results and witness observations). Hence, the researchers could not adequately verify their credibility classifications. Furthermore, question types and details about the children's testimonies were not examined, as the interviews had not been recorded and transcribed. Nor was any information provided regarding potential effects on the children's behaviour and experienced level of trust. Carnes et al. (1999, p. 252) nonetheless concluded: "*These results demonstrate that some reluctant abuse victims will disclose in response to nonleading questions once trust and comfort are established. Without this process, it is clear that some actual abuse victims would have gone unprotected*".

Two years later, a national multisite field study comprising 147 child cases from 12 different American states was published (Carnes, Nelson-Gardell, Wilson & Orgassa, 2001). Similar to previous findings, 44.5% of the children provided a statement that was classified as a credible disclosure. The multisite study suffered the same internal and construct validity problems as Carnes et al. (1999), as the researchers could not verify their credibility classifications. This is highly problematic, considering that the credibility categories were the only dependent measures of the techniques' efficacy. A reanalysis of data from the 2001 study was undertaken by Faller et al., (2011) to examine questioning techniques and

usage of props employed by the EFE evaluators. The researchers reported that 79% of the cases contained non-leading questions concerning the abuse allegation. However, the information was extracted from the EFE therapists' self-reported assessments of their performance. This clearly limits the validity of the findings, as accuracy could not be assessed. Taken together, the empirical support for the usability of EFE is modest (Faller et al., 2010). NCAC centres across the United States are nevertheless employing the technique on a regular basis. Two articles were recently published from a large-scale survey on practitioners' attitudes towards extended evaluations (Williams et al., 2014, 2016). The findings were mixed. Practitioners ($n = 932$) frequently reported that the method could be beneficial for the intended population (e.g., preschoolers, trauma victims) but that extended evaluations required resources, suffered from the increased risk of memory contamination, and could negatively affect the chances to prosecute the case.

The benefits of repeated interviews (e.g., obtaining more information) usually outweighs the costs (e.g., an increase in false details and inconsistencies) according to a landmark review of experimental and field research by la Rooy, Lamb, and Pipe (2009). However, the opposite is true if leading questions and social influence are present, as repetition of false information increases the risks for memory conformity (i.e. when misinformation from another source influence the content of a child's narrative). Repeated interviews could in that case have devastating consequences. The EFE educates investigators about the risks of suggestibility and encourage them to use open-ended questions and avoid leading statements (e.g., Carnes et al., 2001). But the actual interview style used by EFE interviewers has not been scientifically evaluated and the implications of said recommendations are left unanswered. What is more, in a critical analysis of the EFE training material, Connell (2009, p. 466) found indications of inadequate question types (e.g., examples that were clearly leading, such as: "*Do you remember whether the penis was sticking up or hanging down?*"). This problem needs to be addressed. Another dilemma that could occur during repeated interviews is that the child becomes overly attached to the interviewer. Social desirability effects might, for example, become an issue if the child experience that he or she needs to provide inaccurate information to maintain their consistency or contact with the therapist.

Critique has also been raised on the use of therapists as interviewers. Their clinical role and lack of juridical experience might have a negative impact on the objectivity needed to gather legally-relevant information (Connell, 2009). Confirmation bias from a priori assumptions regarding the likelihood of sexual abuse could, for example, increase their proneness to employ leading, repeated, or otherwise pressuring questions during the interview. This is especially problematic considering that the technique is intended for interviews with preschoolers; as young children are more prone to both incorporate and acquiescence with misinformation than older children and adults (Bruck & Ceci, 1999). Some children are more vulnerable than others, and a range of individual factors correlate with these tendencies such as inhibitory control and source monitoring abilities (Goodman & Melinder, 2009). Furthermore, repeated interviews and lengthy evaluations could cause prolonged distress for the child. Other interview protocols therefore recommend employing the minimum amount of sessions, provided the investigator has obtain the information necessary for the next steps of the investigation (la Rooy et al., 2009),

Another cause of concern is the validity of the credibility classification system used in EFE field studies. The tool for evaluating statements was developed by Carnes et al., (1999), with inspiration from the Statement Validity Assessment technique. But whereas the SVA has been extensively studied and has a well-established diagnostic rate (e.g., Vrij, 2015), the EFE desk guide has not been validated.

Employing these guidelines as a credibility tool for analyzing statements might thus be unsound in real legal settings. Furthermore, the risk of confirmation bias is again a threat to the investigative outcome as the credibility assessment is, in part, conducted by the same therapist who performs the child interviews (Connell, 2009).

The EFE technique aimed to provide a much-needed tool for use in complex sexual abuse investigations with reluctant children, who otherwise might have had limited chances of receiving a fair trial due to young age or trauma. While some aspects of the EFE are anchored in current research, the empirical support for the protocol is limited due to several methodological flaws. The lack of control for the conclusions drawn by EFE evaluators and the imminent risk of confirmation bias and memory conformity needs to be properly evaluated. Likewise, EFE interviews should be video documented and closely examined according to best-practice guidelines. While the EFE manual recommends investigators to avoid leading questions and other problematic utterances, there is no reliable information on how EFE therapists adhere to these guidelines. Combining both clinical and investigative aspects could furthermore compromise the objectivity of the investigation. Connell (2009) for example notes that therapists might focus more on the child's mental states than on obtaining factual information for the legal case. Taken together, I therefore strongly believe that the EFE should be used cautiously before these issues have been thoroughly addressed.

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THE SCHARFF TECHNIQUE

Eliciting Information from Children: Suitability of the Scharff Technique

David Amon Neequaye

University of Gothenburg (Sweden) & University of Portsmouth (UK)

Fact-finding is central to criminal and intelligence investigations. Recent research (see Oleskiewicz, 2016) indicates that the Scharff technique, an investigative interview style, is suitable for eliciting information in intelligence settings. The inception of the Scharff technique is timely because interview techniques that aim purely to collect information from human sources (i.e. adults) are scant. Empirical tests and theoretical discussions highlighting the efficacy of the Scharff technique have concentrated on adult samples mostly. Nevertheless, it is not uncommon for children—persons below the age of 18 (UNCRC, 1992)—to become persons of interest who possess useful information. Children are generally considered vulnerable in the contexts of criminal and intelligence investigations (See Redlich, 2010). Therefore, when children become part of the investigative process, adequate measures are to be taken to mitigate their vulnerability. In this article, I discuss various aspects of the Scharff technique and their suitability as a means of eliciting information from children in intelligence investigations.

As described by Toliver (1997), Hanns Scharff was a WWII German Luftwaffe interrogator who displayed exceptional skills in eliciting information from persons of interest. The Scharff technique is a scientific conceptualisation of his interview tactics. The technique is based on the assumption that interviewees with relevant information, to be elicited, are not always forthcoming with such information. Thus, interviewees are likely to enter the interview setting with strategies that will make them appear cooperative to an interviewer. Such tactics include: (a) economising information (b) identifying the interviewer's objectives in order to contribute minimally to it, and (c) volunteering information previously known to the interviewer (Oleskiewicz, 2016). The Scharff technique embodies five counter strategies an interviewer could apply to navigate a person of interest's pseudo-cooperativeness. The interviewer is to be friendly, refrain from pressing for information, establish an illusion that they (i.e., the interviewer) are versed with pertinent information, avoid asking direct questions, and mask the significance of new information an interviewee provides.

Deconstructing Tenets of the Scharff Technique

In the following section, I examine the tenets of the Scharff technique in relation to interviewing children, by drawing on Oleskiewicz's (2016) conceptualization of the Scharff style.

Friendly approach

Scharff's interpersonal style during interviews was not adversarial as was normally expected. Rather, he was tolerant, a good conversationalist, and amiable (See Toliver, 1997). In that regard, the first theme of the Scharff technique is a friendly interviewing style. Consequently, it is mandatory for an interviewer to be non-adversarial when implementing the Scharff technique. Oleskiewicz (2016) describes the *friendly approach* as an atmosphere in which the interviewee is made to feel relaxed and comfortable. The friendly approach suits child interviewing.

The suitability of adopting a friendly demeanour when interviewing children is rooted in attachment theory. Bowlby (1982) posits that the biological and psychological systems in humans naturally drive us to seek safety and comfort in distressing situations that make us feel vulnerable. Investigative interviews are characterised by asymmetric power balances, and can be potentially distressing for children. Therefore, friendliness, an interpersonal style that entails warmth, security and trust is vital to assuaging a child's fear and unease in an investigative interview.

Practically, the friendly approach is appropriate for interviewing children because a myriad of studies have shown that adversarial interview tactics are undiagnostic. In addition, they infringe on the basic rights of interviewees. Furthermore accusatory techniques put vulnerable interviewees, in this case, children, at undue risk. Redlich (2010) notes that the overrepresentation of children in false confession cases in the U.S. stems from accusatorial and psychologically manipulative interview tactics used by law enforcement. Almerigogna, Ost, Bull, and Akehurst (2006) investigated supportive vs unsupportive interview styles in child witnesses. In their study, the unsupportive interviewer, was unfriendly, standoffish and made very little attempts to build rapport. The supportive interviewer on the other hand, was friendly, took the time to establish rapport, and was more engaging. Almerigogna et al.'s (2006) results suggest that interviewing children in a friendly (compared to the unfriendly) manner elicited more diagnostic information even when questions were misleading.

Not Pressing for Information

Scharff's interview style was unusual as attested to by the Prisoners of War (POWs) he interviewed (See Toliver, 1997). Unexpectedly, he hardly asked a barrage of questions. Instead, Scharff presented evidence he possessed in a storyline and gave interviewees leeway to contribute to the story. He did not demand information; he educated it by inviting interviewees to take initiative by adding details and/or correct apparent errors in his story (Oleskiewicz, 2016). In that light, an interviewer who practices the Scharff technique is to stimulate intrinsic motivations to cooperate by allowing the interviewee autonomy to collaborate willingly.

Seeking cooperation by rousing intrinsic motivations fits with child interviewing and interacting with children at large. Self-Determination Theory posits that intrinsic motivation is doing something out of inherent enjoyment and interest (Ryan & Deci, 2000). Such inherent drive has been linked to performance in children. For example, Lamberty (2007) found that getting and keeping children engaged with creative teaching aids improves the performance on difficult math tasks. Ng, Kenney-Benson, and Pomerantz (2004) have also shown that children's performance increased when mothers allowed and supported the child's autonomy during performance. In the arena of investigative interviewing, Alison et al. (2013) have shown that interpersonal styles that emphasise autonomy encourage cooperation in an interview. Overall, these evidence lend some support to the assumption that the *not pressing for information* aspect of the Scharff technique, which boosts an interviewee's intrinsic motivations, is well suited for child interviewing.

The I Know it All Illusion

The *I know it all illusion* segues from *not pressing for information*. As noted previously, Scharff presented the evidence he possessed in a compelling storyline. His stories made it seem like he was well versed in whatever topic was being discussed (Toliver, 1997). This strategy created the know it all illusion which masked his interview objectives. Thus, Scharff's interviewee's were mostly under the

mistaken impression that it was not possible to provide him new information. In practise, an interviewer who applies the Scharff technique is to manoeuvre an interviewee's perceptions in a similar manner.

Though the know it all illusion has been shown to be an appropriate strategy, in the Scharff style, when interviewing adults in intelligence settings (May & Granhag, 2016), however, such a strategy may not be suited for interviewing children. An investigative interview is essentially a social interaction where an interviewer engages an interviewee with the goal of eliciting information for an intended purpose. In social interaction, actors require social competence. Unlike a well-adjusted adult, a child may still be honing social competence heuristics needed for smooth communication in a complex social interaction like an investigative interview. Dodge, Pettit, McClaskey and Brown (1986) outline the information-processing stages children engage in to demonstrate social competence. In summary, Dodge et al. (1986) posit that children attend cues (*the interviewer is asking about X?*), interpret the cues (*X must be important*), and enact responses with the most desirable consequence (*I should tell the interviewer what I know about X*) more deliberately.

In light of the fact that children engage in more deliberate information-processing to demonstrate social competence, the know it all illusion may be disadvantageous in child interviewing. The know it all illusion could obscure cues a child needs to attend in order to demonstrate social competence. For instance, if a child perceives that the interviewer is already knowledgeable on a subject, the child may demonstrate social competence by providing very minimal or no information (e.g. *There is not much I can tell the interviewer*).

It may be argued that the know it all illusion is necessary to counteract an interviewee's pseudo cooperativeness because it (i.e., the know it all illusion) nudges the interviewee to provide new information. But, the pseudo cooperative counter-interrogation strategy has only been identified in adult samples, not children. The friendly and not pressing for information approach provides a good ambience for a child to cooperate. Creating the know it all illusion could be an unnecessary risk and I recommend that it should be avoided in child interviewing.

Confirmation and Disconfirmation

In line with the not pressing for information principle, an interviewer who practices the Scharff technique is not to push for information with direct questions. Just like Scharff did, in tandem with presenting a compelling storyline, the interviewer is to solicit information by making claims that the interviewee is likely to confirm or disconfirm. Such a tactic has been shown to goad interviewees to provide new information unknowingly (Oleskiewicz, 2016). Oleskiewicz (2016) provides the following example of the confirmation/disconfirmation tactic in action. Consider a situation where there is likely to be a terrorist attack on one of two locations. Instead of asking about the target location directly, using a claim (e.g. *so, we know that location A is the target*) is likely to be confirmed or disconfirmed.

Though the confirmation/disconfirmation tactic has proven effective when interviewing adults, it may not be suited for children. As noted earlier, the interview situation is laced with asymmetrical power dynamics; especially in custodial interviews. In such a social interaction the interviewer may be viewed as an authority figure by a child. la Rooy, Malloy, and Lamb (2011) have noted that in such social dynamics, there is a high tendency for children to acquiesce. In that regard, when an interviewer—potentially viewed as an authority figure—presents reasonable claims a child may simply agree rather than point out an error, if any exists. The know it all illusion exacerbates this risk of suggestibility through acquiescence. Robinson and Whitcombe (2003) have shown that children tend to accept

contradicting suggestions when the source of the suggestions is perceived to be well informed. Extant literature also indicates that children are prone to memory distortions from external information (e.g. Leichtman & Ceci, 1995). These evidences indicate that an interviewer runs the risk of eliciting distorted information with the confirmation/disconfirmation tactic. Though the Scharff technique does not encourage direct questioning, open-ended questions have been shown to be more suitable for children (la Rooy et al., 2011).

Ignoring new information

In addition to refraining from direct questions, Scharff masked his interview objectives by trivialising critical information an interviewee provided. He did this by pretending the information was already known, irrelevant, or utterly ignored it (Toliver, 1997). Therefore, in order to implement the Scharff technique effectively an interviewer is to actively ignore critical information an interviewee provides.

Consistently ignoring new information a child interviewee provides is likely to hamper the interviewer's information objectives. As discussed previously, children have rudimentary social competence skills. Thus, children may not engage in complex counter-interrogation strategies that require interviewers to mask their information objectives. Therefore, it would behoove the interviewer to acknowledge critical information a child provides. Highlighting the child's contribution will provide clear cues to help the child demonstrate social competence by providing reliable information.

Conclusions

In this paper, I have discussed whether the Scharff technique and principles therein are appropriate for eliciting information from children. Consistent with extant literature, *the friendly approach* and *not pressing for information* tenets fits child interviewing. Such benign tactics could help build rapport and create a suitable ambience for the child. Nonetheless, aspects of the Scharff technique that obscure social competence signals (i.e. *I know it all illusion* and *ignoring new information*) and risk suggestibility (i.e., *confirmation/disconfirmation*) could be counterproductive to eliciting information from children. Since children may not indulge in sophisticated counter interrogation strategies, the need to mask interviewer information objectives may not be crucial. After creating a suitable ambience with friendliness and not pressing the child for information, open-ended question could be used as a proximate means of educating information.

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PART 2: CHILDREN IN THE LEGAL SYSTEM

Bolivia

Alejandra De La Fuente Vilar

Children in the Bolivian Legal System

According to the code for the protection and promotion of Children Rights (Law N° 548), children have the right to a live free of violence. Any form of physical, psychological and sexual abuse or violence is prohibited by the law (Articles 126, 145-149). In Bolivia, the Ombudsmen for Children and Adolescents and the Child & Juvenile Court of Justice are in charge of the participation of children in legal procedures.

Child victims

Criminal investigations involving child victims are handled by the Ombudsmen's unit for special victims. However, the legal procedures involved are not outlined in the law. In order to fill this gap, I gathered information from a former representative of this office. According to her expertise, when a complaint is presented an exploratory interview is conducted by an interdisciplinary team - formed by a lawyer, psychologist and social worker- in order to gather factual information about the event. This is an unstructured interview in presence of the child's parent(s) or legal guardian. If there are sufficient elements to open a legal cause, they raise a formal allegation to the prosecutor's office of children affairs. In addition, the team performs an unstructured judgement about social risk in order to ask the judge for protective measures (S. De La Zerda, personal communication, November 22, 2016).

The legislation establishes that child abuse cases be treated urgently. Article 174 establishes that endangered children have to be put in child homes for immediate protection within 24 hours. And, the judgement must be reviewed within 30 days. Later, there can be a process of family reintegration or the child is transferred to a foster family or a residential home for children. Further, until the hearing, specialised support must be offered to child victims.

A judge may request a psychological evaluation of a child victim. Although the legislation specifically states that a child interviewing protocol has to be approved by the Supreme Justice Tribunal (Article 227), the interviews are conducted by psychologists at their discretion as currently there are no national best practice guidelines. .. Moreover, current legislation states that the child interview is to be reproduced by technological means during the hearing (Article 229). However, interviews take place in rooms without video-cameras. Hence, sometimes children testify in court, but never with the accused present in the court room. More often the child testimony is informed to the judge by the reports from the interdisciplinary team.

Child suspects

The minimal age of criminal responsibility in Bolivia is 14 years old (Article 267). Adolescent suspects will be judged in the Juvenile Penal System until the age of 18 years unless they have an intellectual, psychic or mental disability that prevents them from understanding of the criminality of his/her action (Article 269). The process of interviewing adolescent suspects is similar to the described above for child victims. Adolescent suspects may remain in custody only for 8 hours, must receive an imputation within 24 hours and their process must not last longer than 8 months. Their preventive detention can only last 45 days.

The Juvenile Penal System advocates for restorative justice. Minors will only be sentenced to four fifths of the maximum sentence established by criminal law. Remission is a measure to exclude the minor from a judicial process when there are sufficient elements to presume guilt, but does not imply responsibility. It only applies for offences with a maximum 5-year punishment (Article 299). Then restorative socio-educational measures are sanctioned (e.g. community service). Only for offences with a stipulated punishment of between 15 and 30 years, may young offenders be sentenced to juvenile detention centres (Article 268).

Child witnesses

Only adolescents over the age of 16 years old can act as witnesses. Their testimony is taken privately, in presence of their family and the interdisciplinary team. Law (Article 220, Law N ° 548) prohibits testimonies in hearings and in courts.

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Lithuania

Aleksandras Izotovas

Interviewing of Child Witnesses in Lithuanian Criminal Proceedings

According to Lithuanian criminal law, child witnesses and suspects fall into a category of vulnerabilities. Article 51, parts 1-3 of the Lithuanian Criminal Procedure Code (CPC) delineates that defence lawyer is required during the investigation of the cases of the minors (under 18 years old), blind, deaf, mute, and the other individuals who are not able to use their right to defence due to their physical or mental dysfunctions. Also, Article 53 of the same document defines that a representative of the minor or incapable (a person who is not able to understand the meaning of his actions or control them as a result of mental illness or intellectual disability; Lietuvos Respublikos Seimas, 2008) suspect, defendant, convicted, or victim can attend and defend their interests in the proceedings. The representatives can be their parents, foster parents, guardians or assigned person from the institution looking after them (Article 53, part 2). It is noted in the CPC that the representative normally attends the proceedings together with the person whom they represent. The representative has the same rights as the person whom they act for. Also, they must provide legal aid, and follow the rules of the pre-trial investigation and court trial. Importantly, Article 56, part 3 of the CPC defines that the representative has the right to part in the interviewing of the victim and, if the victim request, in all other proceedings.

With respect to the interviewing regulations between witnesses and victims, and suspects, the victim gains the status of witness in the CPC. It denotes that the interviewing of witness or victim begins with requesting to report everything relevant to the case and its details. Then the questions may be asked. Leading questions are prohibited (Article 183, part 2; Article 185). As for the witnesses and victims under the age of 18, they can be interviewed not more than once. Under the ruling of the judge, they can be interviewed in the separate room from a suspect and the other parties of the proceedings (only psychologist or representative of state child rights protection institution can be present during the interviewing). The interview is conducted by the pre-trial investigation judge and audio, and video-recorded. The parties can ask questions to the minor witness or victim through the judge (Article 186, part 2 and part 4).

In addition, the minor witnesses can be interviewed in the court trial. In such case the psychologist or representative of state child rights protection institution is called to the court to aid in interviewing them (Article 280, part 1). If the interview can cause trauma or the other severe consequences to the minor witness or victim, they are not interviewed in the court, but their statements given to the pre-trial judge are read (Article 280, part 3).

However, the regulations regarding the interviewing minor suspects are more lenient in comparison with the same category witnesses and victims. Article 188 of the CPC denotes that the psychologist or representative of state child rights protection institution can be present during the interviewing if the parties request or under the judge's initiative. Differently from the witnesses and victims, no regulations about the video or audio recording are foreseen for the minor suspects.

To evaluate the situation of the interviewing child witnesses in Lithuania, few points can be made. First, the possibility of the attendance of the representative in criminal proceedings has been foreseen. However, the legislation is not the same when interviewing different legal status interviewees. For example, the representative has the right to take part in the interviewing if the person they act for is

the victim, whereas nothing has been said about the suspect. In the other words it means that the interviewing of suspect under age of 18 can be proceeded without the presence of the representative. Therefore, the risk of coercive or suggestive practices resulting in false confessions, which go undetected, can be increased. This situation completely differs from, for example, the Police and Criminal Evidence Act 1984 (PACE) in the United Kingdom where the presence of appropriate adult during the interviewing of the vulnerable suspect is required. Second, with respect to the interviewing minor witnesses and victims, but not suspects, the video or audio recordings are required. Again, this is different from PACE act in the United Kingdom which requires tape-recording of the interviews with the suspects. Third, if the current Lithuanian legislation does not allow asking leading questions to the witnesses or victims, there is no such restriction when suspects are interviewed (irrespective minor or adult). From the points mentioned above it can be concluded that the current criminal proceedings on investigative interviewing in Lithuania do not protect suspects from possible coercive practices towards which are susceptible to suggestions (e.g. false confessions) especially the vulnerable individuals.

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Canada

Children in the Legal System: An Examination of Current Practices in Canada

Brianna Leigh Verigin

Globally, children are called upon in legal proceedings for a wide array of roles ranging from victims and witnesses, to plaintiffs, asylum seekers and suspects. The Supreme Court of Canada acknowledges that several factors – for instance, heightened vulnerability, reduced level of maturity, and ongoing cognitive development – entitle young persons to significantly different treatment under criminal law than their adult counterparts (Anand & Bala, 2015; Jones, 2015). Accordingly, all legal actors must adhere to special measures that are in place to (a) protect young persons and (b) to enhance the quality of their evidence. The current paper will provide a brief examination of the current practices surrounding children in the Canadian legal system as suspects and as victims/witnesses.

Child Suspects & the Law

The Youth Criminal Justice Act (YCJA) is the legal framework that governs Canada's youth justice system. Premised on the recognition that youths are in a state of "diminished moral culpability," the YCJA applies to youth who are at least twelve but under eighteen years old, who are alleged to have committed a criminal offence (Anand & Bala, 2015; Overview of the Youth Criminal Justice Act, 2015). As such, no person can be convicted of an offence in respect to an act or omission made while under the age of twelve. It follows then, that persons over the age of eighteen who are alleged to have committed a crime will be processed through the adult criminal justice system.

If there are reasonable grounds to believe that a young person has been involved in a criminal offence, police may begin a criminal investigation. The *Criminal Code*, the *Canadian Charter of Rights and Freedoms*, and the YCJA govern such proceedings (e.g., the arrest, interview, and detention of a suspected youth offender; Anand & Bala, 2015). Young persons have special guarantees of their rights and freedoms (including those set out in the United Nations Convention on the Rights of the Child), and they are afforded a variety of special protections (Anand & Bala, 2015). For instance, following arrest, youths must be detained "separate and apart" from adults, they have the right to have a lawyer present during police questioning, and their parents may be involved throughout the justice process (Anand & Bala, 2015). Moreover, it is mandatory for the police interview to be video-recorded.

In line with the YCJA, young persons are to be held accountable through reasonable measures that are in proportion to the seriousness of their offence. A key objective of the YCJA is to encourage the use of extrajudicial measures (e.g., volunteer work) when appropriate. However, if a case is not resolved through such interventions, the offending young person will be processed in youth court. Under the Act, youth court judges have a wide variety of sentencing options (e.g., community-based sentences, custody sentences) to impose, of which may range to a maximum length of two to ten years depending on the nature of the offence committed. The YCJA also allows judges the option of imposing an adult sentence on a young person who is found guilty of a serious offence (e.g., murder, aggravated sexual assault) and who was fourteen or older at the time of the offence. In such cases, the *Criminal Code* penalties for adult offenders (e.g., mandatory minimums or life imprisonment) are applied to the young person; however, under no circumstance will a youth under the age of eighteen serve time in an adult

prison. Further, the Act mandates that every custody period is followed by a period of community supervision and support to help ensure successful reintegration into society (Overview of the Youth Criminal Justice Act, 2015).

Child Victims & Witnesses in the Legal System

Canadian law reflects the belief that child victims and witnesses are a particularly vulnerable population, and therefore special measures are in place to protect their rights and prevent further traumatization, as well as to enhance the quality of evidence they provide. In cases of alleged child abuse, or when a child is suspected to have witnessed a crime, the police will conduct a child forensic interview (after obtaining parental consent). Such interviews are often the centerpiece of an investigation, and accordingly, it is of utmost importance for police to adhere to empirically validated, legally sound interview techniques that are tailored to the child's age and developmental ability. Two such methods used in Canada are the Step-Wise Interview by Dr. John Yuille (Yuille, 1993) and the National Institute of Child Health and Human Development Investigative Interviewing (NICHD) Protocol (Lamb, Hershkowitz, Orbach, & Esplin, 2008). It is encouraged for children and adolescents to be interviewed in child-friendly interview rooms by investigators who have specialized training and experience conducting child forensic interviews; though, this is not always possible. Canadian law includes a variety of provisions to assist victims and witnesses throughout the criminal justice process. Whenever an investigation involves a potential child victim, police must contact relevant child protection agencies or provincial and territorial ministries. Pursuant to section 715.1 of the *Criminal Code*, police are required to videotape the child's statement (A Handbook for Criminal Justice Practitioners, 2015).

In Canada, it is presumed that children under the age of fourteen have the capacity to testify, and accordingly, children may testify without being sworn in so long as they meet certain requirements (e.g., promising to tell the truth; Northcott, 2009). Canada is progressive in its use of protective testimony aids; for instance, children are able to utilize a support person during their testimony, they may provide testimony from behind a screen or via closed circuit television if "necessary to get the full and candid account of the acts complained of" (Bala, 1999). Since amendments to the *Criminal Code* in 2006, it is mandatory for such aids to be offered in any criminal proceeding for persons under age eighteen, so long as they will not interfere with the judicial process (Northcott, 2009). Further *Criminal Code* provisions include allowing judges to impose publication bans, close the court proceedings to the public, and when necessary, admit a child's out-of-court statement if it is deemed reliable (Bala, 1999; Northcott, 2009). Lastly, it is important to note that victims and witnesses are not required to assist with the police investigation or the prosecution of the accused.

For decades, it was believed that children lacked the capacity to provide accurate, reliable information as actors in the criminal justice system. Research has, however, produced findings to the contrary. Such advances are reflected in Canada's laws, which have been carefully constructed to reflect the complexities that arise when children are involved in the legal system, whether as suspects or as victims/witnesses.

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Children in the Canadian Justice System: Presentation Summary

Nicole Adams-Quackenbush

Canadian Justice System

In Canada, the justice system is organized into three levels (Municipal, Provincial, and Federal) and contains three systems of law (Criminal, Civil, and Family). Children can be exposed to these systems as a victim, witness, suspect, or complainant (plaintiff). Within each of these systems, each province has their own established rules and laws regarding children such as: age of majority, purchasing of alcohol, prescriptions, or tobacco, legal capacity to enter contracts, ability to be independent of parental control, child labour, and the ability to exercise their civil rights. However, there are provisions under federal law that all provinces must adhere to, such as the voting age and when children suspected of serious crimes can be tried as adults.

For this reason, it is difficult to speak about Children within the Canadian Legal system without researching all 10 provinces and three territories. Additionally, Canada is a ratifying member of the United Nations Convention on the Rights of the Child, which means Canadians are bound by international law for any items within that treaty. Therefore, for the purposes of the presentation, I will focus on my home province of Nova Scotia (*Children and Family Services Act*, 1990) and broad federal laws.

Children as Victims & Witnesses

Children enter the justice system as victims or witnesses by being identified as such through the course of an investigation, or by a complaint made by either the child or an adult. In the case of a child as a victim, children are almost immediately removed from the home and put in temporary care of Child Protective Services (CPS) if the victimization occurs in the home. If the victimization is outside the home, CPS will open a file with the family and act as their support/ liaison with police. CPS will also

arrange for any clinical intervention, testing, or interviews. CPS will also help the family coordinate with the Child Victim Witness Program (CVWP). In Nova Scotia, the CVWP is a free service offered to children and their supporting adult with court proceedings and related processes. This process includes: information about the criminal justice system, assistance with application of compensation programs, legal support, referrals to other community services, liaison with Crown attorney, witness preparation, and assistance with filing victim impact statements (Nova Scotia Department of Justice, 2000).

Social workers or police officers often interview children to obtain details of the case. There is no standard process used to interview child victims and witnesses; however, there is a list of guidelines offered by the Nova Scotia Department of Criminal Justice (NSDCJ; 2000) based on child interviewing literature from the 1990s – this has not been updated since the original report.

Children as Offenders.

In Canada, an age of 12 years has been Federally mandated as the threshold for criminal responsibility (Law Commission of Ontario, 2009). Thus, children under the age of 12 cannot be tried for any criminal action. Instead, children who have committed serious or violent crimes are psychiatrically evaluated and entered into treatment. A file is also opened with CPS and the child and the family are followed for an amount of time recommended by the clinician.

There is no standard procedure in Nova Scotia for interviewing youth as a suspect and interview techniques can frequently vary from city to town to village. However, the youth can have an appropriate adult present when being questioned by police if it is deemed within the best interests of the youth, or may advance the case. Without this minor or rare exception, a youth suspect interview is exactly like an adult suspect interview, and youth are afforded the same legal rights under the Canadian Charter of Rights and Freedoms (*Constitution Act*, 1982)

Depending on the crime, children between 12 years and 17 years (youth) can be diverted from the NSCJS by taking part in restorative justice initiatives. Youth can be referred to this program by a police officer, a judge, or through self-referral. If the youth is accepted and successfully completes the program, they exit with no criminal record. These programs have been shown to reduce recidivism more than traditional correction initiatives (Nova Scotia, 2013).

Youth involved with more serious crimes cannot be sentenced for more than two years, the maximum sentence for multiple crimes is three years, and youth convicted of first degree murder can be sentenced to a maximum of 10 years, and seven years is the maximum of second degree murder. Youth can also be sentenced as adults if preliminary proceedings move the judge to decide that a youth sentence is not severe enough to impress on the youth the severity of their actions, or fully hold them accountable (Library of Congress, 2015).

Family Court and Civil Law

Nova Scotia has a *Voice of the Child* initiative to assist the judge in making decisions about issues before the family court. This usually consists of an assessment conducted by a professional, who will prepare a written report for the judge. This is a way to give a child under the age of 12 an opportunity to be heard in family law proceedings and is most common in divorce or custody hearings (Family law Nova Scotia, 2015). Surprisingly, these reports are rare and judges will often use available information to make decisions in the child's best interests. Children between the age of 12 and 16 can request to be

a party to proceedings and to provide the judge with information that may be important when determining custody, support, or visitation of the child's parents. Youth over the age of 16 are automatically made a party to proceedings and can be represented by counsel if deemed necessary (*Children and Family Services Act*, 1990).

Conclusion

The Canadian Justice System is as big and varied as the provinces and territories contained within. However, when it comes to the treatment of children within this system, federal and international law, and well as the Canadian Charter of Rights and Freedoms dictates the process and allows for consistence and unity across the country. When one small province is examined more closely, we can determine that there are some provisions made for children entering the criminal justice system in the capacity of victim, witness or suspect; however, when it comes to children as suspects, Nova Scotia (and most likely the rest of Canada) should create a standard process that takes developmental variables and best practices into account. Nevertheless, children as victims and witnesses are well supported, and the system is designed not to revictimize or traumatize the child.

In the civil or Familial Law system, children are seen as the top priority of the court and within their processes, you will often see the phrase, "*within the best interests of the child*". Here, children are also afforded rights and protections to ensure they receive the best treatment possible with the court, and that any decisions made by the court in their interest is not further damaging to the child.

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Ghana

David Amon Neequaye

Children in the Legal System in Ghana

Children (or juveniles) are generally considered to be a vulnerable subset of the population. Children's vulnerability is especially pronounced in consequential settings like the justice system; regardless of whether they are suspects, witnesses, or plaintiffs. For example, compared to adults, children are more suggestible (Robinson and Whitcombe, 2003), prone to memory distortions (Leichtman & Ceci, 1995), and likely to acquiesce under pressure (la Rooy, Malloy, and Lamb, 2011). Thus, protections are instituted to cater for children's vulnerability in case they end up in the rigors of the justice system. The United Nations Conventions on the Rights of the Child (CRC)—a document that is widely used as a benchmark for child rights—defines children as persons under the age of 18 years. Article 4 of the CRC further indicates that governments, who ratify the CRC, are to ensure that children's rights are respected, protected, and fulfilled. It has been twenty-six years (i.e., February 1990) since The Republic of Ghana ratified the CRC. Hence, an examination of the extent to which stipulations of the CRC are adhered to in Ghana is warranted. The present paper examines procedures pertaining to children in the legal system of Ghana. Drawing on an investigation, which is still relevant, by Hoffmann and Baerg (2011), I present the nature of juvenile justice in Ghana. The examination explores procedures in police investigations, court proceedings (or resolutions) and custody. Before commencing my discussion, it is worthy to note that, in the constitution of Ghana, children below the age of 12 are not held responsible for crimes.

Police investigations and Children

Commonly, all cases including those that involve children, enter the justice system through police investigations; unless a child (by their own initiative), a guardian or, a third party reports a case directly to the courts. However, assessment of police practices in Ghana is particularly challenging because of a general lack of documentation. The literature on investigative practices by law enforcement agencies in Ghana is rare as most research (e.g. Aning, 2006; Agbemabiessie, 2011) focus on institutional structure and reforms. Normally, police officers in Ghana do not receive any formal training on how to interact with children in the investigative process. Recently (14th November, 2016), however, a news report by Ghana News Agency stated that the Ghana Police Service has designed a Child-friendly Policing curriculum to be taught in all police training schools across the country. According to the Deputy Superintendent of Police, the goal of the programme is to streamline children's access to justice and help police officers to navigate ethical dilemmas when dealing with children. This programme notwithstanding, there are no specialised police units in Ghana that have expertise on child cases. Currently, there is no police unit specifically designated to handling child cases. According to Hoffmann and Baerg (2011) the police unit—Women and Juvenile unit—that was formerly mandated to handle child cases now focuses mostly on domestic violence and has been renamed—Domestic Violence and Victim's Support Unit (DOVVSU). Nevertheless, DOVVSU still receives referrals regarding child cases since officials in DOVVSU are the only police unit with procedural knowledge regarding steps to be taken when a child is a suspect, a witness, or a plaintiff.

Regarding arrest and detention, Hoffmann and Baerg (2011) write that sources at DOVVSU and another police station (Dansoman police station) in one of the suburbs in the Accra (the capital city) indicate the following common practice. Children, who are arrested, especially outside Accra, are held in custody for several days (sometimes up to one month); even though the laws state that, a juvenile is to be held in custody for no more than 48 hours. After 48 hours, a child's case is to be processed by the courts. In addition, when children are in custody, they are frequently held in the same cells as adults. During interrogations, there are usually no lawyers on demand to advise children on their rights or supervise the interrogation of children. Hoffmann and Baerg (2011) note that social workers typically fill the role of lawyers. In addition, the police do not vest a lot of resources into locating a guardian who is capable of supervising the interrogation of a child. Thus, child interrogations are usually unsupervised.

Children in Courts

According to Ghana's constitution, children have the right to legal representation when in court. Nonetheless, there is no directly identifiable government agency responsible for providing lawyers when a child is unable to afford one. Hoffmann and Baerg (2011) report that two *pro bono* lawyers, sponsored by UNICEF, offer legal representation and advise to children who need legal guidance. Generally, very little resources are dedicated to sensitizing children about their rights in the justice system; this trend perhaps stems from the practise of processing child cases out of court. A semi-formal institution referred to as child panels process child cases. Nevertheless, child panels do not formally adjudicate cases. They prescribe courses of action for the courts or provide out of court mediation services in child cases. Child panels usually consist of legal practitioners and community members. Juvenile courts have the formal mandate to adjudicate child cases based on recommendations of child panels. Still, proceedings in juvenile courts are kept informal unlike in regular courts. However, juvenile courts are plagued with administrative and organizational challenges. For example, there are regular adjournments of proceedings because either case files go missing or parties in cases simply do not show up in court. Additionally, as observed by Berg and Hoffmann (2011), and to date, there is only one Judge trained to handle child cases. Moreover, juvenile courts meet once a week (i.e., Thursday mornings only). In order to move things along, overly adjourned cases are dismissed after six months.

Children in Custody

In Ghana, children who need to be kept in custody are held at facilities called juvenile correction centres. Juvenile correction centres are meant to rehabilitate child offenders. Therefore, children at juvenile correction centres undergo vocational skills training. However, volunteer organisations provide such vocational training. Social workers provide healthcare advise, safe sex education, and the dangers of drug abuse; these themes recur because child offenders fall under the category of 'at risk' population of children. Clinical psychologists also provide counselling services and serious offenders (e.g., rape and murder) are held at senior correctional facilities.

In light of providing rehabilitation, child offenders are to be remanded at juvenile correctional centre for a minimum of three years. Osafo (2007), a judge, remarks that this stipulation encourages children to inflate their ages in order to be treated as adults; this is because adults who commit similar crimes receive lesser custodial sentences. With regard to organisational structure of correctional facilities. The law requires child offenders to be separated by gender and held at different correctional centres. Children in custody are allowed unlimited visits from family members. That notwithstanding,

the social stigma of having a relative incarcerated discourages family members from visiting child offenders.

Conclusions

Though Ghana has taken the right steps by ratifying the CRC, the reality of children in the legal system does not mirror protections stipulated by the CRC. Furthermore, lack of specialised police units for children and a general inadequacy of legal aid for children in need, amplify the risk of an already vulnerable subset of the population. The government of Ghana needs to direct resources throughout the police structure, the courts, and juvenile correction centres in order to address shortcomings identified in this article.

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Sweden

Children in the Swedish Legal System, part 1

Emelie Ernberg

Children as complainants and witnesses

In general, child complainants under the age of 15 do not appear in court. Instead, they are interviewed during the preliminary investigation by a specially trained police officer and their testimony is video recorded and presented in this format to the court. If possible, children are interviewed at a Children's House¹. The interview is conducted using a translated version of the NICHHD protocol (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007). Children's not testifying before the court is not regulated by law, but rather by practice as it is considered to be too much of an ordeal for children to testify about sexual abuse in court (Sutorius, 2015). As children do not appear in court, a claimant counsel, who caters for the child during the trial, represents them. They are also responsible for claiming compensation for the child. In Sweden, all complainants in sexual abuse trials have the right to such representation (Swedish code of Judicial Procedure; SJP; Chap 6). The prosecutor presents evidence, such as the complainant's testimony.

Children under 15 who are called as witnesses in court are called through their guardian (Swedish Prosecution Authority; SPA; 2014). It is also recommended that the guardian is present if they are interviewed during the preliminary investigation (SJP Chap 23 §10 Par 6). There are only limited possibilities to call children as witnesses without their guardian's knowledge (SJP Chap 23 §7 Par 4). A witness may decline from testifying if they are next of kin to the defendant or complainant (Swedish Penal Code: Chap 36 §10). According to legal practise, children under 15 do not make this decision themselves, but this decision is made by their guardians, even in cases where the guardian is the defendant (e.g., Svea Court of Appeal, 2013). The child's testimony may be presented to court as a video recording of their interview (from the preliminary investigation).

Children as suspects

The age of criminal responsibility in Sweden is 15 (The Law on Young Offenders; LYO; 1964:167). However, childhood does not end until the age of 18 and the Swedish legal system does in some aspect, treat very young suspects and defendants, differently. A special law guides how cases involving suspects under the age of 21, are handled (The LYO). Children who commit a crime when they are under the age of criminal responsibility cannot be sentenced in court (LYO). They can however,

¹ There are roughly 30 Children's Houses in Sweden (Landberg & Svedin, 2013). Typically, all those the child would come in contact with during a criminal investigation - namely the prosecutor, police, social services and in some instances, medical professionals, operate under the Children's House.

be the subject of a criminal investigation. Criminal investigations against suspects under the age of 15² are known as §31 Investigations, and can only be conducted under certain special circumstances, such as that the crime the child is suspected of is severe (LYO Chap 31). These investigations should be conducted with urgency, which means that the case should be prosecuted within 3 months of a person having being identified as a suspect on reasonable grounds (LYO Chap 31 §2). As mentioned in the previous section, interviews with children are videotaped. The Swedish police do not use a special method for interviews with suspects, although training in suspect interviewing emphasizes using research based methods and staying away from coercive or manipulative techniques (Granhag, Strömwall, & Montecinos, 2013). There are no special regulations for how interviews with children who are suspected perpetrators of crime should be conducted, all though the LYO regulates some of the circumstances surrounding the interviews, such as that social services should be present (LYO Chap 7). If an investigation is initiated, the child must be assigned a legal counsel (§31 Par 3 LYO). While children under 15 cannot be sentenced in court, their case can be tried in court under special circumstances. This is known as evidential proceedings, and can be conducted in very severe cases, such as in cases regarding murder, aggravated rape or manslaughter (LYO Chap 38; SPA, 2013). In an evidential proceeding, the court decides whether it can be proved that the suspect committed the crime or not. Regardless of whether a criminal investigation or evidential proceeding takes place, children under 15 who have committed crime fall under the care of social services (Prop. 2005/06:165).

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Children in the Swedish Legal System, part 2

Jessica Westman

The Social Service

The Social Services (SoS) has the ultimate responsibility for the support and protection of children until they reach 20 years of age. Any social institution (school, medical facilities etc.) has a responsibility to report any suspicion of abuse, maltreatment, or crime to the SoS and the threshold for the duty to report is low. Whenever there is a report, the SoS has to abide by law to start an investigation. The investigation aims to objectively map the child's situation and do not focus on the question of guilt. In order for the SoS to obtain all necessary information concerning the child's situation, they have extensive investigative tools: Consultation of experts, collection of data from schools, hospital, and criminal records - and of course through interviewing the child in question. All these actions can be undertaken without parental consent – even for the youngest children – but always with the intention of protecting the privacy of the family. However, parents can at any time dismiss or cancel any services aimed at helping the child or family, and involuntary actions can only be taken if the child runs a tangible risk of harm. When a child needs to be removed from the parent/s – a court care order is needed. The Social Welfare Board (a municipal politically appointed board) takes these decisions when applying to the Administrative Court.

The SoS is responsible not only for children who are victims or witnesses of crime (even though this is more common) but also – as far as it is possible – for the care of children who commit crimes. For children under 15 years of age, the full responsibility of taking actions lies on the Social Service but these young children are not held accountable for their crimes in the sense that they are criminally responsible by law and they cannot be sentenced to a penalty. For children between the ages of 15-20 the responsibility is shared between police, social services, prosecutor, and court and the process of investigating children who are suspects of a crime does not diverge so much from the process of children who are victims or witnesses of a crime or who live in an unhealthy environment. If the child has turned 12 years of age, an investigation by the police may only take place if there are exceptional

reasons. The younger the child, the more reasons for the SoS to take full responsibility for the investigation.

Judicial proceedings and interviews

The judicial proceedings are conflict driven in character, unlike the Social Service investigations. It ensures that the investigation is sufficient and though the courts have the legal mandate to request more information and further investigations, the courts are generally passive in this regard and rather allow the parties to litigate. After an emergency removal of a child and when the application is filed, the child (regardless of age) is legally represented. Lawyers representing children over 15-years-old act on the instructions of the child, whereas representatives for younger children represent both the child's view and their own view as legal counsel on what is in the best interests of the child. Administrative Court needs to decide whether a care order should be issued (i.e., if the child needs to be removed from the home) and the court needs to consider whether the proposed care, or other equally adequate care presented by the parents, can be given on a voluntary basis. Voluntary care is always preferred.

Children abide by the law to attend hearings at the police. In sexual crimes, the parent (the non-suspect) is advised not to attend the hearing. Interrogations can also be held without the parent and/or suspect knowing of it, if there are suspicions that the child may be influenced by that person at a later stage. A counsel for the injured party is appointed. The child hearing should be led by a person with special competence and in a secure environment. It could be held at the child's home (unless a family member is the suspect) but is usually held at the police station or at a Barnahus. It is always preferred if a personal contact with the child has been made before commencing the interview. Regarding the content of the hearing – the core should be the crime itself and child interrogations are always video recorded since the child is rarely participating in the official trial. The suspect (if any) and the attorney are later allowed to hear the recording and are also able to ask for further details if necessary. A verdict may be based solely on only a child's statement but for younger children (usually under the age of three), supportive evidence is often demanded given the child's difficulties in leaving reliable statements. In most cases when the child is not present during trial, a child psychologist and witness psychologists assist in the interpretation of the child statements. They always however, remain silent regarding the question of guilt.

Trustworthiness and reliability are two key concepts that form the evaluative basis of the interview. There are a number of criteria that the court needs to consider and that the interviewer needs to bear in mind to establish if the child's statement are trustworthy and reliable; constancy, homogeneity, details, motive to belie, victim symptom, technical and clinical evidence. Open questions and structured interview techniques are preferred in order to encourage the child to develop his or her own story. Rules on how an interview with child witnesses, perpetrators, and victims should be held are described in FUK 15-88§§. The person holding the interview should be educated in child interview techniques and be well aware of linguistic, cognitive, and mental development and abilities in children.

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Lebanon

Haneen Deeb

Minors in the Lebanese Justice System

The Lebanese laws define minors as individuals who are younger than 18 years (Lebanese Ministry of Justice, 2016). Minors may be either suspects, victims, witnesses, or plaintiffs. Minors under the age of seven are not arrested and do not stand trial (Aliya, 1996). In the present paper, I discuss legal procedures with minors in the Lebanese judicial system.

Minor Suspects in the Lebanese Justice System

Minor suspects are questioned after parents/custodians are notified, a lawyer is appointed, and a social representative (SR) is contacted (Lebanese Ministry of Justice, 2016). It is mandatory for minors to have a legal representative, so the court appoints one for minors who cannot afford the expenses. SRs should be present within six hours from the time of being contacted. If no SR is available, a volunteer at the Ministry of Justice may replace the SR. SRs first introduce themselves and then explain their duties, the questioning procedure, and the minor's rights. They ensure the minor understands the questions asked by the police officer, protect the minor's rights, and sign the police report at the end of the questioning session if it matches the minor's statement. SRs follow up by assessing the minor's psychological and social risks, reviewing his/her criminal history, visiting his/her family's home occasionally to assess the familial situation, explaining the judicial procedure to the minor and parents/custodians. SRs also prepare the minor for upcoming trials, and/or report and make recommendations regularly to the judge about the minor's progress (Lebanese Ministry of Justice, 2016).

There is no standard questioning protocol in Lebanon. The minor may be released or detained following questioning (Lebanese Ministry of Justice, 2016). Minors cannot be detained if they are younger than 12 years. Minors older than 12 years may be detained only if extremely necessary and if the punishment for the committed crime is longer than one year. That is, minors who have committed a misdemeanor are detained up to two months and those who have committed a felony are detained up to six months (renewable only once with appropriate justification). Male minors younger than 15 years are detained at a specialized rehabilitation centre and those aged 15-18 years are detained in the minors' wing of the Lebanese main prison. Female minors have only one detention centre. Minors or their parents/custodians/SR/lawyer may petition for their release by paying a fine. The judge may accept or reject the petition. If accepted, the fine's amount is based on the crime's nature and on the minor's financial situation (Lebanese Ministry of Justice, 2016).

If the case proceeds to court, trials are kept confidential and are attended only by the parents/custodians, complainant, witnesses, SR, and lawyers (Lebanese Ministry of Justice, 2016). The court may decide that the minor does not need to be present at trial, but the custodian(s) would need to replace him/her (Jaafar, 1994). If the minor is present during trial, the judge explains to the minor the criminal act, asks the minor about their involvement and responsibility in the act, and hears the minor's statement.

The court may decide on the minor's release, incarceration (only if extremely necessary and if the minor is older than 15 years), fining, supervision, rehabilitation, treatment, transfer to a care centre,

engagement in community work, and/or compensation for the complainant (e.g., by working for him/her; Aliya, 1996). The focus should be on rehabilitation and inclusion of minor suspects in society rather than on incarceration. Minors are incarcerated separately from adults, but once they reach adulthood (at the age of 18), they are transferred to an adults prison until their term ends (Lebanese Ministry of Justice, 2016).

Minor suspects who are not detained may need to sign a commitment to present to court when summoned, to execute decisions, to follow up with the SR, and/or to follow the regulations of the care centre to which they were referred. Also, the care centre/custodians sign a commitment to care for the minor and to accompany the minor to court and/or to the SR's office without delay (Lebanese Ministry of Justice, 2016).

Minor Witnesses/Victims/Plaintiffs in the Lebanese Justice System

Legal proceedings for minor witnesses/victims/plaintiffs do not differ substantially from proceedings for minor suspects. Minor witnesses/victims/plaintiffs are also questioned by the police in the presence of a lawyer and an SR (Lebanese Ministry of Justice, 2016). The SR has the same responsibilities as with minor suspects. The questioning of sexually abused minors is often conducted in a room specific for that purpose at the Ministry of Justice. A medical examination may be requested to assess if the minor was harmed or not. Based on questioning, the minor may be referred to an entity for protection (Lebanese Ministry of Justice, 2016).

Only minors who are older than 15 years are eligible to raise a claim (Jaafar, 1994). Parents or custodians may raise the claim on the behalf of minors who are younger than 15 years or minors who have diminished capacity. Court trials are kept confidential. Minors who are younger than 15 years are not asked to swear an oath and their statements are heard just for information and not as evidence (Jaafar, 1994). When the court decides on the case, it may also recommend psychological treatment for the minor (Lebanese Ministry of Justice, 2016).

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Serbia

Irena Boskovic

Interviewing children and minors in Serbia

According to the Serbian law, a child is a person younger than 14 years of age. Minor is a person who is older than 14 but younger than 18 years. There are actually two categories of minors, a younger minor who is older than 14 but younger than 16, and an older minor who is between 16 and 18 years old. A person who is older than 18 but younger than 21 years is considered to be a young adult.

When dealing with cases in which either a victim or an offender is a child or a minor, the judge, as well as the prosecutor has to have special training in the area of child's rights and child's protection (Zakon o maloletnim uciniocima krivicnih dela I krivicnopravnoj zastiti maloletnih lica, ZML, article 150 and 151). Furthermore, if a child or a minor is a victim of a crime, he or she has to have a legal representative, who as well needs to be educated about child's and minor's protection, from the first hearing of the offender (ZML, article 154).

In order to invite a child or a minor to the interview, parents or caretakers need to be informed and to give their consent, except when it comes to urgent cases in which authorities need to react immediately (ZKP, article 101). Regardless of child's role in the case, as a witness, victim, or a suspect, the public prosecutor, with special training in child's rights and protection, has to be informed and to be informed about the invitation (Protokol o postupanju policijskih sluzbenika u zastiti maloletnih lica od zlostavljanja i zanemarivanja, article V5). However, if a minor or a child cannot, due to his or her intellectual development, comprehend the legal rights, he or she cannot be interviewed as witness, except if a suspect requires that (Zakon o krivicnom postupku, ZKP, article 98). Furthermore, a child younger than three years cannot be interviewed (Stakic, 2000). A child or a minor can only be interviewed by a specially trained person from the police, or by a psychiatrist, psychologist, or a social worker specialized in child's protection. During the interview by a psychiatrist, psychologist, or a social worker, a parent or a caretaker can (but does not have to) be present. However, if the interviewer is a police officer, the parent or a caretaker has to be present.

The interview should not last longer than 90 minutes (Stakic, 2000) and, according to the law, a child or a minor can be interviewed for a maximum of two times, and only if it is necessary the interview will be held more frequently. In exceptional circumstances, the judge can request that the interview is conducted using the technology for the broadcast of images and sounds, while only one person is present with the child. The interview can be conducted at child's home, or in a special room adapted to child's needs (ZML, article 152). The room in which a child is interviewed should be child-friendly. The whole report of the interview should be given to a judge, legal representative, and a prosecutor. None of the information about the case in which a child or a minor is involved can be publically displayed, and the identity of a child or a minor has to be kept discrete (ZKP, article 102). The law also states that a child who is a victim should never be confronted with the offender (ZML, 153), and in cases in which a child needs to identify an offender, the identification will be conducted in a way that an offender cannot hear or see a child (ZML, article 155). The child, nor a minor does not have to testify (ZKP, article 94), and they do not swear an oath, or appear in court (ZKP, article 94).

Legal consequences for minors

No legal charges can be filed against a person who is younger than 14 years of age. For the other three groups (younger minors, older minors, and young adults) three types of measures can be taken: a) Corrective measures, b) juvenile prison, and c) safety measures. Corrective measures include 1) increased supervision of parents or caretakers, 2) placement in a corrective institution in which a minor can be under a supervision of a professional (psychiatrist or a psychologist), or 3) court reprimand (ZML, article 13, 19, 20) . The type of measures is decided based on the age of the minor and his or hers psychological and physical health. Juvenile imprisonment is implemented only in cases in which the same committed offense for an adult would be sentenced to more than five years in prison. The imprisonment can last up to ten years, but after 1/3 of the sentence, the decision can be revised. A minor has to confess the offense in order to be sentenced to a juvenile imprisonment (ZML, article 33 – 39). The third and last type of measure is safety measures that can be implemented in any age category of minors. This measure includes mandatory treatment in a psychiatric institution or in rehabilitation (ZML, article 39, 40). If the offender is a younger minor, only corrective measures can be taken. If an offender is an older minor, he or she can receive both the sentence of corrective measures, or an imprisonment in juvenile prison. In the case that a minor committed two crimes that receive different punishment, the more serious punishment will apply.

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Venezuela

Katherine Hoogesteyn

Children in the Legal System República Bolivariana de Venezuela

According to the Venezuelan legal system, individuals under the age of twelve are legally classified as children and those between the ages of twelve and 18 are classified as adolescents. Children and adolescent's rights and penal responsibilities are protected, enforced and itemized under the "Organic Law for the Protection of Children and Adolescents" (OLPCA) advocated by the National Assembly. The law was created with the objective to guarantee all children and adolescents, who are in the national territory, the application and full and effective enjoyment of their rights and guarantees.

Legal circumstances based on status

Victims. In a report by the nonprofit organization United Nations Children's Fund (UNICEF), the organization states that in all measures concerning child victims or witness, their best interests will be of primary importance. The Venezuelan legislation enshrines that it is a principle of interpretation and application of this law and is mandatory compliance in the decision making concerning children and adolescents. It also states that in the application of this principle, when there is a conflict between the rights and interests of children and adolescents against other equally legitimate rights and interests, the former is priority (Article 8, OLPCA).

As for forensic interviews, there are no official guidelines for conducting interviews with victims or witnesses. Nonetheless, under the OLPCA Article #33, all children and adolescents victims of abuse or sexual exploitation must be guaranteed with permanently free programs aimed in assisting with their needs. Such programs are composed of social workers, clinical psychologists and psychiatrists that work together to help youth victims of abuse. One example is the Technical Unity Specialized in Attention towards Women, Children and Adolescents. The team aims to prevent and fight human right violations towards women, children and adolescents around the capital area of Caracas. One article directly from their website explains that when the district attorney notices a case involving a victim that is considerably emotionally affected, the Unity is then informed. In the article, they also state that each case begins with a social evaluation of the environmental conditions in which the victim lived in. The Unity has a team of psychologists who are specialized in working with children, so while conducting their evaluations they employ the use of toys, drawing tables, etc. They state that this is to provide comfort to the victim. This is to the extent that the website provides information, and the last update was on 2015.

Venezuela's current law provides with assistance to child and adolescent victims, but there is no specification as to how they are treating during forensic investigations. Needless to say, reliable sources that detail how proceedings involving youth victims in Venezuela take place are unavailable.

Plaintiffs. In Venezuela, children and adolescents can bring cases to court through their representatives. According to the country's Civil Code, the legal age required to carry out all types of legal acts is 18. Therefore, anyone under the age of 18 requires a legal representative in order to bring cases to court. Representatives include the parents of the child, a director of an institution that acts as a guardian or the state can also represent the child. Moreover, if the child victim of a crime is unable to

take a case to court due to age restrictions and does not have a representative, then the Public Ministry shall take the case to court (White & Case, 2014)

Witnesses. During court proceedings, individuals above the age of 12 can be witnesses under oath. However, an exception can be made when a judge believes the testimony of a child to be necessary; a child can then be a witness without undergoing oath. In that case, only the judge can ask the child questions.

Suspects/Culprits. Under Venezuelan law, children who are found to be involved in a punishable crime are not held responsible for their criminal behavior, and are subject to protective measures only. This is because children are not legally considered to have the appropriate developmental capacities to understand and discern what is right and what is wrong and thus shall not be processed as perpetrators. As of 2014, adolescents under 14 are now processed under the same conditions as children, and thus are not to be punished.

If adolescents, between the ages of 14 and 17, are found guilty, their sentences are proportionate to the crime. Serious crimes such as intentional homicide, rape, kidnapping and those related to drugs will grant punishments of incarceration for between 6 and 10 years. Other less serious crimes such as robbery and extortion, will grant penalties that do not exceed 6 years. When adolescents of 14 years and up are accused of a crime, the Child and Adolescents Protection Court process them. According to the OLPCA's *Article #179*, this must be composed of an auxiliary team involving multidisciplinary experts in psychology, social work, and other sciences that can attest to the integral biological, psychological, social and legal factors involved in each case. The team also employs the use of linguistics experts in indigenous dialects when needed.

Humanitarian crisis and youth crime

When examining the Venezuelan legal system, it is imperative to understand the current political situation. Venezuela has been under the command of an authoritarian regime for the past 13 years. This greatly affects Venezuela's current law system. Namely, the executive branch disallows for the independence and autonomy of the judicial branch. Throughout his years in office, the former president Hugo Chavez's statements implied that all actions and decisions made by the judiciary must be subjected and in accordance to the policies of the executive branch under his command (Report on the State of the Independence of the Judiciary in Venezuela, 2012, pg. 22); a notion that continues under Chavez's handpicked successor, Nicolas Maduro. To this date, Venezuela's legal system is subject to the interest of the government's political frame, the government's agenda has priority. In consequence, the legislation is in constant change, thus, it is important to acknowledge that what is legally proclaimed at this time may be changed in the period of just months. Further, due to the country's staggering corruption, what is stated under law may not transfer to actual proceedings, meaning that law enforcement and other entities may not necessarily adhere to the law.

Further, the political corruption has hindered the socio-political and economical situation in Venezuela. Although there are laws that protect and delegate youth penal responsibility, legislations are insufficient. Due to serious economic issues, a 90 percent impunity rate (worsen by the recent increase from 12 to 14 years of age in abolished penal responsibility), and insufficient social and rehabilitation programs, youth involvement in criminal activities has significantly risen. Numbers from 2010 and 2011 indicated that about 796 children and adolescents were murdered, with 91% of the violent crimes committed by male children of school age (El Impulso, 2013). However, it is not surprising that

Venezuelan youth has turned to lives of crime. Based on survey by the Assembly's Health Committee, it was estimated that 9 out of 10 households lack the resources for a balanced diet due to the country's hyperinflation. The latest official data showed the basic food basket per month for a family of five costs \$226, while the minimum monthly salary stands at about \$15 (Delgado, 2016). Adolescents then turn to other measures for money; a hired killer ("sicario") earns about 10 times more by killing than the minimum wage. Venezuela is experiencing the biggest humanitarian crisis in the nation's history, and the country's youth is paying the price.

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India

Meghana Srivatsav

The juvenile justice system has existed in India from the year 1850 (then called The Apprentices Act), and has looked mostly at vocationally rehabilitating delinquents between the ages of 10 and 18. The Criminal procedure Code (1898) mentioned the inclusion of juvenile delinquents until the age of 15 in Reformatory Schools. The Juvenile Justice Bill that was discussed in 1960 came into force in 1986. It was amended in 2006 and in 2010, and is called the Juvenile Justice (Care and Protection) Act. In this Act, the age of the juveniles was uniform for both males and females up to 18 years of age. It also defines the difference between care & protection and of juveniles in conflict with law. While care and protection is in reference to any child who is restrained from normal growth and development due to dire consequences, juveniles at conflict with the law are those who have committed some form of crime. This law also included establishing Observation and Special Homes for legally conflicted children, Shelters and Comprehensive Children's home for care and protection. For children in shelters, importance is given to foster care and adoption as options.

India was enraged at the December 2012 incident where a 23-year old woman was brutally raped and eventually died succumbing to her injuries. Before naming the victim, the country called her Nirbhaya (fearless) and laws were introduced in the name based on the brutality of rape and murder in the country. This case is necessary to highlight here since it led to the re-amendment of the Juvenile Justice Act in the nation, as one of the perpetrators was a juvenile. He was convicted of rape and murder and was sentenced to 3 years of imprisonment in a reform facility initially. Owing to the ginormous monstrosity of the act, the nation protested against the lenient punishment given to the juvenile (while the adults were given a death sentence, which is still under contention).

The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2015

The Juvenile Justice act was passed by the Parliament of India, and states that juveniles that are in conflict with the law committing heinous crimes aged between 16 to 18 years should be tried as adults. This came in after a nationwide protest and rage against the previous system that allowed for the juvenile (who was 6 months away from turning 18) to get away with a lenient punishment. The Act was passed in 2015 by both the houses of the Parliament and has been in force since January 2016. This newly passed bill would include a board of experts including psychologists and social workers that establish if the juvenile between the aforesaid ages is to go through trial as an adult. It also introduced a more streamlined process for fostering and adoption of children. However, the Bill is under a lot of scrutiny as well as criticism from women and children activists as well as other authorities for being regressive in nature as well as not being more established in terms of the age norms. The critics argue that keeping the age debate open could lead to many unanticipated repercussions.

The Standard Procedure

The local police are to inform the parents or guardians of the child about the necessity of bringing the child into police custody. They are immediately taken to the Juvenile Justice Board for further analysis of the situation. There are special juvenile police units (SJPU) that are established which have to be the primary point of contact in case of children who are in conflict with the law. Each of these units should have Child Welfare Officers (CWOs) that will be in-charge of the child that is brought in.

The processing of the case and the interviewing happens here. Though there has not been a procedure established to interview children specifically, current practices include the police directly interrogating the children with their unspecified procedures. There have been cases of children who have been emotionally or psychologically abused during the process. Though recent developments in the procedures have made it mandatory for the CWOs to handle this along with the police, this can sometimes be ignored. Children- witnesses, victims and perpetrators, are brought in for an interrogation that is usually video-recorded for documentation purposes. This can later be used in the court, in case the child refuses to be physically present to give the statements. Most of the cases are to be closed within a maximum period of 4 months but delays are not unusual due to various reasons. Juveniles who are under the conflict of law are usually kept in police custody until further progress in the case and do not receive the rehabilitation services that are ideally supposed to be provided.

The Current Status

The Juvenile Justice Board has taken into consideration the need to bring about drastic changes into the present scenario of the juvenile justice system. The latest amendments in the law was not only inclined towards changes to the age limit of a juvenile who is in conflict with the law but also to the procedural flaws that exist. The Board is taking in more experts such as Psychologists and Social Workers that are specialized in child development aspects and interview techniques. Training and education to the current staff within the system and establishing a sturdy team that have the required skillsets is in the making. Juvenile delinquents, irrespective of their age are to be provided with education, behavior modification therapy, counseling and psychiatric aid, if necessary.

In case of involvement in crime, the case is transferred to the Child Courts where a trial is carried out. If convicted, the child is then transferred to a special facility where rehabilitation and individual care plan is decided and carried out by the allotted social worker. In case of a more serious offense, the juvenile is transferred to a prison when he/she attains the age of 21. In case of a victim or a witness, the court initially runs a competency mapping to check if the child is capable of understanding and responding appropriately to the case in question and only then will collect the statement from the child. Anyone can be a witness irrespective of their age, if they have the mental capacity and cognition. It is against the law to publish or use the names or any other details of the juvenile in the media. No information regarding the juvenile is to be revealed in any form unless otherwise specified.

India has come a long way in terms of legal reforms for women and children. Based on the recent developments, it is safe to say that the juvenile justice system hopes for a better outlook in the near future.

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Norway

Mikaela Magnusson

Children in the Norwegian Legal System

Plaintiffs and witnesses

Children below the age of 16 do not testify in Norwegian courts (Criminal Procedure Act, Chapter 18, § 239). Instead, video-recordings of forensic interviews are used during trial to convey their testimony (Criminal Procedure Act, Chapter 18, § 298). The forensic interview is conducted by a specialized child interviewer, on behalf of a professional judge who is presiding over the criminal case (Regulation of Forensic Interviews with Children and Other Vulnerable Victims and Witnesses Act, §§ 5 and 6). The first interview should be conducted within 2 to 3 weeks after the initiation of the police investigation (Criminal Procedure Act, Chapter 18, § 239 e.).

Similar to the development in other Scandinavian countries, Norway established their first Children's advocacy center (Barnehus) in 2007. Today, there are eleven different centers across Norway (Statens Barnehus, 2016). All children who are suspected victims or witnesses of physical or sexual abuse should, if possible, be interviewed at one of these locations (Criminal Procedure Act, Chapter 18, § 239 f.). The main purpose is to protect the child from secondary traumatization as a consequence of providing their testimony repeatedly to different governmental agencies. Multidisciplinary teams consisting of forensic interviewers, judges, police, child psychologists, doctors, and other legal professionals involved in the case (e.g., legal aids, defense attorneys) are therefore all operating at the Barnehus locals (the Criminal Procedure Act, Chapter 18, § 239 d.). The child there delivers their testimony to the forensic interviewer and the other legal professionals take part of the interview via a one-way video-link (i.e. they can see the child but not the other way around) in an adjacent room. Beyond forensic interviews, the Barnehus staff generally provides medical examinations, consultation for the child and their caregivers, short-time therapy, and referrals to treatment after the police investigation is completed.

In October 2015, a reform to improve forensic interviews with children was undertaken in the *Regulation of Forensic Interviews with Children and Other Vulnerable Victims and Witnesses Act* (Ministry of Justice and Public Security, 2015). Notably, the regulation states that interviewers should have passed the Norwegian Police University Collage course in forensic interviews with children and adolescents, consisting of approximately 420 hours of training during a 10 month period. The course includes training in the Cognitive Interview technique and the Dialogical Communication Model (Politihøgskolen, 2012). Furthermore, if the interview concerns a preschooler, the interviewer needs to have passed a specialized course in interviewing preschool-aged children and other vulnerable witnesses, consisting of an additional 210 hours of training (Politihøgskolen, 2016). This course includes training in the Sequential interview technique, a Norwegian adaptation of the Extended Forensic Evaluation model intended for use with young complainants (Langballe, Stormyren, & Davik, 2014).

Suspects

Children cannot be held liable for criminal acts committed before reaching the age of 15 (General Civil Penal Code, Chapter 3, § 46). Offenders under the age of 18 can receive juvenile

punishment (e.g., a youth contract) or a reduced juvenile prison sentence (General Civil Penal Code, Chapter 8, § 52 a.). Police investigations involving offenders between 15 - 18 years of age can also be referred to a governmental agency called the Norwegian Mediation Service, where the case can, potentially, be resolved without leaving a mark in their criminal record. The complainant and offender can there instead come to an agreement of financial damages and other actions the offender needs to fulfill to avoid trial (Ministry of Justice and Public Security, 2014).

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The United States of America

Nina Tupper

Interviewing Children: The United States

Children as witnesses

Although national guidelines exist for forensic interviewing of child witnesses and victims (e.g., Newlin et al., 2015), these are not compulsory, and whether or not to impose regulations is left up to each state. This means that the presence of guidelines or mandatory practices vary widely. Some states, like Washington and Michigan, do have structured interviewing manuals based on the National Institute of Health Child Health and Human Development protocol, originally developed by Lamb and colleagues for interviewing child sexual abuse victims, but now adapted for interviewing child witnesses and victims in general (Lamb, Orbach, Esplin, & Horowitz, 2007; Washington State Department of Social and Health Services, 2009). These incorporate rapport-building, practice narratives, and explaining ground rules before the interview, and encourage open-ended questions during the interview. However, these are also not mandatory, and there is currently no research to determine whether such guidelines are adopted by jurisdictions or implemented in practice.

Children as suspects

Although there are no required protocols for interrogating children suspected of a crime, the legality of the interrogation is protected under the Due Process Clause of the Fifth Amendment of the US Constitution (Farber, 2004), Confessions and admissions are only admissible as evidence if they are voluntary and the child must waive their Miranda rights. A majority of states use the totality of circumstances to determine validity of Miranda waivers, considering age, maturity, the presence of an interested adult, and coerciveness of the interview. Generally, interrogations are conducted using the Reid technique, an accusatory interview that emphasizes deflection of claims of innocence, minimization of the seriousness of the offense, lying about the amount of evidence against the suspect, focus on the benefits of the confession (Redlich, Silverman, Chen, & Steiner, 2004). The Reid technique only differs for children in two ways: 1) police are warned to be careful about the interpretation of nonverbal behavior (but no other guidance is given) and 2) parents are placed out of the way and interview continues as normal (Inbau, Reid, & Buckley, 2013).

Children on the witness stand

According to the Fifth Amendment of the US Constitution, defendants have the right to confront their accusers. Therefore, children are often used to testify in court. Exemptions are made if a face-to-face confrontation is so emotionally stressful for the child that it would obstruct communication. Protections for children vary by judge: whether or not the court is closed, whether screens can be used. In-chamber interviews by the judge are allowed for non-jury trials are more common for custody battles. (Teply, 2007)

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Brazil

Renan Benigno Saraiva

Children in the legal system: Brazil

Children as suspects

In the Constitution of Brazil, every individual under the age of 18 is referred to as a minor and are not criminally liable (CF 88 art. 288). Juveniles between the ages of 12 to 17 years are liable to educative and disciplinary measures, which can include detentions for up to three years. After this period of imprisonment sentence, the juvenile transgressor enters an assisted freedom period. The jurisdiction does not make distinctions between different types of crimes committed by juveniles. In addition, there is no individualization of criminal liability for juveniles, so that wrongdoers that fully understand the nature and consequences of their act will also not be liable to penalties of the Adult Criminal Law. However, developmental characteristics of the juvenile might influence the decisions on educative and disciplinary measures.

There is a permanent debate in the country about reducing the minimum age for criminal responsibility from 18 years old to 16 years. In 2015 the House of Representatives have voted in favour of a law that allow individuals between the ages of 16 to 17 to be criminally liable for certain crimes (e.g. murder, bodily injury, rape), but serving time in different facilities from those below 16 years and above 18 years. Currently, the law is waiting to be discussed and voted by the Federal Senate. The main arguments used by defenders of the reduction are related to a possible decrease on criminality and to offer proper justice to victims' relatives. Those against the reduction argue that it would actually increase criminality, by exposing juveniles to criminal factions in prisons, as well as increasing problems related to overcrowding prisons.

Children as victims

Children's commonly participate as witnesses in Brazilian trials, given the high impunity of criminal cases (Brito & Pereira, 2012). Many Brazilian states adopt a procedure known as the testimony without harmful effects when interviewing children witnesses (Caribé & Lima, 2015). In this procedure a trained professional (preferably a psychologist or social worker), conduct an interview with the children outside the courtroom. The interviewer wears earphones that allows a judge to address questions to the child. A video-audio system enables both rooms to be connected and all the procedure is recorded, avoiding the need for new interviews that could relive victimization feelings on the child. The Brazilian Criminal Procedure Code (CPP) states that children under the age of 14 are not obliged to tell the truth during a testimony. Despite the use of a structured interview procedure, there is no evidence that Brazilian practitioners follow evidence-based interview techniques when obtaining children accounts.

Conclusions

In sum, there is plenty of room to improvement in the participation of children in the Brazilian legal system. The ongoing discussion about the possible reductions of the minimum age for criminal responsibility must be based on empirical evidences, and take into account all possible political and social consequences of implementing this measure. Unfortunately, there is no reliable database or census

about criminal activities in Brazil, which would be crucial to guide such political discussions. The Brazilian Criminal Procedure Code (CPP) acknowledge the importance of children as eyewitnesses, but there is no systematic training of legal professionals in evidence-based interview techniques.

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The Netherlands

Renate Geurts

Children in the Dutch Legal System: A Presentation Summary

The Dutch legal system

The Dutch legal system is characterized by principles that shape the broader context in which child interviewing takes place. For instance, the system is inquisitorial (as opposed to adversarial). This means, amongst other things, that judges have an active role investigating the cases that are brought to trial. Furthermore, all evidence is documented in a paper dossier. This dossier is considered the most important source of information during trial procedures. There are no juries involved in the Dutch legal system and trial performance of the suspect is not crucial. Furthermore, there is a civil law in force (as opposed to a common law) meaning that there exists a primary source of law that qualifies crimes and criminal proceedings (i.e., the Penal Code and the Criminal Procedure Code; Cleiren, & Nijboer, 2007; 2008). Finally, witnesses and victims have the same legal position in police interviews. Both players are referred to as witnesses.

Ages

Persons up until 12 years old are considered *children* in the Dutch legal system. A child can be a witness but not a suspect, as the age for criminal responsibility is set on 12 years. Suspects between 12 and 16 years old are considered *juveniles*, suspects between 16 and 23 years old are considered *adolescents*.

Police work manual on child interviewing

The guidelines for interviewing children are described in a work manual for the police (Politie Instructie Zeden, 2016). This manual prescribes that child witness interviews must be coordinated by a certified investigator. This investigator – together with the person responsible for the child friendly interview studio – advises the prosecutor on whether or not the child should be interviewed. In case of a positive decision, the child must be interviewed by a certified interviewer in a child friendly interview studio. The interview is directed/monitored from a separate ‘editor room’ and the interview must be audio-visual recorded. Certified investigators are interrogators that have completed a 10-months training at the police academy. During this training, they are taught developmental psychology as well as age appropriate interview techniques.

Facts on child interview practices

Arrangements for interviewing children within the police exist since 1990 (Rassin & Van Koppen, 2010). Before this time, children were not interviewed as witnesses by police officers (in the rare cases that child interviews were conducted, it was outsourced to clinical psychologists). Nowadays, there exist 11 studios in the Netherlands that are specially designed for interviewing children and there are approximately 100 police officers who work as certified interviewers/investigators. They administer approximately 1100 child interviews each year. 98% of these interviews concern cases of alleged sexual abuse (Van der Sleen & Dekens, 2007).

Scenario model

The interview techniques that are taught to Dutch child interviewers are integrated in the so-called “scenario model” (Van der Sleen & Dekens, 2007). This model resembles the internationally recommended NICHD protocol in many ways. The scenario model consists of an introduction phase (aimed to ease the child and to explain the rules), followed by a substantial phase (aimed to talk about the alleged crime), and a concluding phase (e.g., questions about disclosure). The name “scenario model” refers to three different scenarios that could occur during the interview and these scenarios supposed to guide the interviewers’ behaviour. That is, the child may talk about the alleged crime right away and open invitations are enough to elicit all important information (scenario A), the child may need cued prompts to provide information about the alleged crime (scenario B), or the child may need more suggestive prompts (i.e., the interviewer enters new, case related information). The model draws on recall (rather than recognition) and employs a funnelled approach, meaning that the interviewer should try to facilitate scenario A and should only switch to B (or ultimately to scenario C) if this is strictly necessary. Furthermore, there exists a “one shot principle” which means that children are interviewed just once in the entire investigative and prospective process. Exceptions to this principle can only be made under rare circumstances.

Children in court

Children in the Netherlands are not involved in court proceedings meaning that they do not stand trial. Although children are not involved in court proceedings, court proceedings do involve children. That is, the court judges whether or not the child’s statement is admissible as evidence (Luijckx, 2012). In principle, child testimonies are admissible if the child is interviewed via the prescribed guidelines (see above). If these guidelines are not followed (e.g., interview was administered by uncertified interviewer), the testimony may (but does not have to) be rejected as evidence. The decision of the court to accept or reject the testimony as evidence depends on the extent to which the deviation from the guidelines may have violated the i) credibility of the statement and/or ii) the suspects’ right to a fair trial. A study in which legislation was analysed revealed that Dutch courts tend to allow reliable testimonies as evidence despite violations of the prescribed proceedings (Luijckx, 2012).

Suspects

As earlier mentioned, persons of 12 years old and above can be hold criminal responsible in the Netherlands. Young suspects are divided in two groups; juveniles (12-18 years) and adolescents (18-23). Both groups are treated different from adults during the investigation as well as in court. For instance, juveniles are obliged to consult a lawyer prior to the interrogations and their lawyer or a confidant may attend the interrogation. However, there exist no guidelines on how to interview suspects of young age. The Child Protection Board is involved in all investigative decisions to guard the interest of the young suspect. The general aim is to stay away from prosecution but this aim is bounded by the severity of the crime. That is, severe crimes such as capital offences will always be prosecuted (“Kind als Verdachte”, n.d.).

Future considerations

Several criticisms have been raised regarding children and youngsters in the Dutch legal system. For instance, children below 12 are well protected in the guidelines but nothing is arranged for children above that age (Hokwerda, Veldman, de Graaf, & Rueb, 2015). In other words, the moment that

someone turns 13 he or she does not enjoy any protection while his or her developmental stage is arguably the same as one year earlier. Moreover, evidence constructions in which the credibility assessment of a child's testimony serves as a separate piece of evidence are questionable yet allowed by several courts (Rassin & van Koppen, 2010). Some critics argue that more arrangements should be prescribed by the law, rather than in guidelines (Hokwerda, 2015).

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Trinidad and Tobago

Tameka Romeo

Children in the Legal System in Trinidad and Tobago - A brief case study

There are four drawbacks to legislation pertaining to the legal processing of children in Trinidad and Tobago (T&T): it is archaic, inadequate, contradictory at times and has been unsupported by sound governance in the past. I will begin with a brief overview of what exists in terms of how children are identified in legal terms. Next, I will discuss when a child is determined to be criminally liable, fit to give voluntary testimony and accept the consequence of deprivation of liberty. I will then give a simple example of a contradiction within the legislation. The process of how children are detained once charged for a criminal offence or deemed *beyond control* by the courts will also be highlighted. Additionally, I will show how the dangers of unhonoured political platform declarations created a virtual Pandora's Box of legal issues for the government of T&T. I will briefly mention some details from the '*Judges' Rules for Children*' which is a new ruling handed down by the highest court in T&T. Framed within all of the aforementioned, I will again briefly present details about the cases of a young boy who is currently taking legal action against the State.

What exists in the legislation regarding the legal identity of children in T&T

According to *The Children Act, chapter 46:01* non-adults are categorized under two labels: a child or a young person. As amended in the Summary Courts Act, 1918 a child is any person between the ages of 7 and 14 years old. Further, a young person is any person who is 14 years and older but younger than 16 years of age.

Criminal liability, fitness to give voluntary testimony and accept deprivation of liberty

In T&T, a child can be held criminally liable from the age of 7; even if the offence is murder. This piece of legislation is underpinned by the rule of *doli incapax* which states a child cannot be charged for a criminal if he/she is under the age of 7 (even if it is one day under the age of 7). Regarding the submission of sworn testimony, a child can do so once he understands the oath which he must take. For the submission of unsworn testimony a child must possess a level of intelligibility deemed sufficient by the court for him understand the oath he must take. In terms of incarceration, children under the age of 14 cannot be imprisoned. However children between the ages of 14 and 16 can be sentenced to prison if they are deemed to be *beyond control* to an extreme extent, thus making detention in a non-prison setting impossible.

Contradiction in the legislation regarding children

A concerning issues regarding some of the legislation in T&T is one of contradiction. In 2016, the legal age at which children could become married became a matter of great controversy due to conflicting legislation. The same problem can be identified in the age brackets within which a person is considered to be a child. The *Children Act 1925*, states that a child is a person *under the age of 14* however the *Summary Courts Act 1918*, states that a child is a person *between the ages of 7 and 14*.

Detainment of children charged for a criminal offence or deemed to be beyond control

The Youth training Centre (YTC) is a detention facility (it is not a prison) entrusted with the responsibility of distributing penal discipline to young male offenders between the ages of *16 to 18* for no less than 3 years and no more than 4 years. Persons are detained YTC for reasons ranging from being deemed beyond control or being charged with murder. Additionally, under the sentence of the court males under the age of 16 can be sentenced to the St. Michael's Home for Boys. Females between the ages of *10 to 17* who are sentenced by the court for offences are detained at the St. Jude's Home for Girls.

'New' flawed legislation on the detainment of children in T&T

During their governance between (2010-2015), the People's Partnership under the leadership of the former Prime Minister Kamla Persad-Bissessar and sanctioned by the President Anthony Carmona, it became unconstitutional to remand juveniles to the Youth Training Centre St. Michael's Home for Boys, St. Jude's Home for Girls and the Women's Prison. Under the 'new' legislation, juveniles were to be housed in community residences; however these residences were never built. As such several civil lawsuits have been brought against the State on behalf of some children. The Children's Authority of Trinidad and Tobago has also filed a lawsuit against the State for unconstitutional detention.

Recent progress in the legal processing of children - Judges' Rules for Children 2016

Recently a ruling was handed down by the highest court in T&T by the *Honourable Chief Justice, Mr. Justice Ivor Archie*. The ruling was effective as of November 1, 2016 and gave guidance to police officers on how investigations into and criminal procedures against child suspects must be conducted. The document includes rules for 15 areas, for example: stop and search of a child, intimate and strip search of a child, arrest of a child, interview or interrogation of a child.³

Repercussions of non-adherence to legislation

In 2015 a 14 year old boy filed a law suit against the State of Trinidad and Tobago citing unlawful detainment at the Youth training Centre (YTC). The boy was charged along with three other co-defendants for the murder of a man (Dulraj Goyan Deodath) in the previous year. Mr. Deodath was bludgeoned to death with a hammer. In addition to the argument of illegal detainment based on his age, the boy has also made allegations of being physically abused during his stay at YTC. Legal representation has been offered by a team of attorneys that includes former Attorney General Anand Ramlogan. Since there are no community residences (as outlined in legislation) for the detainment of children under the age of 16, what could a favourable ending mean for the defendant, victim's family and general public of T&T? This is a question that can only ultimately be answered with time.⁴

³ <http://www.jcp.tt/system/files/resources/JUDGES%20RULES%20FOR%20CHILDREN%202016%20FINAL%20.pdf>

⁴ <http://www.guardian.co.tt/news/2015-08-19/minor-sues-state-over-%E2%80%98adult-jail%E2%80%99>

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Israel

Shiri Portnoy

Children in the legal system in Israel

The judicial system in Israel is adversarial. The Penal Code of Israel was created on 08 April, 1977.

Children as suspects

According to the Penal Code § 34f (1977), a person is not criminally responsible for an offence s/he had committed before turning 12-years-old. The legal system established guidelines regarding the interrogation of minors (1971). The law regarding the sentencing, punishment and rehabilitation of minors/youth was first presented in 23 July, 1971. In cases in which the offender is a child aged less than 14, or the offender is aged less than 18 and has committed a sexual assault, a special child interrogator must conduct the interrogation. The reason for that in the case of a minor sexual offenders is that, due to their age, minors might not understand the nature the crime they committed. Thus, this special interrogator can lead an interrogation which may prevent further damage that can be caused as a result of the intervention of the legal system. The child interrogator must be a social worker who has been trained to- and is officially qualified to interrogate children. This interrogator makes use of information retrieval strategies that fit with the suspects’ developmental stage, as well as their emotional and cognitive needs. The environment of the interrogation should be supportive in order to allow the suspect to provide information as rich and detailed as possible (Ministry of Social Affairs and Social Services, 2015).

According to the law regarding the sentencing, punishment and rehabilitation of minors/youth §9t (1971), before the beginning of the interrogation, the interrogation officer must inform the suspects regarding their rights as suspects (e.g., to have a parent or another relative present during the interrogation). The interrogator must use words that the minor suspects can understand given their age and level of maturity. Additionally, according to §9h (1971), minor suspects can only be interrogated after one of their parents was informed regarding this interrogation (when it is impossible to reach a

parent, another adult who is known to the suspect must be informed). Moreover, the suspect has the right to be represented by an attorney.

A minor against whom charges are pressed will be judged in juvenile court. If put in detention, minors will be held separately from adults. In order to convict and sentence a minor, the court must refer to a report produced by minors' probation services; prior to convicting and sentencing the minor suspect, all other proceedings can be held as long as it has been established that the minor indeed committed the offence. Minors cannot be sentenced to time in prison if this sentence is given before they turn 14. In cases in which the child has no criminal record and is especially young, the court—after establishing the responsibility of the minor for the offence—may decide not to convict the minor, but rather order to punish the minor in manners that would assist the minor to avoid recidivism.

Children as witnesses and plaintiffs

Children are only allowed to provide testimony in court from the age of 14. Children aged less than 14 who are interrogated in court as witnesses must be interrogated by a child interrogator. According to Rubinstein (2010), requiring child interrogators to be present when the child provides testimony in court has been criticized, claiming that this might hurt the defence process for the defendant, and/or prevent a direct impression of the court about the child. Thus, it has been suggested to, for example, take a preliminary testimony from the child prior to pressing any charges against the defendant; or, in some cases, asking the child to provide a testimony without the presence of the defendant (and only of that of the child's attorney).

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Ukraine

Sergii Yaremenko

Children in the Legal System of Ukraine

Age of Criminal Liability

Generally, the age of criminal liability in Ukraine is 16 (Article 22 of the Criminal Code of Ukraine). In cases of certain crimes, criminal liability is also possible starting from the age of 14. The Criminal Code provides an exhaustive list of such crimes, which include murder, terrorism, hostage taking, rape, extortion, hooliganism, theft, robbery and many other crimes that are considered grave by Ukrainian legislation (Article 22 of the Criminal Code of Ukraine). Not all types of penalties are applicable to minors and twice as many types of penalties can be imposed on adult offenders compared to minor offenders. The penalties are also often reduced to for examples a fine, community service or correctional labour when imposed on minor offenders. A person under the age of 16 may also be discharged from criminal liability and imposed the so-called compulsory educational measures. This provision only applies to minors who committed an offence for the first time (Article 97 of the Criminal Code).

Children as suspects

In the investigation stage, the law requires that a minor be interrogated in the presence of the legal representative, a pedagogue or psychologist and, if necessary, a medical practitioner. These individuals have a right to object to questions and to ask questions and shall be informed of these rights before the interrogation begins. It is not allowed to interrogate a minor for more than one hour without a break, and an interrogation cannot last more than two hours per day. Unlike adults, minors cannot be criminally liable for the refusal to give testimony and for knowingly misleading testimony is not applicable in case of children under the age of 16 (Article 226 of the Code of Criminal Procedure).

Children as Witnesses

Child witnesses exercise similar basic rights as provided by the Code of Criminal Procedure for the minor suspects, such as the required presence of the legal representative, a pedagogue or psychologist and a medical practitioner and absence of the warning about criminal liability for the refusal to give testimony and for knowingly misleading testimony. In order to protect the interests of a child suspect or victim in certain cases, the Code of Criminal Procedure provides a possibility to conduct an interview from another room using videoconference. Such distant court proceedings may be initiated by a court ruling (Article 354 of the Code of Criminal Procedure)

Children as Plaintiffs

Normally, the exercise of children's rights in the civil proceedings is possible through legal representatives, who act on behalf and in the best interest of the child in all matters related to the case, who shall act on his or her own behalf but s of a child (Article 39 of the Civil Procedure Code). Yet, children aged 14 to 18 years have some limited right to bring cases in courts themselves. In particular, they may individually exercise their civil procedural rights at the court cases that concern the relationship in which they are personally involved (Article 29 of the Civil Procedure Code). Children over the age of 14 also have a right to, individually, seek remedy in the courts for the protection of their

family rights and interests (article 18 of the Family Code). When 14 to 18-year old children bring cases to court themselves and when legal representatives bring cases to court, the children are recognised as plaintiffs. When the children are below 14 years of age, the children's legal representatives are recognised as plaintiffs. As for the criminal proceedings, Ukrainian legislator provides no age limitations on who can report a criminal offence.

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