

Children's Testimony –Issues and Concerns

A Bibliography



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**National Children's
Advocacy Center**

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Scope

This bibliography lists articles, book chapters, and books covering numerous issues related to child witnesses and children’s testimony. English language international publications are included. Author abstracts are included except when otherwise noted.

Organization

Publications are divided into seven categories: witness credibility, witness competency, possible harm, preparations and facilitation, innovations, juror perceptions, and general. Publications are listed in date descending order within each section. Links to publications are provided when possible.

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Children’s Testimony-Issues and Concerns

A Bibliography

I. Credibility

Denne, E., Sullivan, C., Ernest, K., & Stolzenberg, S. N. (2020). Assessing children’s credibility in courtroom investigations of alleged child sexual abuse: Suggestibility, plausibility, and consistency. *Child Maltreatment*, 25(2), 224-232.

As children’s testimonies of child sexual abuse (CSA) often lack concrete evidence to corroborate a child’s claims, attorneys devote a substantial amount of time to establishing a child as credible during the course of a trial. Examining 134 CSA victim testimonies for children aged 5–17 (M = 12.48, SD = 3.34; 90% female), we explored how attorneys assess child credibility through specifically targeting children’s suggestibility/honesty, plausibility, and consistency. Results revealed that while prosecutors examine plausibility more often to establish credibility, defense attorneys focus their assessments on suggestibility/honesty and potential inconsistency. However, both attorneys asked many more questions about children’s consistency than any other area of potential credibility. Furthermore, while prosecutors ask proportionally more credibility-challenging questions of older children, the defense do not. These results suggest that prosecutors may be missing an opportunity to establish children as honest and consistent and elucidate a need to train attorneys on the implications of children’s inconsistencies, suggestibility, and plausible abuse dynamics.

Stolzenberg, S. N. (2020). [Children’s allegations of sexual abuse in criminal trials: Assessing Defense attacks on credibility and identifying effective prosecution methods.](#) Arizona State University.

Due to delays in reporting, lacking witnesses, and infrequent medical and physical evidence, in criminal investigations of alleged child sexual abuse (CSA), children’s reports of abuse become central to determining whether a crime occurred. While researchers acknowledge that developmental vulnerabilities make children particularly susceptible to courtroom questioning, potentially influencing the reliability and validity of their in-court reports, little attention has been paid to how children are questioned in-court. Only one previous dataset, collected on older cases,

can speak to questioning practices in the United States. This was the purpose of the present project: to examine how attorneys establish and attack children's credibility. In addition, we were interested in assessing how attorneys would phrase questions, how children would respond, and whether questioning practices would exhibit developmental sensitivity.

Brown, D. A., Brown, E. J., Lewis, C. N., & Lamb, M. E. (2018). [Narrative skill and testimonial accuracy in typically developing children and those with intellectual disabilities](#). *Applied Cognitive Psychology*, 32(5), 550-560.

Children must describe maltreatment coherently for their testimony to be influential in court. We know little about how well children with intellectual disabilities (CWID) describe their experiences relative to typically developing (TD) children, despite CWID's vulnerability to maltreatment. We investigated children's reports of an experienced event and compared coherence in CWID (mild to moderate impairment: 7–11 years) with TD children matched for mental (4–10 years) or chronological age (7–11 years). All children included important markers of narrative coherence in their reports. Children with lower mental ages, particularly those with an intellectual disability, included fewer markers of narrative coherence in their reports than children with higher mental ages. Individual markers of narrative coherence, particularly recall of content, predicted accuracy of testimony and resistance to suggestion even when disability and mental age were taken into account. These findings highlight the importance of helping children to describe their experiences coherently.

Andrews, S. J., Ahern, E. C., & Lamb, M. E. (2017). [Children's uncertain responses when testifying about alleged sexual abuse in Scottish courts](#). *Behavioral Sciences & the Law*, 35(3), 204-224.

This study examined the uncertain responses of 56 alleged sexual abuse victims, aged 5–17 years, testifying in Scottish criminal court trials. Don't know/remember ground rules were explained to 38% of the children and each child reported uncertainty in response to 15% of the questions on average. Uncertain responding was associated with expressions of resistance and confusion, questioning context (proportionally more regarding substantive than non-substantive issues), question content (least to disclosure-focused questions), utterance type (more to directives, particularly those posed by defense lawyers; more to recall-based than recognition prompts), and age (children in mid-adolescence were less likely to respond uncertainly than those who were

either older or younger). There were no associations between expressions of uncertainty and ground rule administration, or with whether or not the question focused on central rather than peripheral details about the alleged crimes. Findings highlight concerns surrounding preparatory procedures to help witnesses, especially adolescents, indicate uncertainty when testifying. Copyright © 2017 John Wiley & Sons, Ltd.

Melkman, E. P., Hershkowitz, I., & Zur, R. (2017). Credibility assessment in child sexual abuse investigations: A descriptive analysis. *Child Abuse & Neglect*, 67, 76-85.

A major challenge in cases of child sexual abuse (CSA) is determining the credibility of children's reports. Consequently cases may be misclassified as false or deemed 'no judgment possible'. Based on a large national sample of reports of CSA made in Israel in 2014, the study examines child and event characteristics contributing to the probability that reports of abuse would be judged credible. National data files of all children aged 3–14, who were referred for investigation following suspected victimization of sexual abuse, and had disclosed sexual abuse, were analyzed. Cases were classified as either 'credible' or 'no judgment possible'. The probability of reaching a 'credible' judgment was examined in relation to characteristics of the child (age, gender, cognitive delay, marital status of the parents,) and of the abusive event (abuse severity, frequency, perpetrator–victim relationship, perpetrator's use of grooming, and perpetrator's use of coercion), controlling for investigator's identity at the cluster level of the analysis. Of 1563 cases analyzed, 57.9% were assessed as credible. The most powerful predictors of a credible judgment were older age and absence of a cognitive delay. Reports of children to married parents, who experienced a single abusive event that involved perpetrator's use of grooming, were also more likely to be judged as credible. Rates of credible judgments found are lower than expected suggesting under-identification of truthful reports of CSA. In particular, those cases of severe and multiple abuse involving younger and cognitively delayed children are the ones with the lowest chances of being assessed as credible. © 2017 Elsevier Ltd. All rights reserved.

Szojka, Z. A., Andrews, S. J., Lamb, M. E., Stolzenberg, S. N., & Lyon, T. D. (2017). Challenging the credibility of alleged victims of child sexual abuse in Scottish courts. *Psychology, Public Policy, and Law*, 23(2), 200.

This study examined the effects of credibility-challenging questions (n 2,729) on 62 5- to 17-year-olds' testimony in child sexual abuse cases in Scotland by categorizing the type, source, and content of the credibility-challenging questions defense lawyers asked and assessing how children responded. Credibility challenging questions comprised 14.9% of all questions asked during cross-examination. Of defense lawyers' credibility-challenging questions, 77.8% focused generally on children's honesty, whereas the remainder referred to specific inconsistencies in the children's testimony. Children resisted credibility challenges 54% of the time, significantly more often than they provided compliant responses (26.8%). The tendency to resist was significantly lower for questions focused on specific rather than general inconsistencies, and peripheral rather than central content. Overall, children resisted credibility challenges more often when the aim and content of the question could be understood easily. As this was a field study, the accuracy of children's responses could not be assessed. The findings suggest that credibility-challenging questions that place unrealistic demands on children's memory capacities (e.g., questions focused on peripheral content or highly specific details) occur frequently, and that juries should be made aware of the disproportionate effects of such questioning on the consistency of children's testimony.

Golding, J. M., Wasarhaley, N. E., Lynch, K. R., Lippert, A., & Magyarics, C. L. (2015). Improving the credibility of child sexual assault victims in court: The impact of a sexual assault nurse examiner. *Behavioral Sciences & the Law*, 33(4), 493-507.

The present study investigated the influence of a sexual assault nurse examiner's (SANE's) testimony on mock juror perceptions of a child or adolescent victim of child sexual assault. Community members ($N = 252$, 156 females) read a fictional criminal trial summary of a child sexual assault case in which the victim was 6 or 15 years old and the prosecution presented medical testimony from a SANE or a traditional registered nurse (RN), or did not present medical testimony. Mock jurors were more likely to render guilty verdicts when a SANE testified compared with the other two testimony conditions. In addition, pro-victim judgments (e.g., sympathy toward the victim) and negative defendant judgments (e.g., anger toward the defendant) mediated this relation. Finally, cognitive network representations of the case demonstrated that the RN and no-

medical-testimony groups were similar and the SANE group was distinct from the other two conditions. We discuss these results in terms of the implications of SANE testimony in child sexual assault court cases. Copyright © 2015 John Wiley & Sons, Ltd.

Landström, S., Ask, K., Sommar, C., & Willén, R. (2015). [Children's testimony and the emotional victim effect](#). *Legal and Criminological Psychology*, 20(2), 365-383.

Two experiments were conducted to examine the effects of (1) child victims' emotional expression during testimony and (2) the camera perspective used to record the testimony, on judgements of credibility. Law students (N = 155 in Experiment 1; N = 86 in Experiment 2) watched a child harassment complainant provide a statement in an emotional or neutral manner, presented using different camera perspectives: balanced focus (i.e., a shot portraying an equal focus on the child complainant and the interviewer) versus picture-in-picture (PiP; i.e., a shot portraying only the child with an inset window depicting both the child and the interviewer in the corner of the screen) in Experiment 1 and PiP versus child focus (i.e., a shot depicting only the child) in Experiment 2. Although no effect was found for camera perspective, the results provide support for an emotional victim effect (EVE); the child was perceived as more credible and truthful when communicating the statement in an emotional (vs. neutral) manner. Moreover, the results provide corroborating evidence for the assumption that the EVE rests on both cognitive (expectancy confirmation) and affective (compassion) mechanisms. These findings extend previous research by showing that the EVE and its underlying mechanisms apply to judgements of child complainants in the context of nonsexual crimes and appear to be robust against variations of camera perspectives. Legal implications are discussed.

Brainerd, C. J., & Reyna, V. F. (2012). Reliability of children's testimony in the era of developmental reversals. *Developmental Review*, 32(3), 224-267.

A hoary assumption of the law is that children are more prone to false-memory reports than adults, and hence, their testimony is less reliable than adults'. Since the 1980s, that assumption has been buttressed by numerous studies that detected declines in false memory between early childhood and young adulthood under controlled conditions. Fuzzy-trace theory predicted reversals of this standard developmental pattern in circumstances that are directly relevant to testimony because

they involve using the gist of experience to remember events. That prediction has been investigated during the past decade, and a large number of experiments have been published in which false memories have indeed been found to increase between early childhood and young adulthood. Further, experimentation has tied age increases in false memory to improvements in children's memory for semantic gist. According to current scientific evidence, the principle that children's testimony is necessarily more infected with false memories than adults' and that, other things being equal, juries should regard adults' testimony as necessarily more faithful to actual events is untenable.

Quas, J. A., Thompson, W. C., Alison, K., & Stewart, C. (2005). Do jurors "know" what isn't so about child witnesses? *Law and Human Behavior*, 29(4), 425-456.

Are expert witnesses needed in child sexual abuse cases to educate jurors about children's memory, suggestibility, and reactions to abuse, or do jurors already know what such experts could tell them? To cast light on this question, we surveyed jurors and jury-eligible college students and compared their beliefs with what is known via scientific research regarding children's memory and ability to testify, reactions to interrogation, and reactions to sexual abuse. We also asked participants to infer results of four widely cited studies of children's suggestibility. Participants' beliefs were consistent with findings from research on some issues (e.g., that children can be led to claim that false events occurred) but diverged from the scientific consensus on other issues (e.g., whether children can remember painful events in infancy). Similarly, participants sometimes overestimated and sometimes underestimated the level of suggestibility observed in empirical studies. Individual differences in accuracy were related to participants' gender, education and ethnicity, and there was considerable disagreement among participants on many questions. Implications of findings for the admissibility of expert testimony in child abuse cases are discussed.

Melinder, A., Goodman, G. S., Eilertsen, D. E., & Magnussen, S. (2004). Beliefs about child witnesses: A survey of professionals. *Psychology, Crime & Law*, 10(4), 347-365.

This research addressed how professionals involved with the legal system evaluate children, primarily between 4 and 8 years old, as witnesses. In particular, we focused on professionals' beliefs and opinions regarding children's memory, suggestibility, and behaviors as they relate to

witness credibility. In addition, we surveyed professionals' evaluations of investigative methods related to reliability. Four hundred and seventy-eight professionals working with children in the Norwegian legal system (i.e. judges, police detectives, psychologists, child psychiatrists, prosecutors, and defense attorneys) completed a questionnaire about child witness issues.

Results indicated that psychiatrists as well as police officers expressed greater belief in children's capacities than did other groups, whereas defense attorneys and psychologists were more skeptical regarding children's general credibility. Psychiatrists and psychologists both, however, tended to favor, more than did legal professionals, the use of clinical techniques with children in abuse investigations. Implications are discussed in relation to professionals' attitudes toward children as witnesses.

Golding, J. M., Fryman, H. M., Marsil, D. F., & Yozwiak, J. A. (2003). Big girls don't cry: The effect of child witness demeanor on juror decisions in a child sexual abuse trial. *Child Abuse & Neglect*, 27(11), 1311-1321.

This study investigated the effect of child witness demeanor (defined as crying) on mock jurors' decisions in a simulated First-Degree rape trial. One hundred and thirty-three undergraduates serving in the role of mock jurors read a trial summary in which the primary independent variable was the demeanor of the alleged child victim (i.e., calm, teary, hysterical crying). In addition to reading the summary, participants viewed pencil drawings of the witnesses that were presented as "courtroom drawings." The results showed that the teary condition led to more guilty verdicts and a greater belief in the alleged victim than the other demeanor conditions.

Findings from this study indicate that demeanor can impact the perception of a child who is an alleged sexual assault victim in court. However, it is not simply the case that any display of demeanor will lead to a positive outcome for the alleged victim. Instead, it appears that too little or too much emotion from the alleged child victim negatively affected credibility in the eyes of the mock jurors.

McCauley, M. R., & Parker, J. F. (2001). When will a child be believed? The impact of the victim's age and juror's gender on children's credibility and verdict in a sexual-abuse case. *Child Abuse & Neglect*, 25(4), 523-539.

To provide insight into the central dimensions jurors may use when deciding a child victim's credibility and verdict. Participants ($N = 573$) read a simulated trial (robbery or a sexual-assault case in which the defendant was either a stranger or an acquaintance) in which the alleged victim was either a 6- or 13-year-old girl. The trials were constructed to be as similar as possible with only minimal differences in the child's testimony. The supporting evidence was held constant across cases to allow for experimental assessment of the hypotheses. The defendant was more likely to be found guilty in the sexual-assault cases than in the robbery case. The child was perceived to be more credible, honest, and to have a better memory in the sexual-assault cases compared to the robbery case. Perceptions of memory and honesty predicted verdict and punishment. The child's age did not impact credibility or verdict. Finally, women, compared to men, perceived the child as more credible. Type of case was a potent factor in jurors' determination of guilt and the child's credibility. Contrary to expectations, neither the victim's age nor the interaction between this and type of case impacted verdict or credibility measures.

Bussey, K., & Grimbeek, E. J. (2000). Children's conceptions of lying and truth-telling: Implications for child witnesses. *Legal and Criminological Psychology*, 5(2), 187-199.

This study investigated children's lying and truth-telling competence using developmentally appropriate assessment and questioning procedures. Specifically, it addressed children's knowledge about and evaluation of lies and truths. Children were presented with six vignettes in which the story character either lied or told the truth about having committed a misdeed. After each vignette, they were asked if the statement was a lie or a truth (*definition*), how certain they were about their categorization of the statement, and to rate the goodness and badness of the statement (*evaluation*). Seventy-two children participated in the study. Twelve boys and 12 girls were randomly drawn from each of three ages: 4-, 7- and 10-year-olds. The design was a 2 (Sex of Participant) \times 3 (Age: 4, 7, 10) \times 2 (Statement Type: Lie, Truth-within-subjects factor). Seven- and 10-year-old children classified all false statements as lies and true statements as truths, whereas 4-year-olds correctly classified 88% across both statement types. They were equally accurate in their classification of lies (89%) and truths (87%). All children appreciated the seriousness of

lying; lies were rated more negatively than truths. However, 4-year-olds were less likely to appreciate the goodness of truth-telling over lying than the two older age groups. Only the older children rated truths more positively than lies. The results show that 4-year-olds have a sufficient understanding of lying and truth-telling competence to participate effectively in the legal system.

Regan, P. C., & Baker, S. J. (1998). The impact of child witness demeanor on perceived credibility and trial outcome in sexual abuse cases. *Journal of Family Violence, 13*(2), 187-195.

We examined how child witness demeanor at the moment of courtroom confrontation with the defendant affects trial outcome and the perceived credibility of the child witness in sexual abuse cases. Phase 1 (descriptive) utilized a free response format to explore the affective and behavioral responses men and women expect a child victim of sexual assault to demonstrate upon first confronting the defendant in the courtroom. The most frequently cited responses included crying, fear, and confusion. Phase 2 (experimental) investigated the impact of presence or absence of one of these expected responses (i.e., crying) upon juror perceptions. Participants who read about a child who cries upon initially confronting the defendant perceived her as more honest, credible, and reliable than a calm child, and they were more likely to convict the defendant.

Bottoms, B. L., & Goodman, G. S. (1994). Perceptions of children's credibility in sexual assault cases. *Journal of Applied Social Psychology, 24*(8), 702-732.

Children's testimony often plays a central role in prosecutions of child sexual abuse. Nevertheless, research on jurors' perceptions of the credibility of child sexual assault victims remains limited. In three experiments, we examined mock jurors' reactions to children's testimony about sexual abuse. Participant jurors were exposed to videotaped or written scenarios of child sexual abuse trials and then rated victim credibility and defendant guilt. Analyses indicated that: (a) victim age was either inversely related or unrelated to perceptions of victim credibility, (b) women were more likely than men to find child victims credible, (c) corroborating testimony from a child victim increased the credibility of another child victim, and (d) exposure of participants to past criminal acts and other negative defendant character evidence heightened perceived victim credibility and defendant guilt. Implications for understanding jurors' reactions to child witnesses are discussed.

Rudy, L., & Goodman, G. S. (1991). Effects of participation on children's reports: Implications for children's testimony. *Developmental Psychology*, 27(4), 527-538.

Effects of participation on children's reports of a real-life event were examined. Same-age pairs of 4- and 7-year-olds entered a trailer occupied by an unfamiliar man. One child participated in a set of games with the man, and the other sat and watched. Ten to 12 days later, children were individually questioned about the event. Free recall and answers to specific questions were related to age but unrelated to participation. However, participation lowered susceptibility to suggestion. Age differences in overall suggestibility were not found, but older compared with younger children were less suggestible about actions that took place. Regardless of age, however, children evidenced few commission errors to false suggestions about actions relevant to child abuse allegations.

Goodman, G. S., Bottoms, B. L., Herscovici, B. B., & Shaver, P. (1989). Determinants of the child victim's perceived credibility. In S. J. Ceci et al (Eds.), *Perspectives on Children's Testimony* (pp. 1-22). New York: Springer.

II. Competence issues

Ernberg, E., Tidefors, I., & Landström, S. (2016). [Prosecutors' reflections on sexually abused preschoolers and their ability to stand trial](#). *Child abuse & neglect*, 57, 21-29.

Child sexual abuse (CSA) cases are notoriously difficult to investigate, and less than 10% of cases are prosecuted. We aimed to investigate prosecutors' experiences of preparing for and prosecuting suspected CSA cases with preschool aged victims. Nine specialized child prosecutors (6 women, 3 men) took part either in individual interviews or in focus groups on this subject. The transcripts were analyzed thematically. The prosecutors said that children's testimony was sometimes held to an adult standard and that child complainants who expressed emotion could be perceived as more credible than their less expressive counterparts. CSA victims were identified as vulnerable victims who had difficulty telling their stories. Some of the interviewees were described as lacking in the ability to approach these children. The results imply that the reliability and credibility of sexually abused preschoolers and their testimony might be influenced by a number of verbal and non-verbal factors and that there are several obstacles preventing prosecutors from prosecuting these cases.

Katz, C. (2015). 'Stand by Me': The effect of emotional support on children's testimonies. *British Journal of Social Work*, 45(1), 349-362.

Many children who come into contact with the legal system following suspected maltreatment have difficulty disclosing the alleged abuse and providing rich and coherent testimonies. This study focuses on three interviews with alleged victims: two girls who were interviewed following reports of possible sexual abuse by their fathers and one boy who was interviewed following a report of possible sexual abuse by his mother. All the interviews were conducted by social workers trained in investigative interviewing techniques. The main aim of these case studies is to explore the effect of emotional, non-suggestive support on children's disclosure patterns and narratives during the forensic interview. These illustrative interviews emphasise the importance of employing emotional nonsuggestive support in the forensic context, as this practice balances between the interests of the legal system and the best interests of the children involved. This balancing is a highly complicated task and represents social workers' contributions to the experiences of maltreated children in the legal system. The practical implications for social workers in the forensic context and other contexts are also discussed.

Klemfuss, J. Z., & Ceci, S. J. (2012). Legal and psychological perspectives on children's competence to testify in court. *Developmental Review*, 32(3), 268-286.

Young children are often called as witnesses to crimes they were victims of or observed. Because of their immaturity, child witnesses are sometimes more heavily scrutinized than adult witnesses before being allowed to testify in court, for example, through competency screening. This review discusses the psychology and US law relevant to decisions about children's testimonial competency. Legally, a child is competent to provide in-court testimony if the presiding judge finds that the child can understand and answer basic interview questions, observe and recall pertinent events, understand the difference between truths and lies, and be affected by the moral obligation to tell the truth on the stand. We review the legal foundation and current practice of testimonial competence standards and discuss issues in the current system. We then review developmental psychology literature on children's capabilities and individual differences in each domain of testimonial competency as well as the limited body of literature on competency exams. Finally, we make empirically-based recommendations and conclusions and highlight the need for further research and policy reforms related to children's testimonial abilities.

Lyon, T. D. (2011). Assessing the competency of child witnesses: Best practice informed by psychology and law. In M. E. Lamb, D. J. La Rooy, L. C. Malloy, & C. Katz (Eds.), *Children's testimony: A handbook of psychological research and forensic practice* (pp.69-85). West Sussex, UK: Wiley-Blackwell.

Lyon, T. D., Carrick, N., & Quas, J. A. (2010). [Young children's competency to take the oath: Effects of task, maltreatment, and age.](#) *Law and Human Behavior*, 34(2), 141-149.

This study examined maltreated and non-maltreated children's ($N = 183$) emerging understanding of "truth" and "lie," terms about which they are quizzed to qualify as competent to testify. Four- to six-year-old children were asked to accept or reject true and false (T/F) statements, label T/F statements as the "truth" or "a lie," label T/F statements as "good" or "bad," and label "truth" and "lie" as "good" or "bad." The youngest children were at ceiling in accepting/rejecting T/F statements. The labeling tasks revealed improvement with age and children performed similarly across the tasks. Most children were better able to evaluate "truth" than "lie." Maltreated children exhibited somewhat different response patterns, suggesting greater sensitivity to the immorality of lying.

Lyon, T. D., Saywitz, K. J., Kaplan, D. L., & Dorado, J. S. (2001). Reducing maltreated children's reluctance to answer hypothetical oath-taking competency questions. *Law and Human Behavior*, 25(1), 81-92.

Before allowing child witnesses to testify, courts routinely require children to describe what would happen to them if they lied. However, young children often refuse to reason hypothetically if they view the premises as implausible or undesirable, and might be more willing to discuss the consequences of lying if they are asked about another child rather than themselves. On the other hand, children might view themselves as invulnerable to punishment, and therefore believe that whereas other children will be punished for lying, they will not be. In this study, 64 maltreated 5- and 6-year-old children were asked to describe the consequences of lying to three professionals (a judge, a social worker, and a doctor). Participants in the "self" condition were asked what would happen to them if they lied, whereas participants in the "other" condition were asked to describe what would happen to a story child if he or she lied. Asking children about "other" children increased responsiveness, and did not reveal perceptions of invulnerability. The results suggest

that young children's understanding that they will be punished for lying may make them reluctant to discuss the consequences of lying, leading to underestimation of their oath-taking competency.

Lyon, T. D., & Saywitz, K. J. (1999). Young maltreated children's competence to take the oath. *Applied Developmental Science, 3*(1), 16-27.

This study examined maltreated and non-maltreated children's (N = 183) emerging understanding of "truth" and "lie," terms about which they are quizzed to qualify as competent to testify. Four- to six-year-old children were asked to accept or reject true and false (T/F) statements, label T/F statements as the "truth" or "a lie," label T/F statements as "good" or "bad," and label "truth" and "lie" as "good" or "bad." The youngest children were at ceiling in accepting/rejecting T/F statements. The labeling tasks revealed improvement with age and children performed similarly across the tasks. Most children were better able to evaluate "truth" than "lie." Maltreated children exhibited somewhat different response patterns, suggesting greater sensitivity to the immorality of lying.

Shanks, L. (2010). [Evaluating children's competency to testify: Developing a rational method to assess a young child's capacity to offer reliable testimony in cases alleging child sex abuse.](#) *Cleveland State Law Review, 58*(3).

This Article discusses the testimony of young children, the inadequacy of the traditional hearing used to determine the competency of such children to testify, and the ways in which the hearing might be changed to make it a meaningful process for determining the ability of a child to give reliable testimony.

Evans, A. D., & Lyon, T. D. (2007). Assessing children's competency to take the oath in court: The influence of question type on children's accuracy. *Law and Human Behavior, 36*(3), 195-205.

This study examined children's accuracy in response to truth-lie competency questions asked in court. The participants included 164 child witnesses in criminal child sexual abuse cases tried in Los Angeles County over a 5-year period (1997-2001) and 154 child witnesses quoted in the U.S. state and federal appellate cases over a 35-year period (1974-2008). The results revealed that judges virtually never found children incompetent to testify, but children exhibited substantial

variability in their performance based on question-type. Definition questions, about the meaning of the truth and lies, were the most difficult largely due to errors in response to "Do you know" questions. Questions about the consequences of lying were more difficult than questions evaluating the morality of lying. Children exhibited high rates of error in response to questions about whether they had ever told a lie. Attorneys rarely asked children hypothetical questions in a form that has been found to facilitate performance. Defense attorneys asked a higher proportion of the more difficult question types than prosecutors. The findings suggest that children's truth-lie competency is underestimated by courtroom questioning and support growing doubts about the utility of the competency requirements.

Nathanson, R. (2005). [Child testimonial competence and reliability](#). *NACC Children's Law Manual*. 2005 Edition.

Children's involvement in the judicial process, either as victims/witnesses in criminal cases or as participants in civil proceedings, is often accompanied by questions of their competency and reliability as witnesses (Ceci & Bruck, 1995; Myers, Saywitz, & Goodman, 1996). Research related to the reliability of children's testimony has focused primarily on children's memory and specifically on their ability to accurately recall and report information as well as on their susceptibility to suggestion (suggestibility). In examining the veracity of children's testimony, one must consider the relationship between the strengths and limitations of the child as well as characteristics of the interview and of the environment in which questioning occurs, rather than viewing witness competency and reliability as a sole function of the child (Saywitz, 1995).

Lyon, T. D. (1999). [Child witnesses and the oath: Empirical evidence](#). *Southern California Law Review*, 73, 1017-1074.

Walker, A. G. (1993). Questioning young children in court: A linguistic case study. *Law and Human Behavior*, 17(1), 59-81.

When the competency of a witness is an issue in a court case, two of the tests that must be met are the capacity to understand the questions propounded and the ability to make intelligent answers. There is no reciprocal test that a questioner must meet, however, that measures his or her competency to ask intelligent, easily understood, and unambiguous questions. For an adult witness,

poorly worded questions may simply be a nuisance, but for a child, they may be a potentially serious source of miscommunication. In this analysis of the transcripts of one child's testimony, some aspects of this problem are exposed by means of a linguistic analysis of the questions asked and answers given. Three chief sources of communicative mischief are shown to be (a) age-inappropriate vocabulary, (b) complex syntax, and (c) general ambiguity. The child's legal competency is examined from the perspective of her linguistic and communicative competence, and some questions are raised about the criteria for determining competency.

Melton, G. B. (1981). Children's competency to testify. *Law and Human Behavior*, 5(1), 73-85.

Examines the issue of children's competency as court testifiers and, after a literature review, maintains that memory in young children is not problematic if direct, simple questions are used. Children's difficulty in free recall, however, may make them more subject to leading questions. It is noted that there is no pronounced developmental trend in honesty, and attempts on voir dire to assess honesty are probably invalid. Of most concern is young children's ability to form "just impression of the facts." It is suggested that even children's limited conceptual skills may not be problematic if jurors can discern the objective reality from the child's description—a point as yet unresearched. The courtroom setting's effect on the child's behavior is also considered an important future research project. (PsycINFO Database Record (c) 2012 APA, all rights reserved)

III. Possible harm

Wyrick, P., & Atkinson, K. (2021). [Examining the relationship between childhood trauma and involvement in the justice system](#). *NIJ Journal*, NCJ Number 300568. 13 pp.

Childhood trauma caused by exposure to violence has profound and long-lasting consequences on psychological and even biological well-being. Delinquency and adult criminality, substance abuse, poor school performance, depression, and chronic disease are all associated with childhood trauma. This NIJ Journal article discusses findings from seven studies on trauma and justice-involved youth that provide a deeper understanding of the pathways leading from violence exposure to involvement in the justice system. The studies describe how trauma symptoms manifest from

adolescence into early adulthood; trace the consequences of exposure to violence within correctional and residential facilities, in the child welfare system, and in the context of other factors such as poverty and gender identity; examine the links between exposure to violence and juvenile court involvement; highlight protective factors that reduce the likelihood of later offending for those with histories of trauma; and assess the effectiveness of trauma-informed treatment programs. Overall, the studies show high levels of previous and ongoing trauma among justice-involved youth.

Elmi, M. H., Daignault, I. V., & Hébert, M. (2018). Child sexual abuse victims as witnesses: The influence of testifying on their recovery. *Child Abuse & Neglect, 86*, 22-32.

Victims of child sexual abuse (CSA) are likely to show a wide range of adaptation difficulties. In addition, some children and their families are involved in legal proceedings following the child's disclosure. However, little is known about the effects of legal involvement on CSA victim's mental health and recovery. In this longitudinal study, the effects of testifying were examined in a sample of 344 children at initial assessment (67% of girls) receiving services in a Child Advocacy Centre, of which 130 children testified. The participants' age ranged from 6 to 14 years old ($M = 9.42$ $SD=2.14$). Children and their parents completed a series of measures to evaluate the child's mental health (e.g. depression, anxiety, PTSD) at four points in time over a 2-year period. Multilevel analysis indicates that all the children showed significant improvement over time but the group who testified more than once shows higher levels of emotional distress 2 years after the initial assessment. This study highlights the importance of documenting the experience of CSA victims in the justice system in order to establish the adequate conditions to support child witnesses.

Hobbs, S. D., & Goodman, G. S. (2018). Self-representation: pro se cross-examination and revisiting trauma upon child witnesses. *International Journal on Child Maltreatment: Research, Policy and Practice, 1*(1), 77-95.

In the United States, the right to confront one's accusers at trial is one of the key components of the adversarial legal process. As a part of this process, defendants are permitted to represent themselves if they decide to do so voluntarily (*Faretta v. California* 1975). As cross-examination of witnesses is considered essential to the adversarial legal system, child victims can be faced with being personally cross examined by defendants. In cases involving vulnerable witnesses, such as

child abuse victims, there is concern that being cross-examined by the defendant can be highly problematic and create more trauma over and above being cross-examined by a defense attorney. In the United States, there are no laws that explicitly forbid defendants from cross-examining their own victims, and decisions are made on a case-by-case basis. We discuss relevant legal traditions in the United States, laws and procedures followed by other countries that use the adversarial system, current psychological research on cross examination of child witnesses, the need for further research, and recommendations for ways the United States can protect the rights, well-being, and personal security of vulnerable children.

Lyon, T. D., & Dente, J. A. (2012). [Criminal law: Child witnesses and the confrontation clause.](#) *Journal of Criminal Law & Criminology*, 102(4), 1181-1323.

After the Supreme Court's ruling in Crawford v. Washington that a criminal defendant's right to confront the witnesses against him is violated by the admission of testimonial hearsay that has not been cross-examined, lower courts have overturned convictions in which hearsay from children was admitted after child witnesses were either unwilling or unable to testify. A review of social scientific evidence regarding the dynamics of child sexual abuse suggests a means for facilitating the fair receipt of children's evidence. Courts should hold that defendants have forfeited their confrontation rights if they exploited a child's vulnerabilities such that they could reasonably anticipate that the child would be unavailable to testify. Exploitation includes choosing victims on the basis of their filial dependency, their vulnerability, or their immaturity, as well as taking actions that create or accentuate those vulnerabilities.

Quas, J. A., & Goodman, G. S. (2012). Consequences of criminal court involvement for child victims. *Psychology, Public Policy, and Law*, 18(3), 392-414.

Despite concerns being routinely raised about psychological consequences for child victims of participation in criminal proceedings, empirical research remains limited, and findings have not been integrated within a well-established set of theoretical principles. In the current review, we describe extant research concerning the links between child victims' involvement in criminal prosecutions and subsequent outcomes, particularly in the domains of mental health and legal attitudes. Findings reveal that, although some facets of children's legal experiences, such as testifying repeatedly, are associated with adverse outcomes, this is largely the case only under

certain circumstances—numerous factors interact to influence consequences of legal involvement. Further, although young children are often quite vulnerable when exposed to negative experiences generally, older children and adolescents may actually be more adversely affected by some features of legal involvement. Overall, the research highlights the complex interplay between children’s legal experiences and children’s development in shaping their reactions to legal involvement and suggests ways to facilitate their participation in the legal process while maintaining fair judicial procedures for the accused.

Quas, J. A., & Sumaroka, M. (2011). Consequences of legal involvement on child victims of maltreatment. In M. E. Lamb, D. J. La Rooy, L. C. Malloy, & C. Katz (Eds.), *Children’s testimony: A handbook of psychological research and forensic practice* (pp.323-350). West Sussex, UK: Wiley-Blackwell.

Whitcomb, D. (2003). Legal interventions for child victims. *Journal of Traumatic Stress, 16*(2), 149-157.

Many commentators have expressed concern over the plight of children in the nation’s court system, fearing that child victim/witnesses might suffer significant trauma. In efforts to alleviate this presumed trauma, new laws were passed and traditional procedures were modified. This paper synthesizes available research addressing 2 questions pertaining to the mental health needs of child victims: (1) To what extent are children traumatized by their involvement in the justice system, and (2) What interventions are effective in reducing children’s trauma? The review concludes that most children can testify without suffering long-term adverse effects. It also identifies elements of the justice system that appear to heighten stress for children. Finally, it suggests several strategies that might be effective in alleviating that stress.

Richards, J. (2000). [Protecting the child witness in abuse cases](#). *Family Law Quarterly, 34*, 393-420.

Hamblen, J. L., & Levine, M. (1997). Legal implications and emotional consequences of sexually abused children testifying as victim-witnesses, *The Law & Psychology Review, 21*, 139-179.

Brannon, L. C. (1994). Trauma of testifying in court for child victims of sexual assault v. the accused's right to confrontation. *The Law & Psychology Review, 18*, 439-460.

Lipovsky, J. A. (1994). The impact of court on children: Research findings and practical recommendations. *Journal of Interpersonal Violence, 9*(2), 238-257.

Concerns about possible negative impacts to children as a result of participating in the criminal justice system have led to discussions about altering the process in ways that accommodate the specific developmental and emotional needs of children. However, before making major changes to the system, it is essential to answer several questions. This article reviews research addressing the following questions: (a) How frequently do children testify in court? (b) Is involvement in the criminal justice system, particularly providing testimony in criminal court, harmful to child witnesses? (c) Do suggested innovations in practice reduce children's court-related distress? Research findings related to these questions are then discussed in terms of their application to practice with children as witnesses within the criminal justice system.

Saywitz, K. J., & Nathanson, R. (1993). Children's testimony and their perceptions of stress in and out of the courtroom. *Child Abuse & Neglect, 17*(5), 613-622.

Modifications of the courtroom environment have been proposed to reduce stress and enhance truth-telling of child witnesses. The present study examines the premise that courtroom environment affects the quality of children's evidence and children's perceptions of their own stress. Thirty-four 8- to 10-year-olds participated in an activity and 2 weeks later, their memory for the activity was tested. Half the children were questioned in a mock courtroom in the law school of a major university, and half at their school, both by the same interviewer. Children questioned at court showed impaired memory performance when compared with age-mates questioned at school. They also rated certain court-related experiences as more stressful than peers interviewed at school. Furthermore, children's perceptions of courtroom stress were negatively correlated with completeness of accurate free recall, suggesting a relation between court-related stress and eyewitness memory worthy of further study.

Goodman, G. S., Taub, E. P., Jones, D. P., England, P., Port, L. K., Rudy, L., ... & Melton, G. B. (1992). Testifying in criminal court: Emotional effects on child sexual assault victims. *Monographs of the Society for Research in Child Development*, 57(5), i-159.

Child victims must cope not only with the emotional consequences of criminal acts but also with the potentially traumatizing effects of legal involvement. Dramatic increases in the reporting of child sexual abuse are bringing greater numbers of children into contact with the criminal justice system, raising fears that child victims of sex crimes will be further harmed by the courts. In the present study, the effects of criminal court testimony on child sexual assault victims were examined in a sample of 218 children. From this sample, the behavioral disturbance of a group of "testifiers" was compared to that of a matched control group of "nontestifiers" at three points following testimony: 3 months, 7 months, and after prosecution ended. At 7 months, testifiers evinced greater behavioral disturbance than nontestifiers, especially if the testifiers took the stand multiple times, were deprived of maternal support, and lacked corroboration of their claims. Once prosecution ended, adverse effects of testifying diminished. In courthouse interviews before and after testifying, the main fear expressed by children concerned having to face the defendant. Children who appeared more frightened of the defendant while testifying were less able to answer the prosecutors' questions; and later, after the cases were closed, they were more likely to say that testifying had affected them adversely. The two most pervasive predictors of children's experiences in the courtroom, however, were age and severity of abuse. Despite relevant laws, few innovative techniques were used to help the children testify. The results are discussed in relation to children's ability to cope with stressful situations, the interaction of the legal system with the child/family system, and debates about the need to protect child victims who testify in criminal court.

Avery, M. (1983). Child abuse witness: Potential for secondary victimization. *The Criminal Justice Journal*, 7, 1-48.

The position of the child victim entering the judicial system is described, with emphasis on the likelihood that the child has been repeatedly victimized and is emotionally child has been repeatedly victimized and is emotionally deprived. Methods for determining a child's competency to testify are outlined, as is research on the credibility of child witnesses. The circumstances that can lead to the recantation of child's statements are summarized. Most jurisdictions' dropping of the requirement of corroborating evidence, and corroboration through the use of the colposcope in

medical examinations and the use of expert testimony from therapists are explained. The victimization of boys and its relationship to the victims' later sex offenses as adults is discussed. The background and interpretations of the confrontation clause of the sixth amendment and three current hearsay exceptions useful in child abuse cases are described. The use of closed-circuit television videotaping, new legislation on hearsay exceptions, and the child courtroom are described as alternatives to the usual courtroom procedures. Proposals related to deferred prosecution programs are explained. The need for the legal system to develop procedures which support and encourage eliciting accurate testimony from children without further victimizing them is emphasized.

IV. Court preparation and facilitation

Stevens, L. M., Henderson, H. M., & Lamb, M. E. (2021). Linguistically complex recognition prompts in pre-recorded cross-examinations. *Behavioral Sciences & the Law*.
<https://doi.org/10.1002/bsl.2504>

This study examined the effects of pre-trial preparation and pre-recorded cross-examinations on the linguistic complexity of recognition prompts (i.e., option-posing or suggestive questions) used when questioning child victims in English criminal courts. The study also compared the linguistic complexity of recognition prompts that did and did not contain suggestive content. Analyses compared 43 cases that involved pre-recorded cross-examinations with pre-trial preparation and 44 cases that did not, which occurred between 2012 and 2016. Cases utilizing the “special measures” contained fewer linguistically complex prompts with and without suggestive content than did their counterparts, demonstrating the benefits of those special measures. Overall, linguistically complex recognition prompts were more likely to contain suggestive content than other recognition prompts. However, linguistically complex prompts with and without suggestive content were still frequently used despite the special measures, demonstrating the need for further professional training to improve the quality of children's evidence.

Irvine, B., Jack, F., & Zajac, R. (2016). Preparing children for cross-examination: Do the practice questions matter?. *Psychology, Crime & Law*, 22(9), 858-878.

Research has shown that a brief intervention involving practice and feedback can help children maintain accuracy when challenged with cross-examination-style questions. To date, however, researchers have prepared children using the same cross examination challenges that they would encounter during the subsequent cross-examination interview. It is unknown whether the intervention will still be effective when children later face novel cross-examination-style questions. Six- to 11-year-old children (n = 132) took part in a staged memory event, and were then interviewed with analogues of direct-examination (1–2 days later) and cross-examination (6–8 weeks later). One week prior to the cross-examination interview, some children participated in a preparation session, where they were given practice answering cross-examination-style questions about an unrelated topic, and feedback on their responses. For half of these children, the cross examination- style challenges they encountered during the preparation session were the same as the challenges they subsequently faced during cross-examination; for the others, there was no overlap. Relative to a control group that did not receive the intervention, the preparation session resulted in better performance during cross-examination, regardless of the degree of overlap. These findings are encouraging given that we can never predict the questions that cross-examining lawyers will ask children.

Nathanson, R., & Saywitz, K. J. (2015). Preparing children for court: Effects of a model court education program on children's anticipatory anxiety. *Behavioral Sciences & the Law*, 33(4), 459-475.

The current study examined whether a pretrial preparation program, consisting of legal knowledge education, stress inoculation training, and a mock trial, is associated with decreased anticipatory anxiety of child witnesses. One hundred and ninety-three 4- to 17-year-olds who were awaiting impending legal proceedings attended Kids' Court School in Las Vegas, NV, one to two weeks before their court appearances. Participants completed a measure of anticipatory court-related anxiety before and after the intervention. As predicted, children's anticipatory anxiety decreased significantly from pretest to posttest. Results demonstrate the promise of a brief, unbiased, standardized program for reducing system-induced stress on child witnesses, while maintaining

the integrity of the legal process. This study serves as a springboard to guide future research, practice, policy, and implementation on a larger scale. Copyright # 2015 John Wiley & Sons, Ltd.

Cowan, M. M. (2013). Children in the courtroom: Essential strategies for effective testimony by child victims of sexual abuse. *The Army Lawyer*, 4-43.

McAuliff, B. D., Nicholson, E., Amarilio, D., & Ravanshenas, D. (2013). [Supporting children in US legal proceedings: Descriptive and attitudinal data from a national survey of victim/witness assistants](#). *Psychology, Public Policy, and Law*, 19(1), 98-113.

We conducted a national survey of 786 victim/witness assistants (VWAs) to provide descriptive and attitudinal information about support person use in U.S. legal proceedings involving children. VWAs (N = 414) from 46 states returned completed surveys (response rate = 53%). Prosecutor based VWAs or parents/guardians most frequently served as support persons. One support person was almost always or often used with child victims and/or witnesses of all ages. Support persons were extremely common in cases involving child sexual abuse, physical abuse, neglect, and adult domestic violence. Overall, support persons provided more informational than emotional support. The most common informational support was to provide referrals to community resources, conduct courtroom visit/orientation, and disseminate relevant procedural information. The most common emotional support was to accompany the child to trial. Support persons rarely or never questioned children directly during investigative interviews or in court. Respondents believed support persons decrease children's stress and increase accuracy and credibility; however, this effect varied as a function of who provided support, child age, case type, and type of emotional or informational support. Respondents believed that support person presence at trial probably does not prejudice jurors against defendants. These survey data provide a benchmark for legal professionals and a foundation for future social scientific research examining the effects of support person use on children.

Phillips, A., & Walters, S. (2013). [A courtroom for all: Creating child and adolescent-fair courtrooms](#). *Centerpiece*, 3(7-8).

Righarts, S., O’Neill, S., & Zajac, R. (2013). Addressing the negative effect of cross-examination questioning on children’s accuracy: Can we intervene?. *Law and Human Behavior*, 37(5), 354-365.

This study investigated whether pre-interview interventions could help to facilitate children’s accuracy under cross-examination-style questioning. Five- and 6-year-olds ($n = 77$; mean [SD] age = 5.84 [0.48] years; 57% boys) and 9- and 10-year-olds ($n = 87$; mean [SD] age = 10.30 [0.54] years; 56% boys) took part in a staged event and were then interviewed with analogues of direct examination and cross examination. In a pilot study, we ascertained that a brief verbal warning about the nature of cross examination— given immediately prior to the cross-examination interview— did not influence children’s cross-examination accuracy, regardless of whether it was delivered by an unfamiliar interviewer or the cross-examining interviewer. In the main experiment, some children participated in a brief intervention involving practice and feedback with cross-examination questions. Relative to control children, those who underwent this preparation intervention made fewer changes to their direct-examination responses under cross-examination, changed a smaller proportion of their correct responses, and obtained higher ultimate accuracy levels. These findings provide some support for the notion that pretrial interventions, if sufficiently comprehensive, could help children to maintain accuracy during cross-examination.

Lyon, T. D., Scurich, N., Choi, K., Handmaker, S., & Blank, R. (2012). “How did you feel?”: Increasing child sexual abuse witnesses' production of evaluative information. *Law and Human Behavior*, 36(5), 448-457.

In child sexual abuse cases, the victim’s testimony is essential, because the victim and the perpetrator tend to be the only eyewitnesses to the crime. A potentially important component of an abuse report is the child’s subjective reactions to the abuse. Attorneys may ask suggestive questions or avoid questioning children about their reactions, assuming that children, given their immaturity and reluctance, are incapable of articulation. We hypothesized that How questions referencing reactions to abuse (e.g., “how did you feel”) would increase the productivity of children’s descriptions of abuse reactions. Two studies compared the extent to which children provided evaluative content, defined as descriptions of emotional, cognitive, and physical reactions, in response to different question-types, including How questions, Wh-questions, Option-posing questions (yes–no or forced-choice), and Suggestive questions. The first study examined

children's testimony (ages 5–18) in 80 felony child sexual abuse cases. How questions were more productive yet the least prevalent, and Option-posing and Suggestive questions were less productive but the most common. The second study examined interview transcripts of 61 children (ages 6 –12) suspected of being abused, in which children were systematically asked How questions regarding their reactions to abuse, thus controlling for the possibility that in the first study, attorneys selectively asked How questions of more articulate children. Again, How questions were most productive in eliciting evaluative content. The results suggest that interviewers and attorneys interested in eliciting evaluative reactions should ask children “how did you feel?” rather than more direct or suggestive questions.

Malloy, L. C., La Rooy, D. J., & Lamb, M.E. (2011). Facilitating effective participation by children in the legal system. In M. E. Lamb, D. J. La Rooy, L. C. Malloy, & C. Katz (Eds.), *Children's testimony: A handbook of psychological research and forensic practice* (pp.423-429). West Sussex, UK: Wiley-Blackwell.

Walker, J. (2011). [If I'm the party, Where's the cake?: The need for comprehensive child-witness court preparation programs.](#) *Centerpiece*, 3(1).

Bala, N., Evans, A., & Bala, E. (2010). Hearing the voices of children in Canada's criminal justice system: Recognising capacity and facilitating testimony. *Child & Family Law Quarterly*, 22(1), 21-45.

This paper reviews common law and statutory developments in the treatment of children as witnesses in Canada's criminal justice system, where children who are victims of abuse testify with increasing frequency. Historically, children were regarded as inherently unreliable witnesses, and there were no provisions to accommodate their needs and vulnerabilities; this treatment by the justice system contributed to the abuse and exploitation of children. Reflecting a growing body of research on child development, and a better understanding of the effects of the court process on children, over the past quarter century there have been substantial reforms in the law and the administration of justice. The law now better reflects what is known about the competency of child witnesses, as well as about their vulnerabilities. The paper includes a review of legislation and leading precedents, and a summary of the responses of Canadian judges to a survey about the most

recent legislative reforms. The case law and survey reveal that judges are generally supportive of the reforms.

Raeder, M. S. (2010). [Distrusting young children who allege sexual abuse: Why stereotypes don't die and ways to facilitate child testimony.](#) *Widener Law Review*, 16, 239-278.

Carr, P. B. (2007). [Playing by all the rules: How to define and provide a "prior opportunity for cross-examination" in child sexual abuse cases after Crawford v. Washington.](#) *The Journal of Criminal Law and Criminology*, 97(2), 631-664.

In 2004, the Supreme Court decided *Crawford v. Washington* and announced a new rule of confrontation under the Sixth Amendment of the United States Constitution. Under *Crawford*, courts must exclude all out-of-court statements when those statements were (1) given by a witness who is unavailable to testify at trial and (2) considered "testimonial" in nature, unless (3) the defendant had a prior opportunity to cross-examine the witness who offered the statements. *Crawford* has introduced a challenging problem in child sexual abuse cases where children are often unavailable to testify at trial; their out-of-court allegations of abuse are now regularly excluded for their "testimonial" nature. This development is problematic because children's recollections of events constitute critical evidence in child sexual abuse prosecutions. The question thus arises: how can prosecutors continue to hold child sexual abusers accountable for their crimes while upholding the *Crawford* rule of confrontation? Many scholars have explored solutions to this dilemma by examining the first two prongs of the *Crawford* rule-witness unavailability and the testimonial nature of ex parte statements. This Comment suggests, however, that the solution lies in the third prong-the "prior opportunity for cross-examination." Specifically, this Comment recommends that state legislatures implement a rule of criminal procedure that allows both prosecutors and defendants in sexual abuse cases an opportunity to record a child's pretrial testimony and cross-examination on videotape. This rule would safeguard criminal defendants' confrontation rights while also protecting against the *Crawford* rule's overly burdensome effects on child sexual abuse prosecutions.

Victim Services and Community Programs Division (2006). [Let's go to court: A guide to court orientation for child and youth witnesses](#). British Columbia Ministry of Public Safety and Solicitor General.

Olafson, E., & Fitch, S. (2002). [Preparing the child witness in sexual abuse cases: A training outline](#). The Institute for Human Services.

Lipovsky, J., & Stern, P. (1997). Preparing children for court: An interdisciplinary view. *Child Maltreatment*, 2(2), 150-163.

Increased awareness of child abuse and neglect has been associated with an increase in focus on children as witnesses in court proceedings. Research suggests that although the experience of participating in the legal system is not inherently traumatic, it is often stressful for the child witness. This article discusses stressful influences on child witnesses and practices designed to decrease the likelihood of emotional distress and increase the child's ability to provide credible testimony. In light of the importance of interdisciplinary collaboration in the response to childhood victimization, this article addresses the roles of and links between mental health and legal professionals working with child witnesses. The concepts discussed in this article apply generally to civil, criminal, family law, and dependency cases and to cases tried before a jury and to a judge alone. It is the authors' belief that the concepts discussed here are generally equally applicable in any case in which a child is a witness.

V. CCTV and other innovations

Virginia State Police Technical Unit (2012). [Child Witness Testimony in Court: Using Closed-Circuit Equipment](#). How to Apply Virginia Code Sections 18.2-67.9 or 63.2-1521 or 16.1-2

Brancatelli, M. (2009). [Facilitating children's testimony: Closed circuit television](#). *Update*, 21(11). National Center for Prosecution of Child Abuse.

Jenkins, D. (2008). Reducing trauma for children involved in dependency and criminal court. *Child Law Practice*, 27(1), 1-8.

This article explores how to reduce trauma to children involved in dependency and criminal court proceedings through individual and collaborative efforts.

Cunningham, A., & Hurley, P. (2007). [Using special accommodations and testimonial aids to facilitate the testimony of children. Book 2-Testimony outside the courtroom.](#) Centre for Children and Families in the Justice System. Department of Justice Canada.

Landström, S., Granhag, P. A., & Hartwig, M. (2007). Children's live and videotaped testimonies: How presentation mode affects observers' perception, assessment and memory. *Legal and Criminological Psychology*, 12(2), 333-348.

Children's testimonies can be presented to the court in many different formats, for example, live, videotapes, closed-circuit television (CCTV) or transcripts. However, little is known about how different presentation formats affect the observers' processing of the testimonies. This study investigated how two different presentation modes (live vs. video) affected observers' perception, veracity assessments and memory of children's appearance and statements.

Fourteen children (10–11 years old) either experienced an event or learned about the event by hearsay. Two weeks later, the children testified about the event as if they had all experienced it. Mock jurors watched the children's testimonies either live (N = 68) or on video (N = 68), rated their perception of the children's statement and appearance, and assessed the children's veracity. In addition, their memory of the children's statement was examined. The live observers perceived the children in more positive terms and rated the statements as being more convincing than did video observers. The observers rated the lying children as having to think harder than the truth-telling children. Both live and video observers' ability to assess the children's veracity was mediocre. Live observers had a better subjective, as well as objective, memory of the children's statements than video observers. The results show that presentation mode influences both perception and memory of child witnesses' testimonies. We argue that the presentation mode is important to consider when evaluating and reforming courtroom procedures.

Bennett, K. J. (2004). Legal and social issues surrounding closed-circuit television testimony of child victims and witnesses. *Journal of Aggression, Maltreatment & Trauma*, 8(3), 233-271.

Prosecution of crimes involving child victims and witnesses is particularly difficult because of the age of the children involved. Facing the alleged offender in court and the experience itself of testifying in an open court with dozens of onlookers are acutely difficult. The effect on children may be traumatic, with the potential to produce substantial psychological and emotional harm. Various court procedures have been implemented in the United States in an effort to minimize these effects. Court procedures can include erecting screens to shield the child victim or witness, presenting videotaped testimony, or testifying via one-way or two-way closed circuit television. Closed-circuit television (CCTV) testimony, which is especially controversial, involves both legal issues surrounding the constitutionality of such testimony and social issues regarding the effectiveness of closed-circuit television testimony. Substantial variation across states in provisions for closed-circuit television testimony for child witnesses is problematic. Consideration is given to how social science research directly influenced the Supreme Court's decision in *Maryland v. Craig*(1990), and the current state of research regarding use of CCTV and court outcomes. Some research suggests a pro-defense bias when CCTV is used.

Davies, G. (1999). The impact of television on the presentation and reception of children's testimony. *International Journal of Law and Psychiatry*, 22(3), 241-256.

This article reviews research on the effectiveness of such procedures, both from the standpoint of the child and of the criminal justice system. It begins by describing some of the variations in rules and procedure in the use of CCTV in different legislatures before going on to consider some of the arguments that have been marshalled for and against its employment. It goes on to survey the research literature gathered in laboratory, field, and applied settings, before reaching conclusions regarding the role and significance of CCTV for the court process.

Goodman, G. S., Quas, J. A., Bulkley, J., & Shapiro, C. (1999). Innovations for child witnesses: A national survey. *Psychology, Public Policy, and Law*, 5(2), 255-281.

Numerous innovative procedural reforms have been proposed concerning child victims involved in legal cases. In this study, 153 district attorney offices nationwide were surveyed about their use of innovations, their perceptions of the innovations' effectiveness, reasons why they opt not to utilize innovations, and defense strategies used with child witnesses. Prosecutors were also asked about the type of cases they encountered in which children testified. Prosecutors reported mainly using inexpensive, easy-to-implement innovations, which were also typically rated as helpful in reducing children's trauma and enhancing guilty outcomes. Prosecutors reported rarely using expert witnesses and innovations that altered how children were interviewed or how they testified. The most common types of cases in which children testified involved sexual abuse. Frequent defense strategies to challenge child credibility concerned suggestibility, inaccurate memory, coaching, and delays in reporting abuse. Results are discussed in relation to the need for increased social science research on procedural reforms for child witnesses.

Office for Victims of Crime (1999). [Breaking the cycle of violence: Recommendations to improve the criminal justice response to child victims and witnesses.](#) NCJ #176983

This monograph describes the best practices and programs that focus on the most effective response to child victims and child witnesses by all those who work in our criminal justice system, beginning at the crime scene and continuing through the prosecution. We hope that the information, skills, programs, and practices described in this document will serve as a blueprint for policymakers, criminal justice professionals, and all those who recognize the importance of effective intervention in the lives of victimized children as a way to prevent future crime and violence.

Wilson, J. C., & Davies, G. M. (1999). An evaluation of the use of videotaped evidence for juvenile witnesses in criminal courts in England and Wales. *European Journal on Criminal Policy and Research*, 7(1), 81-96.

For the first time, the UK Criminal Justice Act (1991) allowed the videotaped evidence of a child to be substituted for the child's evidence-in-chief in a criminal court. The present study is an evaluation of that legislation. One hundred and fifty children were observed testifying in a criminal

court in the UK. The use of the videotaped evidence and subsequent cross-examination of the child witness (usually via the closed circuit television system) was also observed. The data base from the Lord Chancellor's Department of all trials involving child witnesses in England and Wales was also analysed. The results showed that the introduction of the video technology into the criminal courts reduced the levels of stress of child witnesses but did not increase the conviction rates.

Goodman, G. S., Tobey, A. E., Batterman-Faunce, J. M., Orcutt, H., Thomas, S., Shapiro, C., & Sachsenmaier, T. (1998). Face-to-face confrontation: Effects of closed-circuit technology on children's eyewitness testimony and jurors' decisions. *Law and Human Behavior, 22*(2), 165-203.

Examined the effects of closed-circuit technology on children's testimony and jurors' perceptions of child witnesses. First, 85 5–6 yr olds and 101 8–9 yr olds individually participated in a play session with an unfamiliar male confederate. Approximately 2 wks later, 88 of these children testified about the event at a downtown city courtroom. 1,201 mock jurors viewed the trials with the child's testimony presented either live in open court or over closed-circuit television. Jurors made ratings concerning the child witness and the defendant, and deliberated to reach a verdict. Older children were more accurate witnesses than younger children, but older children produced more inaccurate information in free recall. Testifying in open court was also associated with children experiencing greater pretrial anxiety. The use of closed-circuit technology led to decreased suggestibility for younger children, but did not diminish factfinders' abilities to discriminate accurate from inaccurate child testimony, nor did it directly bias jurors against the defendant. However, closed-circuit testimony biased jurors against child witnesses. Implications for the use of closed-circuit technology when children testify are discussed. (PsycINFO Database Record © 2012 APA, all rights reserved)

Myers, J. E. (1996). [A decade of international reform to accommodate child witnesses.](#) *Criminal Justice and Behavior, 23*(2), 402-422.

The past decade has witnessed significant reform of the legal system to accommodate child witnesses. This article describes reforms in the following areas: investigative interviewing, preparing children to testify, admissibility of children's hearsay statements, competence of children to testify in court, altering the courtroom to accommodate child witnesses, judicial control of the proceedings and questioning, support persons for child witnesses, exclusion of witnesses during a

child's testimony, closing the courtroom to the public and the press, video link technology and other modifications that effect the accused's right to confront the child, counsel or guardian ad litem for a child witness, the corroboration requirement, and jury instructions regarding child witnesses.

Tobey, A. E., Goodman, G. S., Batterman-Faunce, J. M., Orcutt, H. K., & Sachsenmaier, T. (1995). Balancing the rights of children and defendants: Effects of closed-circuit television on children's accuracy and jurors' perceptions. In M. S. Zaragoza, J. R. Graham, G. N. Hall, R. Hirschman, & Y. Ben-Porath (Eds.), *Memory and testimony in the child witness. Applied psychology: Individual, social, and community issues*, Vol. 1., (pp. 214-239). Thousand Oaks, CA, US: Sage.

Swim, J. K., Borgida, E., & Mcoy, K. (1993). Videotaped versus in-court witness testimony: Does protecting the child witness jeopardize due process? *Journal of Applied Social Psychology*, 23(8), 603-631.

Videotaping depositions may protect a child witness from the stress of testifying in court but also may influence jurors' perceptions of the child and the defendant, and jurors' verdicts in systematic ways. The present study examines several psychological hypotheses that emerge from the controversy over the use of videotaped depositions of child witnesses in child sexual abuse trials. We predicted that student jurors viewing a videotaped deposition would be more pro prosecution and less pro defense than those who did not receive testimony in such a form. Thus, it was predicted that jurors viewing a videotaped deposition would perceive the prosecution witnesses and their testimonies more favorably, the defense witnesses and their testimonies less favorably, and give more guilty verdicts than jurors who viewed identical testimony during the course of a trial. We also predicted that females would be more pro prosecution and less pro defense than males and that this gender difference would be accentuated by the medium of presentation. The medium of presentation had only a few effects on jurors' responses. However, when differences emerged, they generally provided support for the predicted main effects. The implications of these findings for the use of videotaped depositions of child sexual abuse victims are discussed.

Ritsema, P. W. (1988). [Testimony of children via closed-circuit television in Indiana: Face \(to television\) to face confrontation.](#) *Valparaiso University Law Review*, 23(3), 455-483.

The purpose of this note is twofold. Its main thrust is an assessment of the statute's ramifications vis a vis the sixth amendment, since the statute appears to be in conflict with the right of confrontation. The note's secondary aim is an examination of all aspects of the statute in the hope of devising a more artfully worded statute to lessen the conflict with the sixth amendment.

VI. Juror perceptions

Jones, T. M., Bottoms, B. L., Sachdev, K., Aniciete, J., & Gorak, K. (2021). Jurors' gender and their fear of false child sexual abuse accusations are related to their belief in child victims' allegations. *Journal of Child Sexual Abuse*, 1-19.

We developed the first Fear of False Accusations scale, measuring the public's fear of personally being the target of untrue child sexual abuse allegations despite no actual wrongdoing as well as the fear of false allegations being a common problem in society. The scale was statistically reliable within a diverse sample of 964 participants. Several months later, in an ostensibly unrelated mock trial experiment, a subset of the participants assumed the role of mock juror and considered a criminal case involving an accusation of child sexual abuse. As predicted, (a) mock jurors with higher levels of fear were less likely than others to believe a specific child sexual abuse allegation (but did not differ in ratings of victim credibility nor responsibility), (b) men had significantly higher levels of this fear than did women, and (c) mediational analyses revealed that gender differences in fear partially explained men's tendency to believe the child abuse allegation less than women did. This research is important for developing the first empirically validated measure of fear of false accusation and linking this fear to perceptions of specific child sexual abuse allegations, and for finding a partial explanation for gender differences in mock jurors' reactions to child sexual abuse allegations.

Olaguez, A. P., & Klemfuss, J. Z. (2020). [Differential effects of direct and cross examination on mock jurors' perceptions and memory in cases of child sexual abuse.](#) *Psychiatry, Psychology and Law*, 27(5), 778-796.

When children testify in cases of child sexual abuse (CSA), they often provide minimal responses to attorneys' questions. Thus, how attorneys ask questions may be particularly influential in shaping jurors' perceptions and memory for case details. This study examined mock jurors' perceptions after reading an excerpt of a CSA trial transcript. Participants' memory of the excerpt was tested after a two-day delay. We examined how reading a direct or cross-examination excerpt that included either high or low temporal structure impacted participants' perceptions, verdict decisions and memory reports. We found that participants who read a direct examination excerpt rated the child witness as more credible, were more likely to convict the defendant and had more accurate memory reports than those who read a cross-examination excerpt, regardless of temporal structure. Suggestions for improving jurors' comprehension and recall of child statements presented as evidence in CSA cases are discussed.

St. George, S., Garcia-Johnson, A., Denne, E., & Stolzenberg, S. N. (2020). ["Did you ever fight back?" Jurors' questions to children testifying in criminal trials about alleged sexual abuse.](#) *Criminal Justice and Behavior*, 47(8), 1032-1054.

The current study examined jurors' questions to children in criminal trials assessing children's allegations of sexual abuse, demonstrating a new avenue for studying how jurors think about, respond to, and assess evidence. We used qualitative content analysis to examine jurors' questions to 134, 5- to 17-year-olds alleging sexual abuse in criminal trial testimonies. Five themes emerged: abuse interactions, contextual details of abuse, children's reactions to abuse, children's (delayed) disclosure, and case background details. Jurors often ask about abuse dynamics, the context surrounding abuse, and children's disclosure processes, reflecting common misconceptions about child sexual abuse (CSA), such as whether it is credible to delay disclosure or maintain contact with an alleged perpetrator. This study improves our understanding of how jurors understand and evaluate children's reports of alleged CSA, suggesting that jurors may struggle to understand children's reluctance.

Tabak, S. J., & Klettke, B. (2014). Mock jury attitudes towards credibility, age, and guilt in a fictional child sexual assault scenario. *Australian Journal of Psychology*, 66(1), 47-55.

Low conviction rates of child sexual assault (CSA) remain a persistent social problem in Australia. One reason for this may be the impact of attitudes regarding the victims when the evidence is weak. This article examines the effects of victim age on perceptions of credibility and verdict in a CSA case. Eleven electronic focus groups deliberated a fictional CSA case, in which the age of the child was systemically varied between 6 and 15 years. Deliberation transcripts were analysed with NVivo (Version 9, QSR International Pty Ltd., Burlington, MA, USA), from which thematic clusters were derived. Results showed that as the child's age increased, credibility and guilty verdicts decreased. In addition, testimony alone had little impact in influencing the verdict. These findings suggest that in lieu of corroborating evidence, increasing supporting information, such as expert testimony, and providing structured deliberation for the jury may reduce the influence of victim blame, particularly when the child victim is older.

Laimon, R. L., & Poole, D. A. (2008). Adults usually believe young children: The influence of eliciting questions and suggestibility presentations on perceptions of children's disclosures. *Law and Human Behavior*, 32(6), 489-501.

Do people realize the danger of asking misinformed children yes-no questions? Study 1 confirmed that disclosures children made during free recall in an earlier suggestibility study were more accurate than disclosures following "yes" responses to yes-no questions, which in turn were more accurate than disclosures following "no" responses. In Studies 2 and 3, college students watched interviews of children and judged the veracity of these three disclosure patterns. Participants generally believed false reports representing the first two patterns, although watching expert testimony that included a videotaped example of a false report reduced trust in prompted disclosures. Results document the need to inform forensic decision-makers about the circumstances associated with erroneous responses to yes-no questions.

Bottoms, B. L., Golding, J. M., Stevenson, M. C., Wiley, T. R., & Yozwiak, J. A. (2007). A review of factors affecting jurors' decisions in child sexual abuse cases. In M. Toglia, J. D. Read, D. F. Ross, & C. L. Lindsay (Eds.), *The Psychology of Eyewitness Memory* (pp. 509-543). Mahwah, NJ: Lawrence Erlbaum.

Shelton, H., Donald, E., Barak, G., & Kim, Y. S. (2007). A study of juror expectations and demands concerning scientific evidence: Does the “CSI effect” exist?. *Vanderbilt Journal of Entertainment & Technology Law*, 9(2), 331-368.

Many prosecutors, judges and journalists have claimed that watching television shows like CSI have caused jurors to wrongfully acquit guilty defendants when no scientific evidence is presented. This is the first empirical study designed to investigate whether the “CSI effect” exists. This survey of 1027 persons called for jury duty in a State court looked at jurors’ television viewing habits, their expectations that the prosecutor would produce scientific evidence, and whether they would demand scientific evidence as a condition of a guilty verdict. While the study did find significant expectations and demands for scientific evidence, there was little or no indication of a link between those preconceptions and watching particular television shows. The authors suggest that to the extent that jurors have significant expectations and demands for scientific evidence, it may have more to do with a broader “tech effect” in our popular culture rather than any particular “CSI effect.” At the same time, this article contends that any such increased expectations and demands are legitimate and constitutionally based reflections in jurors of changes in our popular culture, and that the criminal justice system must adapt to accommodate jurors’ expectations and demands for scientific evidence.

Quas, J. A., Thompson, W. C., Alison, K., & Stewart, C. (2005). Do jurors “know” what isn’t so about child witnesses? *Law and Human Behavior*, 29(4), 425-456.

Are expert witnesses needed in child sexual abuse cases to educate jurors about children’s memory, suggestibility, and reactions to abuse, or do jurors already know what such experts could tell them? To cast light on this question, we surveyed jurors and jury-eligible college students and compared their beliefs with what is known via scientific research regarding children’s memory and ability to testify, reactions to interrogation, and reactions to sexual abuse. We also asked participants to infer results of four widely cited studies of children’s suggestibility. Participants’ beliefs were consistent with findings from research on some issues (e.g., that children can be led to claim that false events occurred) but diverged from the scientific consensus on other issues (e.g., whether children can remember painful events in infancy). Similarly, participants sometimes overestimated and sometimes underestimated the level of suggestibility observed in empirical studies. Individual differences in accuracy were related to participants’ gender, education and ethnicity, and there was

considerable disagreement among participants on many questions. Implications of findings for the admissibility of expert testimony in child abuse cases are discussed.

Buck, J. A., Warren, A. R., & Brigham, J. C. (2004). When does quality count?: Perceptions of hearsay testimony about child sexual abuse interviews. *Law and Human Behavior, 28*(6), 599.

This study assessed how the quality of a sexual abuse investigative interview with a child and the age of the child influence jurors' reactions to either the original interview with the child or to testimony by an adult hearsay witness (the interviewer). Participants (N = 360) were randomly assigned to 1 of 12 conditions in a 2 (type of testimony: hearsay testimony vs. child interview) × 3 (interview quality: poor, typical, or good) × 2 (age of the child: 4 years old vs. 10 years old) factorial design. Participants reached individual verdicts, answered a series of questions, and then deliberated in a group with five other participants. As predicted, jurors in the child interview conditions were more likely to find the defendant guilty if they read the good interview than if they read either the poor or the typical interview, but in the hearsay conditions verdicts did not significantly differ by interview quality. These findings suggest that there is a significant loss of information when the testimony of a hearsay witness is used in place of the actual interview with the child, and call into question the appropriateness of admitting hearsay testimony by interviewers.

Golding, J. M., Fryman, H. M., Marsil, D. F., & Yozwiak, J. A. (2003). Big girls don't cry: The effect of child witness demeanor on juror decisions in a child sexual abuse trial. *Child Abuse & Neglect, 27*(11), 1311-1321.

This study investigated the effect of child witness demeanor (defined as crying) on mock jurors' decisions in a simulated First-Degree rape trial. One hundred and thirty-three undergraduates serving in the role of mock jurors read a trial summary in which the primary independent variable was the demeanor of the alleged child victim (i.e., calm, teary, hysterical crying). In addition to reading the summary, participants viewed pencil drawings of the witnesses that were presented as "courtroom drawings." The results showed that the teary condition led to more guilty verdicts and a greater belief in the alleged victim than the other demeanor conditions.

Findings from this study indicate that demeanor can impact the perception of a child who is an alleged sexual assault victim in court. However, it is not simply the case that any display of

demeanor will lead to a positive outcome for the alleged victim. Instead, it appears that too little or too much emotion from the alleged child victim negatively affected credibility in the eyes of the mock jurors.

McCauley, M. R., & Parker, J. F. (2001). When will a child be believed? The impact of the victim's age and juror's gender on children's credibility and verdict in a sexual-abuse case. *Child Abuse & Neglect*, 25(4), 523-539.

To provide insight into the central dimensions jurors may use when deciding a child victim's credibility and verdict. Participants ($N = 573$) read a simulated trial (robbery or a sexual-assault case in which the defendant was either a stranger or an acquaintance) in which the alleged victim was either a 6- or 13-year-old girl. The trials were constructed to be as similar as possible with only minimal differences in the child's testimony. The supporting evidence was held constant across cases to allow for experimental assessment of the hypotheses. The defendant was more likely to be found guilty in the sexual-assault cases than in the robbery case. The child was perceived to be more credible, honest, and to have a better memory in the sexual-assault cases compared to the robbery case. Perceptions of memory and honesty predicted verdict and punishment. The child's age did not impact credibility or verdict. Finally, women, compared to men, perceived the child as more credible. Type of case was a potent factor in jurors' determination of guilt and the child's credibility. Contrary to expectations, neither the victim's age nor the interaction between this and type of case impacted verdict or credibility measures.

Tobey, A. E., Goodman, G. S., Batterman-Faunce, J. M., Orcutt, H. K., & Sachsenmaier, T. (1995). Balancing the rights of children and defendants: Effects of closed-circuit television on children's accuracy and jurors' perceptions. In M. S. Zaragoza, J. R. Graham, G. N. Hall, R. Hirschman, & Y. Ben-Porath (Eds.), *Memory and testimony in the child witness. Applied psychology: Individual, social, and community issues*, Vol. 1., (pp. 214-239). Thousand Oaks, CA, US: Sage.

Nightingale, N. N. (1993). Juror reactions to child victim witnesses: Factors affecting trial outcome. *Law and Human Behavior*, 17(6), 679-694.

Two experiments, involving a total of 597 undergraduates (aged 17–45 yrs), examined trial variables that might affect juror decisions. In Exp 1, the impact of corroboration, type of case (civil vs criminal), and victim age (6, 9, or 12 yrs) was examined. Ss read a trial summary describing a

wrongful injury or sexual abuse case and were asked to make decisions regarding the case. Results show that corroboration increased the number of guilty verdicts for the 6- and 12-yr-olds, yet had little impact in the case with the 9-yr-old. The type of the case did not interact with child age in affecting jurors' decisions. In Exp 2, the trial summary described the corroborated sexual abuse case used in Exp 1 and varied the age of the victim from 6 to 14 yrs. The number of guilty verdicts and credibility decreased with age, whereas the amount of blame attributed to the victim increased with age. (PsycINFO Database Record (c) 2012 APA, all rights reserved)

Ross, D. F., Dunning, D., Toglia, M. P., & Ceci, S. J. (1990). The child in the eyes of the jury. *Law and Human Behavior, 14*(1), 5-23.

This article reports three experiments that examine how mock jurors respond to the testimony of a child witness as compared to the testimony of a young adult and elderly witness. In Experiment 1, mock jurors viewed a videotaped recreation of a court trial in which the age of the prosecution's key witness was presented as 8, 21, or 74. Contrary to prior research in this area, the testimony of the 8-year-old witness was rated as more credible than identical testimony given by the 21-year-old witness. The elderly witness was also viewed as more credible than the young adult witness, but less so than the child witness. These findings were replicated in Experiment 2, where mock jurors read a written transcript of the same trial that was presented via videotape in Experiment 1. In Experiment 3, a survey was taken of mock jurors' beliefs about age differences in eyewitness ability. In general, mock jurors were found to hold a negative stereotype of the child witness. These findings are discussed in terms of current theory and research on juror reactions to the child witness, and the more general issue of how stereotypes influence impression formation and social judgment.

Leippe, M. R., & Romanczyk, A. (1989). Reactions to child (versus adult) eyewitnesses: The influence of jurors' preconceptions and witness behavior. *Law and Human Behavior, 13*(2), 103-132.

Five studies examined how a total of 646 college students reacted to child eyewitnesses in criminal cases. In Study 1, there were no age differences in Ss' predictions about a staged crime study involving eyewitnesses of varying age; however, Ss predicted poorer recall (but not face recognition) for children under age 10 yrs than for those aged 12 yrs and older. In Studies 2–5, Ss

read and reacted to written criminal cases in which the principal prosecution eyewitness was either a child or an adult. Across studies, eyewitness age generally made a difference in how Ss reacted to the eyewitness and the case. The direction of the difference, however, varied across studies. (PsycINFO Database Record © 2012 APA, all rights reserved)

Nigro, G. N., Buckley, M. A., Hill, D. E., & Nelson, J. (1989). When juries “hear” children testify: The effects of eyewitness age and speech style on jurors’ perceptions of testimony. In S. J. Ceci et al (Eds.), *Perspectives on Children’s Testimony* (pp. 57-70). New York: Springer.

Leippe, M. R., & Romanczyk, A. (1987). Children on the witness stand: A communication/persuasion analysis of jurors’ reactions to child witnesses. In *Children’s Eyewitness Memory* (pp. 155-177). Springer US.

Eyewitnesses are pivotal participants in criminal cases, and psychological research on eyewitness memory is therefore of potentially enormous practical value. Yet juries ultimately decide those cases that reach the courtroom. Research may (indeed does) yield insights about factors that influence memory and about the accuracy rates that typify a given witnessing-identification context, but an important question always remains: Do jurors take these factors into account when evaluating an eyewitness report? Put simply, how do jurors perceive and evaluate eyewitness testimony? Despite some claims to the contrary (e.g., McCloskey & Egeth, 1983), the growing research on this issue suggests that jurors’ reliance on eyewitness testimony in deciding guilt is greater than research findings merit. Jurors in laboratory studies, for example, have been found to overbelieve eyewitness identifications (Brigham & Bothwell, 1983; Lindsay, Wells, & Rumpel, 1981), rely too heavily on their impressions of eyewitness confidence (Lindsay et al., 1981; Wells, Lindsay, & Tousignant, 1980), and be misled by witness memory for trivial details when judging face-recognition accuracy (Wells & Leippe, 1981). In short, jurors’ perceptions of adult eyewitness memory and memory-relevant influences may, at least in part, be based on inaccurate stereotypes and assumptions. An important role of psychological research is to identify where and to what extent jurors’ conceptions of eyewitness memory differ from the research-derived “facts” of eyewitness memory. In turn, methods of educating jurors (e.g., through pretrial instructions) might be developed.

Ross, D. F., Miller, B. S., & Moran, P. B. (1987). The child in the eyes of the jury: Assessing mock jurors' perceptions of the child witness. In *Children's Eyewitness Memory* (pp. 142-154). Springer US.

In many criminal cases involving sexual abuse, kidnapping, and domestic violence, a child is the sole eyewitness to the crime (Goodman, Golding, & Haith, 1984). Prosecutors are often hesitant to bring these cases to trial because of burdensome legal obstacles concerning child witnesses (Berliner & Barbieri, 1984). Recently, however, there have been several legal changes that are easing this burden. For instance, several states have abolished their rule regarding corroborating evidence (Goodman et al., 1984; Melton, 1984). This rule specifies that a child's testimony can be accepted in court only if it is supported by the testimony of an adult. The retraction of this rule may have a sizable impact on the number of crimes that are brought to trial. In 1983 there were 183 reported cases of sexual abuse in New York State. However, only one of these cases resulted in conviction. It is believed that the lack of corroborating evidence is one factor contributing to such low conviction rates (Berliner & Barbieri, 1984; Ceci, Ross, & Toglia, 1987).

Goodman, G. S., Golding, J. M., & Haith, M. M. (1984). Jurors' reactions to child witnesses. *Journal of Social Issues*, 40(2), 139-156.

Adults often do not know when to believe children. There are few places where this uncertainty is more consequential than in a court of law where jurors may be forced to base their verdict largely on the testimony of children. Legal and cultural stereotypes undermine children's credibility as witnesses by portraying them as basically honest but highly manipulable, unable to differentiate fantasy from reality, and lacking in cognitive sophistication. In this article, we review juror, witness, and courtroom factors that influence a child's credibility. We also present the results of our own studies on reactions to child witnesses.

VII. General

Henderson, H. M., & Lamb, M. E. (2019). Does implementation of reforms authorized in Section 28 of the Youth Justice and Criminal Evidence Act affect the complexity of the questions asked of young alleged victims in court?. *Applied Cognitive Psychology, 33*(2), 201-213.

This study examined whether the implementation of Section 28 (S28) of the Youth Justice and Criminal Evidence Act and the introduction of mandatory ground rules hearings reduced the complexity of the questions English lawyers asked when examining child witnesses. This study compared cases with (n = 43) and without (n = 43) the S28 special measures and involved children aged 6–15 testifying as alleged victims of sexual abuse. Defense lawyers' questions in the S28 condition comprised fewer words, clauses, false starts, multiple negatives, and temporal and numeric attributes than in the non-S28 condition. When questioning younger children, lawyers used fewer words, clauses, references to “before/after,” and passive voice. These results demonstrated that S28 successfully reduced the complexity of the questions and that lawyers in both conditions partially adjusted the complexity of their questions to accommodate children's developmental capabilities.

Henderson, H. M., Andrews, S. J., & Lamb, M. E. (2019). Examining children in English High Courts with and without implementation of reforms authorized in Section 28 of the Youth Justice and Criminal Evidence Act. *Applied Cognitive Psychology, 33*(2), 252-264.

This study examined whether the implementation of Section 28 of the Youth Justice and Criminal Evidence Act (1999) improved lawyers' questioning strategies when examining child witnesses in England. The government's Section 28 pilot study involved judges holding Ground Rules Hearings, during which restrictions and limitations were placed on the duration, content, and manner of questions to be asked. Afterwards, children's cross-examinations were pre-recorded and later played as part of their evidence at trial. The current study compared cases involving 6- to 15-yearold alleged victims of sexual abuse in which Section 28 was (n = 43) and was not (n = 44) implemented. Defence lawyers in Section 28 cases asked significantly fewer suggestive questions and more option-posing questions than defence lawyers in Nonsection 28 cases. Younger children complied more with defence lawyers' suggestive questions. Ground Rules Hearings improved lawyers' questioning strategies, regardless of the case's involvement in the Section 28 pilot study.

Brown, D. A., & Lamb, M. E. (2018). Forks in the road, routes chosen, and journeys that beckon: A selective review of scholarship on children's testimony. *Applied Cognitive Psychology*. Online ahead of print. doi.org/10.1002/acp.3511

In this brief review, we reflect upon the key contributions of research examining children's eyewitness testimony. Children's testimonial ability became a focus of interest for researchers about 40 years ago in the wake of several high-profile child abuse cases that prompted questions about children's reliability in the face of problematic interviewing and other suggestive influences. Since that time, scholars have examined children's capacity to provide accurate and detailed descriptions of their experiences and also evaluated the impact of various suggestive techniques. We have learned much about the conditions that are likely to promote reliable testimony from children and, conversely, when we might have cause for concern about the veracity of their reports. We highlight here some methodological and translational issues that have plagued the field and suggest some areas for future research focus.

Evans, A. D., Stolzenberg, S. N., & Lyon, T. D. (2017). [Pragmatic failure and referential ambiguity when attorneys ask child witnesses “do you know/remember” questions.](#) *Psychology, Public Policy, and Law*, 23(2), 191-199.

“Do you know” and “Do you remember” (DYK/R) questions explicitly ask whether one knows or remembers some information while implicitly asking for that information. This study examined how 104 4- to 9-year-old children testifying in child sexual abuse cases responded to DYK/R wh- and yes/no questions. When asked DYK/R questions containing an implicit wh- question requesting information, children often provided unelaborated “Yes” responses. Attorneys’ follow-up questions suggested that children usually misunderstood the pragmatics of the questions. When DYK/R questions contained an implicit yes/no question, unelaborated “Yes” or “No” responses could be responding to the explicit or the implicit questions resulting in referentially ambiguous responses. Children often provided referentially ambiguous responses and attorneys usually failed to disambiguate children’s answers. Although pragmatic failure following DYK/R wh- questions decreased with age, the likelihood of referential ambiguity following DYK/R yes/no questions did not. The results highlight the risks of serious miscommunications caused by pragmatic misunderstanding and referential ambiguity when children testify.

Myers, J. E. B. (2017). Cross-Examination: A defense. *Psychology, Public Policy, and Law*, 23(4), 472-277.

Some researchers criticize the practice of cross-examining child witnesses. A few critics go so far as to suggest that cross-examination undermines the search for truth. This essay takes issue with critics of cross-examination, and argues that, in the adversary system of justice, cross-examination serves vital functions. While the essay defends cross-examination, it acknowledges 2 important matters: First, developmentally inappropriate questions can undermine children's accuracy, and developmentally inappropriate questions abound in court. Second, cross-examination can undermine the accuracy of children's truthful testimony. A law is proposed to curtail developmentally improper questioning. The argument is made that the harm of occasional inaccuracy caused by cross-examination is outweighed by the benefit of cross-examination.

Ahern, E. C., Stolzenberg, S. N., & Lyon, T. D. (2015). [Do prosecutors use interview instructions or build rapport with child witnesses?](#). *Behavioral Sciences & the Law*, 33(4), 476-492.

This study examined the quality of interview instructions and rapport-building provided by prosecutors to 168 children aged 5–12 years testifying in child sexual abuse cases, preceding explicit questions about abuse allegations. Prosecutors failed to effectively administer key interview instructions, build rapport, or rely on open-ended narrative producing prompts during this early stage of questioning. Moreover, prosecutors often directed children's attention to the defendant early in the testimony. The productivity of different types of wh- questions varied, with what/how questions focusing on actions being particularly productive. The lack of instructions, poor quality rapport-building, and closed-ended questioning suggest that children may not be adequately prepared during trial to provide lengthy and reliable reports to their full ability.

Bettenay, C., Ridley, A. M., Henry, L. A., & Crane, L. (2015). Changed responses under cross-examination: The role of anxiety and individual differences in child witnesses. *Applied Cognitive Psychology*, 29(3), 485-491.

The present study explored whether levels of anxiety, and a range of individual differences measures (age, IQ and suggestibility), could predict performance during cross-examination questioning. Eighty-three children (aged 4–11 years) witnessed a staged event before being interviewed (3–6 days later) and cross-examined (10 months later). Results demonstrated that

cross-examination induced a significant rise in anxiety levels. Further, recall of unchallenged details (based on children's initial testimony, which they reviewed prior to cross-examination) and anxiety levels were the only significant predictors of cross-examination performance. Further research is needed to explore the interrelationship between anxiety and other individual difference measures on cross-examination performance, and to determine how to alleviate the anxiety of child witnesses (to enable them to achieve their best evidence in court). Preparation to ensure children understand the importance of attending to the recording of their original evidence may improve children's resilience under cross-examination and reduce anxiety levels. Copyright © 2015 John Wiley & Sons, Ltd.

Lamb, M. E., Malloy, L., Hershkowitz, I., & La Rooy, D. (2015.) Children in the law. In R.M. Lerner (General Editor), M. E. Lamb (Volume Editor), *Handbook of child psychology and developmental science* (7th edition), Volume 3, *Social, emotional and personality development*. Hoboken, NJ: Wiley.

Burrows, K. S., & Powell, M. (2014). Prosecutors' recommendations for improving child witness statements about sexual abuse. *Policing & Society*, 24(2), 189-207.

Child sexual abuse cases are often not prosecuted because of poor evidential quality. The aim of this study was to elicit suggestions from prosecutors as to how investigative interviews with child witnesses (the main form of evidence in child abuse cases) could be improved. Thirty-six in-depth phone interviews were held with 19 trial prosecutors shortly before and after trials. For each case, prosecutors were asked to provide feedback about the strengths and limitations of the child witness interviews, along with suggestions for how the interviews could have been improved. Thematic analysis revealed three broad areas for improvement: the need for tighter focus on the elements of the offence, better clarification of inconsistencies and ambiguities in the account, and greater consideration of how the child presents in the eyes of the jury. These areas, along with the prosecutors' practical suggestions, are outlined. The paper concludes with a discussion of the implications of these findings for trainers in child witness interviewing.

Stolzenberg, S. N., & Lyon, T. D. (2013). How attorneys question children about the dynamics of sexual abuse and disclosure in criminal trials. *Psychology, Public Policy, and Law*, 20(1), 19-30.

Little is known about how the dynamics of sexual abuse and disclosure are discussed in criminal court. We examined how attorneys ask child witnesses in sexual abuse cases ($N = 72$, 6–16 years of age) about their prior conversations, both with suspects and with disclosure recipients. Prosecutors' questions were more open-ended than defense attorneys, but most questions asked by either attorney were yes/no questions, and children tended to provide unelaborated responses. Prosecutors were more inclined to ask about children's prior conversations with suspects than defense attorneys, but focused on the immediate abuse rather than on grooming behavior or attempts to silence the victim. Prosecutors were also more inclined to ask about children's motives for disclosing or for failing to disclose than defense attorneys, but in most cases, failed to ask. Both types of attorney asked children about prior disclosures, although defense attorneys were more inclined to ask children to recall specific content in particular disclosures. On average, children were asked about five disclosure recipients, and denied disclosing some information in 93% of cases. Attorneys exhibited little sensitivity to the age of the child in selecting their questions. The implications of the results for improving the process by which abuse cases are tried in court are discussed.

Zajac, R., O'Neill, S., & Hayne, H. (2012). Disorder in the courtroom? Child witnesses under cross-examination. *Developmental Review*, 32(3), 181-204.

When a witness gives evidence in an adversarial criminal trial, there are two main questioning phases: direct examination and cross-examination. Special provisions are sometimes made for children to give direct evidence, but the majority of child witnesses are still cross-examined. While several decades of research have demonstrated how to elicit children's direct evidence in a manner that promotes completeness and accuracy, the cross-examination process directly violates many of these principles. Here, we outline the characteristics of cross-examination, particularly as it pertains to children, and we review research about its impact on children, their testimony, and their credibility. We consider options for reforming the cross-examination process and propose avenues for future research.

Block, S. D., Oran, H., Oran, D., Baumrind, N., & Goodman, G. S. (2010). Abused and neglected children in court: Knowledge and attitudes. *Child Abuse & Neglect*, 34(9), 659-670.

After maltreated children are taken into protective custody, dependency courts determine the children's placements. Many, if not most, maltreated children never attend their dependency court hearings. We had the rare opportunity to interview children in a jurisdiction where children regularly attend their detention hearings in dependency court. Our main goals were to assess maltreated children's knowledge and attitudes about their court experiences and identify predictors thereof. We also examined if the maltreated children desired greater participation in dependency court decisions. Immediately after attending their dependency court hearings, 7- to 10-yearolds were interviewed about their knowledge of, attitudes concerning, and participation in dependency court. Information was also extracted from the children's dependency court files. Lack of understanding and negative attitudes were common. Age predicted court knowledge, and age, anxiety, court knowledge, abuse type, and criminal court referral predicted attitudes. Qualitative findings included that a substantial minority of children did not feel believed or listened to, and most children wanted to return home. This research is relevant to current debates about the extent to which children should be involved in legal decisions. The results suggest that maltreated children may profit from greater understanding of dependency court. Moreover, the findings indicate that children often wish to have greater influence in dependency court decisions. Professionals should consider providing children involved in dependency court hearings with age-appropriate information about the legal proceedings. Children may also benefit in dependency hearings from the opportunity, directly or indirectly (through their attorneys), to give voice to their wishes and needs.

Evans, A. D., Lee, K., & Lyon, T. D. (2009). Complex questions asked by defense lawyers but not prosecutors predicts convictions in child abuse trials. *Law and Human Behavior*, 33(3), 258-264.

Attorneys' language has been found to influence the accuracy of a child's testimony, with defense attorneys asking more complex questions than the prosecution (Zajac & Hayne, J. Exp Psychol Appl 9:187–195, 2003; Zajac et al. Psychiatr Psychol Law, 10:199–209, 2003). These complex questions may be used as a strategy to influence the jury's perceived accuracy of child witnesses.

However, we currently do not know whether the complexity of attorney's questions predict the trial outcome. The present study assesses whether the complexity of questions is related to the trial outcome in 46 child sexual abuse court transcripts using an automated linguistic analysis. Based on the complexity of defense attorney's questions, the trial verdict was accurately predicted 82.6% of the time. Contrary to our prediction, more complex questions asked by the defense were associated with convictions, not acquittals.

Troxel, N. R., Ogle, C. M., Cordon, I. M., Lawler, M. J., & Goodman, G. S. (2009). Child witnesses in criminal court. In B. L. Bottoms, C. J. Najdowski, & G. S. Goodman (Eds). *Children as victims, witnesses, and offenders: Psychological science and the law* (pp. 150-166). New York: The Guilford Press.

Westcott, H. L. (2006). Child witness testimony: What do we know and where are we going. *Child & Family Law Quarterly*, 18, 175-190.

This article presents an overview of current issues in psychological research and practice relating to child witnesses, including an appraisal of factors relating to children's testimony, adult interviewing practice, and the questioning environment. The article discusses factors that can enhance or impede children's evidence, and summarises recent research on suggestibility, individual differences and source-monitoring. It also highlights a number of 'gaps' in the child witness literature, and finally, suggests topics for further debate and research by psychologists and lawyers.

Gilstrap, L. L., Firtz, K., Torres, A., & Melinder, A. (2005). [Child witnesses: Common ground and controversies in the scientific community](#). *William Mitchell Law Review*, 32, 59-79.

Zajac, R., Gross, J., & Hayne, H. (2003). [Asked and answered: Questioning children in the courtroom](#). *Psychiatry, Psychology and Law*, 10(1), 199-209.

In the present experiment, we analysed court transcripts in which children aged 5 to 13 years provided the key evidence in sexual abuse trials. We developed two separate coding schemes for lawyers' questions and children's responses. Consistent with past research, defence lawyers conducting cross-examination asked a higher proportion of complex, grammatically confusing, credibility-challenging, leading, and closed questions than prosecution lawyers. In responding to

defence lawyers' questions, child witnesses rarely asked for clarification and often attempted to answer questions that were ambiguous or did not make sense. Furthermore, over 75% of children changed at least one aspect of their testimony during the cross-examination process. These findings have important implications for the way in which children are examined in court.

Myers, J. E., Saywitz, K. J., & Goodman, G. S. (1996). Psychological research on children as witnesses: Practical implications for forensic interviews and courtroom testimony. *Pacific Law Journal*, 28, 3-91.

Perry, N. W., McAuliff, B. D., Tam, P., Claycomb, L., Dostal, C., & Flanagan, C. (1995). When lawyers question children: Is justice served? *Law and Human Behavior*, 19(6), 609-629.

Assessed the impact of some complex vs simple question forms frequently used by attorneys on the children's understanding of typical courtroom questions forms and the accuracy of children's responses. 15 males and 15 females from each of 4 student populations (kindergarten, Grades 4 and 9, and college) viewed a videotaped incident and then responded to questions about the incident. Half the questions were asked in "lawyerese" (i.e., using complex question forms); the remaining half asked for the same information using simply phrased question forms of the same length. Lawyerese confused children, adolescents, and young adults alike. Questions that included multiple parts with mutually exclusive responses were the most difficult to answer; those that included negatives, double negatives, or difficult vocabulary also posed significant problems. Results suggest that complex question forms impede truth-seeking and should be prohibited in court. (PsycINFO Database Record (c) 2012 APA, all rights reserved)

Goodman, G. S., & Bottoms, B. L. (1993). *Child victims, child witnesses: Understanding and improving testimony*. New York: The Guilford Press.

Nightingale, N. N. (1993). Juror reactions to child victim witnesses: Factors affecting trial outcome. *Law and Human Behavior*, 17(6), 679-694.

Two experiments, involving a total of 597 undergraduates (aged 17–45 yrs), examined trial variables that might affect juror decisions. In Exp 1, the impact of corroboration, type of case (civil vs criminal), and victim age (6, 9, or 12 yrs) was examined. Ss read a trial summary describing a wrongful injury or sexual abuse case and were asked to make decisions regarding the case. Results

show that corroboration increased the number of guilty verdicts for the 6- and 12-yr-olds, yet had little impact in the case with the 9-yr-old. The type of the case did not interact with child age in affecting jurors' decisions. In Exp 2, the trial summary described the corroborated sexual abuse case used in Exp 1 and varied the age of the victim from 6 to 14 yrs. The number of guilty verdicts and credibility decreased with age, whereas the amount of blame attributed to the victim increased with age. (PsycINFO Database Record © 2012 APA, all rights reserved)

Saywitz, K. J. (1989). Children's conceptions of the legal system: "Court is a place to play basketball". In S. J. Ceci et al (Eds.), *Perspectives on Children's Testimony* (pp. 131-157). New York: Springer.

Children are participating in legal investigations and litigation more frequently than ever before. They become involved with the legal system as victims of abuse, neglect, or kidnapping; as witnesses to burglary or to a parent's murder; or as the foci of custody disputes and civil injury cases. When children come in contact with the legal system, they often become involuntary participants in a complex web of repeated contacts with strangers, in unknown situations, governed by a set of unfamiliar rules that are admittedly difficult even for adult witnesses to comprehend.