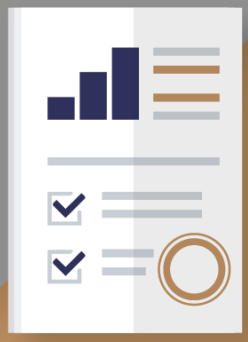

Research and Statistics Division

Children and the Justice System in Canada:

Developmental considerations for enhancing evidence

Heather L. Price, Ph.D., Professor of Psychology, Canada Research Chair: Children and the Law, Thompson Rivers University
Angela D. Evans, Ph.D., Professor of Psychology, Brock University
Sonja P. Brubacher, Ph.D., Senior Research Fellow, Center for Investigative Interviewing, Griffith University

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Executive summary

Children and the justice system

Children's statements are often the central evidence in cases involving children as victims and witnesses. Critically, children can provide quality memory evidence, if adults are competent in extracting that evidence. In this report, we review children's capabilities, limits on their capabilities, challenges in providing evidence, and ways to improve children's justice experiences. Our focus is on evidence-based conclusions and we review key aspects of cognitive and developmental research that will help the reader understand children's role as victims and witnesses in the justice system.

A key challenge for children who are involved in the justice system is the stress of unfamiliar and often difficult justice processes. Although not all children experience forensic interviews and testifying in court as stressful, many do. At times, the heightened level of emotion can impact children's ability to provide evidence. There is now widespread recognition that adapting justice processes to children's special circumstances and capabilities will improve children's experiences, increase the quality of their evidence, and provide better access to justice. One key way in which the processes should be adapted is through justice professionals gaining an understanding of children's cognitive and social development. This report reviews the current state of this knowledge.

Children's cognitive abilities and their impact on children's evidence

Children's maturing cognitive skills play an important role in their ability to provide testimony. In particular, executive functioning skills (i.e., a set of cognitive processes that help set and complete goals), which develop throughout childhood and into early adulthood, support children, youth, and adults in providing testimony. For example, these skills can influence whether a child can resist suggestions made to them by an adult, or whether a child is prone to guessing in response to questions. Importantly, the development of these cognitive skills has been found to be delayed or at a deficit for maltreated children.

Professionals who work with child victims and witnesses are often interested in how to promote truth-telling in children. Children's conceptualization of lies begins during the preschool years, but a more stable concept of truth and lies does not emerge until later childhood (approximately 10 years of age). Children who fail to demonstrate an understanding of truth and lies may still be honest, and children who show a sophisticated understanding may still tell lies. One factor that has been found to increase children's honesty is promising to tell the truth, but this is less effective with very young children (aged 3 to 5 years).

Children are often asked to provide details about the timing, duration, and frequency of the events (i.e., temporal information) that have brought them into contact with the justice system. Such information is seemingly reasonable to request and may even be legally required in some cases. However, asking for information only makes sense if a child has the cognitive skills to provide it. Although there are exceptions, children generally struggle to provide temporal

information. Importantly, this difficulty is not related to their ability to recall other accurate details of their experiences.

Language development in children

Children's emerging communication skills can pose challenges for the legal system in obtaining detailed and accurate reports. Failure to acknowledge the developmental differences between children and adults can result in miscommunication and lead to unjust outcomes. Sometimes children use a word differently to adults or before they understand its meaning, or they guess the answers to questions that contain errors and ambiguities. These behaviours can lead to miscommunication or misunderstandings of the child's experiences. For example, children have a tendency to guess if they don't know the answer to questions asked in a yes/no format. Concerningly, children are often asked age-inappropriate questions, which can influence the accuracy of their responses and, ultimately, legal outcomes. Thus, it is important for adults to understand how language and certain types of questions can influence the clarity and accuracy of children's reports.

Memory in children

Memory is a subjective experience. The purpose of the memory system is to understand and interpret the world around us and to help us make predictions about the future, not to retain precise and detailed information about prior experiences. This means memories are prone to error. There are several key themes of memory that can be used to interpret children's evidence:

- Not everything gets into memory;
- What gets into memory varies in strength;
- The status of information in memory changes over time;
- Retrieval of memory is not perfect;
- Not everything that can be retrieved is reported;
- Not everything that is reported was experienced.

There are several additional influences on memory, including a child's age (older children generally provide more information and are less suggestible than younger children); the degree of prior knowledge a child has about an experience (having prior knowledge typically makes events easier to understand and report, but can interfere with remembering); the level of stress experienced during the event (stress can have both positive and negative effects on memory); the duration of time between the event and when the child recalls that event (generally, memories fade with time); and how often a child experienced similar events (experiencing repeated events helps children remember the things that are the same across experiences, but makes discriminating between similar experiences difficult). All of these factors will influence how children should be questioned about their experiences. Familiarity with the research on these topics is critical for interpreting children's evidence.

Children's disclosure processes

Children's disclosure of abuse typically follows four broad patterns: disclosers, non-disclosers, delayed disclosers, and children who recant an earlier disclosure. Children's reluctance to disclose (non-disclosers, delayed disclosers, and recanters) is often related to the dynamics of sexual abuse and may be more likely when the child has a close relationship with the perpetrator, when the child is not well supported by family, when the abuse is more severe, and when the onset of abuse is at an older age. Reluctance to disclose is common among children who have been abused and should not necessarily be considered a sign of false allegation.

When children do disclose, they often do so because of internal feelings (e.g., nightmares, anxiety), external influences (e.g., being questioned), or evidence of the abuse was discovered. However, when children do not disclose, it is often for reasons like worry about the negative consequences of doing so (e.g., jailtime for the accused), feelings of embarrassment or shame, worry about getting in trouble, fear of not being believed, or a lack of understanding that the behaviour was inappropriate. Delays to disclosure and recantations are often viewed negatively in the courtroom. There is a need to educate triers of fact on normal disclosure processes.

Child forensic interviewing

There is a large and robust literature supporting evidence-based forensic interviewing of children. What children are willing and able to tell us is profoundly influenced by how we elicit their information. When questioners provide children with socioemotional support and the opportunity to share what they remember at their own pace, in their own words, children's testimony can be accurate and informative. An evidence-based child forensic interview typically consists of the following components: introductory phase (with brief explanation of roles and room set up, ground rules, and narrative practice), transition to the topic of concern, substantive phase where children are encouraged to provide a narrative of the event in response to predominantly open-ended questions, a break, follow-up questions to allow interviewers to ask for any specific information that may have been omitted during the narrative account, and a respectful closure.

High quality child forensic interviews will focus on open-ended invitations for the child to provide a narrative response. Wh- questions (e.g., who, when, where, why, how, and narrow "what" questions) are also preferable to closed questions (i.e., questions that narrowly restrict the content of children's responses), the latter of which often results in the highest rate of guessing. Compared to other question types, open-ended questions elicit longer and more accurate responses and are more likely to access details the child remembers, rather than details the interviewer wishes to hear about (which may or may not be something the child remembers). Children's ability to answer open-ended questions improves with age, but even preschoolers can provide narrative details in response to such questions.

Children's in-court evidence

It is clear that the courtroom context is unique and often stressful for children. The majority of child witnesses experience anxiety and show evidence of stress symptoms, including sleeping and eating problems, depression, bed-wetting, and self-harming while waiting to go to court and the courtroom experience itself can be a substantial stressor with long-term consequences for children. Court preparation programs can provide children with knowledge and experience about upcoming proceedings and have been shown to have beneficial effects on children's well-being.

There is a disconnect between the standard approach to cross-examination and children's ability to provide accurate evidence. The questioning style of cross-examination is largely comprised of closed, leading, and yes/no questions. This style of questioning is highly problematic for eliciting accurate statements from children and is emotionally challenging for children. By its very nature, cross-examination is designed to elicit what the adult wants the child witness to say, not to access the child's truthful responses. Cross-examination has been described as one of the worst parts of court for children and has been described as a "how not to" guide to question children. Several countries have made policy advances that retain elements of traditional cross-examination but also move closer to appropriately questioning children in court.

In an effort to improve the experience for children and facilitate their provision of evidence, changes were made to the *Criminal Code* and *Canada Evidence Act* (Bill C-2) that came into force in 2006. Changes included presuming competence of children under the age of 14 years, removing the public from the courtroom, and the provision of testimonial aids (e.g., testifying from behind a screen, with a support person, or from another room via closed circuit television).

Research has indicated that the use of such testimonial aids decreases testimonial stress. Further, children questioned via video either show increased accuracy and resistance to suggestion with this approach relative to in-person questioning, or no differences, compared to live testimony. Other recent advances include children testifying in court remotely (e.g., from a comfortable environment) and the use of trained support dogs for children during interviews and testimony. The evidence is growing that the use of dogs can have benefits for many children, including reducing stress and anxiety.

Child Advocacy Centres

In recognition of the challenges posed to children who are victims of and/or witnesses to abuse and their families, there has been an international movement towards coordinating the service providers who work with the children and families at Child Advocacy Centres (CAC or Child and Youth Advocacy Centres, CYAC). CACs provide a child-focused process in a friendly setting, usually in one location, where service delivery partners including medical, child protection, police, mental health, victim support and advocacy, and prosecution, where appropriate, work together in a coordinated way to support children, youth and their families. There is growing evidence that CAC-based investigations reduce stress and trauma experienced during abuse investigations for children and families. Further, CACs feature more evidence-based practices

and can serve as expert hubs. A recent study of British Columbia Child and Youth Advocacy Centres found that for every dollar invested in a CAC, $5.54 in social and economic value was created.

Recommendations

From the in-depth review of the literature relating to children's participation in the justice system, three key recommendations are made:

1. Increase developmental training and education for legal professionals who interact with children.
2. Expand access to Child Advocacy Centres and their services.
3. Consider and investigate alternatives to traditional cross-examination of child witnesses.

I Introduction

1.1 Children and the justice system

The events that bring a child to the criminal justice system can be confusing, upsetting, and possibly traumatic. In many cases, children will be the only witness to the crime they are asked to describe (e.g., child sexual abuse; Bala, Lee, & McNamara, 2001; Robinson, 2015). Thus, children's statements can be the central evidence. Understanding influences on children's evidence reliability, and how to adapt criminal justice processes to increase the quality of that evidence, is the central aim of this report.

A vast literature focused on the experiences of children in the justice system has clearly demonstrated that even preschool aged children are capable of providing detailed and accurate accounts of their prior experiences, if that information is elicited in a supportive and developmentally appropriate manner. This bottom line of children's evidence quality is critical:

> Children are capable of providing quality memory evidence, if adults are competent in eliciting that evidence.

In 2002, Louise Sas authored a compilation of history and literature related to the experience of children in the Canadian justice system (Sas, 2002). Sas' report covers the historical treatment of children, and the state of the literature on children's evidence at the time. The report traces the history from the groundbreaking Badgley Report (1986) to the day care sex abuse scandals of the 1990s, to the inception of the science related to children's testimony. The current report aims to address developments since that seminal document was published and describe our current state of understanding of children in the justice system in Canada.

1.2 The reception of child witnesses in the justice system

There is now widespread recognition that children can be reliable and competent witnesses. But it was not always this way. As Sas clearly outlines in her 2002 report, historically there have been struggles in believing children's accounts. While we have seen improvements in the belief in and participation of children in the legal system, critical biases against children's evidence and barriers to their participation in the justice system remain, including how children's evidence is collected (see Section IV on Child Forensic Interviewing), justice system professionals' understanding of children's capabilities (see Sections II, III, and IV), and justice processes like cross-examination (see Section VII on In-Court Evidence).

1.3 Children's experiences in the justice system

Children's involvement in the justice system will often include interactions with many different professionals: child welfare, police, medical, victim services, lawyers, judges, and other court personnel. Each of these interactions bring opportunities for relationship building and comfort, but also stress and anxiety. As we describe in Sections VII and VIII, there have been many

important changes for children involved in the justice system in Canada that are designed to facilitate their participation. These changes seek to address the complexity of services and professionals involved in responding to child victims, and to adapt these processes to make them more developmentally appropriate.

Many of the changes in how children are treated in the justice system are borne of the understanding of how system-induced trauma can compound the already difficult experiences of children (Bala et al., 2001; Berliner & Conte, 1995; Department of Justice Canada, 2001; Sas et al., 1993). Testifying is a clear stressor for many children (Field & Katz, 2023; Hayes & Bunting, 2013) and has been demonstrated to have long term effects on mental health (Eastwood & Patton, 2002; Elmi, Daignault, & Hébert, 2018; Quas et al., 2005). The courtroom environment, in particular, appears related to higher stress levels (Nathanson & Saywitz, 2003; Saywitz & Nathanson, 1993), and anticipating upcoming court involvement has been linked to anxiety in children (Nathanson & Saywitz, 2015).

The concern about children's stress during court proceedings has been addressed in creative and productive ways in court settings around the world. For example, at least one jurisdiction has implemented smart wrist bands to provide real-time physiological stress monitoring when children are questioned. This monitoring allows for the possibility of pausing questioning to introduce relaxation techniques or to end the interview if stress levels become too high (Rodriguez-Pellejero, Mulero-Henríquez, & Santana Amador, 2024). These measures, included as part of a comprehensive adapted courtroom process for children (e.g., child-friendly rooms, decompression rooms, high levels of support), can also inform us about children's general stress. In one study, the monitoring indicated that children's stress levels were significantly higher when waiting to be questioned and during questioning than they were at the time children left the courthouse, though overall children experienced a medium level of stress during court hearings (Rodriguez-Pellejero et al., 2024). Other studies that have explored children's stress levels during traditional court situations have demonstrated that children experience high levels of anxiety before, during, and after trials (e.g., Hayes & Bunting, 2013). Such negative experiences in-court are later related to children's feelings of injustice (Sumalla & Hernandez-Hidalgo, 2018). The impact of justice involvement on children is complex (Quas & Goodman, 2012). In some cases, children may experience testifying as empowering, even if stressful (Quas et al., 2005). In some circumstances, *not* testifying can have negative impacts, and, despite sometimes very negative experiences, the balance between the benefits and challenges of courtroom testimony will in many cases weigh on the side of testifying (Quas et al., 2005; Quas & Goodman, 2012). Yet, it is clear that unless (and sometimes even when) justice processes are adapted for children, the experience is likely to be confusing, upsetting, and stressful for many.

1.4 Modifying the criminal justice system's expectations of child witnesses

As we describe in detail in this report, there is a considerable body of literature that can be relied upon to recommend how to interact with children in developmentally appropriate ways that will increase the reliability of their evidence and facilitate their recovery. Alignment of what

we know about children's capabilities with what we ask of them is essential in ensuring we elicit the best quality evidence and provide them with a procedurally-just experience.

II Children's cognitive abilities and their impact on children's evidence

The legal system is designed based on adults' abilities. While children can meet expectations in some areas, in other areas their skills are still developing. Thus, it is important to understand children's cognitive development and how it relates to their ability to perform within the legal system.

2.1 Children's developing cognitive skills

Children's developing cognitive skills play an important role in their ability to provide testimony. In particular, executive functioning skills, which develop throughout childhood and into early adulthood, support children, youth, and adults in providing testimony. Executive functions include components such as *working memory* (the ability to hold information in mind and manipulate it), and *inhibition* (the ability to restrain the initial impulse to respond) (Diamond, 2006). Additionally, children develop the socio-cognitive skill of *theory of mind* (the ability to understand that others have different thoughts, desires, feelings, or emotions). These skills are important in numerous aspects of a child's life, but they are integral in supporting children in providing reports of their experiences.

Working memory is the ability to temporarily hold information in memory and manipulate it for subsequent recall (Baddeley, 1986). For instance, a child must hold the question being asked and the key details of an event in memory. Then the child must retrieve the details in the order they are questioned about them, and potentially re-order them based on follow-up questions. Researchers find that the accuracy of children's eyewitness memory reports is related to their working memory (e.g., Rossi-Arnaud & Angelini, 2017; Ruffman et al., 2001), meaning children with better working memory tend to be more accurate in recounting their experiences. Working memory begins developing in the preschool years (e.g., Carlson, 2005) with working memory abilities improving with age. For example, about half of 5-year-olds can hold in memory three or fewer pieces of information and recall them (e.g., 3 numbers) and by about 9 years of age most children can hold three details in memory (Pickering & Gathercole, 2001). Working memory continues to develop with skills peaking around 30 years of age (Alloway & Alloway, 2013). This long developmental process means that children cannot be expected to perform similarly to adults. Lawyers should take this into consideration when developing questions. For example, they should ensure that they do not ask long compound questions that require children to hold multiple parts of a question in memory. And, to the extent possible, they should sequence an event in the order the event occurred, rather than jumping around from one timepoint to another.

Inhibitory control involves the ability to resist responding with an automatic response. For example, inhibitory control involves resisting answering a question before it is fully complete or not responding with the first thing that comes to mind, but instead pausing to ensure you have the correct answer before responding. Inhibitory control begins to develop during the preschool

years (e.g., Carlson, 2005; Dowsett & Livesey, 2000), with 3-year-olds demonstrating a rudimentary ability to inhibit responses. By 5 years of age, children show some skills in inhibiting responses but are slow in their ability to stop an automatic response. Stopping speed increases with age across childhood and into adulthood (Williams, Ponesse, Schachar, Logan, & Tannock, 1999). While poor inhibitory control skills have been found to be related to young children's inability to inhibit the truth, resulting in honest disclosures of their own transgressions (e.g., O'Connor, Dykstra, & Evans, 2020; Talwar, Crossman, & Wyman, 2017; Talwar & Lee, 2008; Williams, Moore, Crossman, & Talwar, 2016), it is also related to children's tendency to respond without thinking through the question asked or their answer. For example, when asked a yes/no question (i.e., a question that can simply be answered with a yes or a no), young children (2 to 5 years old) often demonstrate a "yes" bias (Moriguchi, Osaka, & Itakura, 2008; Fritzley & Lee, 2003; Fritzley, Lindsay, & Lee, 2013), answering "yes" to a question without fully processing the question asked. Inhibitory control skills have also been found to be related to children's ability to answer complex questions such as questions that are referentially ambiguous (see Section V; Evans, Stolzenberg, & Lyon, 2017). Children with higher inhibitory control skills are also more resistant to suggestive questions (Roberts & Powell, 2005; Melinder, Endestad, & Magnussen, 2006).

Children must also consider the perspective or intentions of the questioner to successfully answer questions. As such, the socio-cognitive skill of *theory of mind* is required. Theory of mind is the ability to interpret another's mental states such as beliefs, desires, or emotions (Premack & Woodruff, 1978). Mental states are challenging for children to understand as they represent internal thoughts or feelings. People's mental states are not always obvious to others or potentially contrast with their external behaviours. For example, we may be nice to someone we don't really like to gain access or an advantage from them. Children's theory-of-mind skills become more sophisticated over time (e.g., Wellman & Liu, 2004). Children start to recognize that different people can have different desires from one another. For example, young children begin to understand that an adult may have different food preferences than they do (e.g., Repacholi et al., 1997). Between 3 and 5 years of age, children develop an understanding that others may not know what they know (knowledge ignorance). This means young children may assume an adult has access to the same information as they do and thus provide less detailed responses to the adult's questions. By around 4 or 5 years of age, children demonstrate false-belief understanding, or the awareness that someone can believe something to be true when in fact it is false. This ability supports children to resist suggestions from others about their experiences (e.g., Karpinski et al., 2009; reviewed in Bruck & Melnyk, 2004) as they understand that others may hold beliefs that are untrue or incorrect. Children's false-belief understanding becomes more sophisticated with age. By 6 to 9 years of age they can reason about a person's beliefs about another person's beliefs (e.g., What Sara thinks that Michael thinks; Perner, 1988). Finally, the ability to infer someone's real vs feigned emotional state based on contextual information (real-apparent emotion) develops around 5 to 6 years of age (Harris, Donnelly, Guz, & Pitt-Watson, 1986). For example, understanding that another child feels sad when others make jokes about them even though they are pretending they are happy. These skills may help children in interpreting interpersonal relationships.

Importantly, the development of these socio-cognitive skills (executive functions and theory of mind) has been found to be delayed or at a deficit for maltreated children. Maltreated children tend to exhibit lower scores on theory of mind and executive functioning measures compared to non-maltreated age matched peers (Beers & De Bellis, 2002; Cicchetti, Rogosch, Maughan, Toth, & Bruce, 2003; Demers et al., 2022; Lund, Toombs, Radford, Boles, & Mushquash, 2020) and this deficit remains into adolescence and adulthood (Kirke-Smith, Henry, & Messer, 2014; Mothes et al., 2015; Nikulina & Widom, 2013). Furthermore, testimonial load (e.g., increased cognitive load[1] while testifying) amplifies these differences. Thus, the age norms discussed above are expected to be several years delayed for children who have experienced neglect or abuse.

2.2 Children's understanding of the truth and promising

Extensive research has revealed that children begin to understand the concept of lying during the preschool years (e.g., Bussey, 1992; Lyon, Quas, & Carrick, 2013; Siegal & Peterson, 1996; Vendetti, Kamawar, & Andrews, 2019; Wandrey, Quas, & Lyon, 2012); however, it is not until around 10 or 11 years of age that children display a more comprehensive and adult-like understanding (e.g., Lavoie, Nagar, & Talwar, 2017; Strichartz & Burton, 1990; Wimmer, Gruber, & Perner, 1984). One factor that can influence children's ability to demonstrate their conceptual understanding is how the question is asked. Some questions simply require children to recognize a truth or a lie (e.g., "If I say my shirt is blue, would that be a truth or a lie?"), while others require children to provide a definition or an explanation of the difference between the truth or a lie. Although children can successfully recognize a truth or a lie as early as 4 to 5 years of age, they are not able to provide accurate definitions until 8 years of age (Lyon & Saywitz, 1999). Furthermore, children are more accurate at differentiating between truths and lies about neutral statements (by 3.5 years of age) and good acts (around 4 to 6 years of age) than bad acts. Specifically, children have difficulty differentiating truth and lies when the speaker has committed a bad act, confusing bad acts with lies (Lyon et al., 2013; Wandrey et al., 2012). These findings suggest that children's conceptualization of lies begins during the preschool years, but a more stable concept of truth and lies does not emerge until later childhood (approximately 10 years of age).

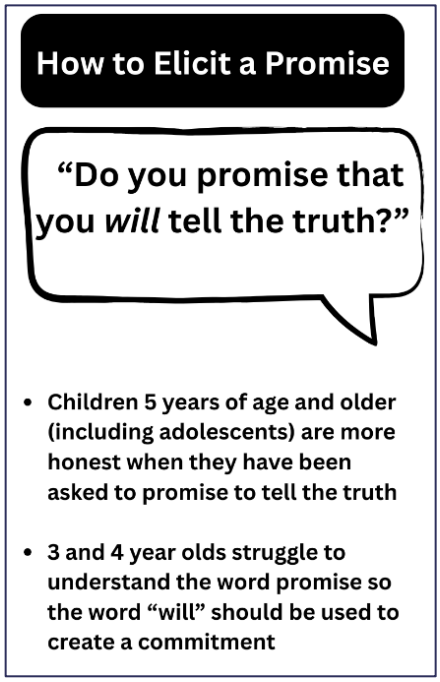
Beyond children's abilities to accurately identify statements as truths and lies, researchers have examined children's moral evaluations of whether lies are good or bad. Existing evidence suggests that children are sensitive to factors that may influence the morality of lying. For example, by 5 years of age, children are already able to consider someone's intention (whether they were trying to deceive someone or whether they made a mistake) when evaluating the honesty of their statement as good or bad, and these evaluations reach maturity by about 10 to 11 years of age (e.g., Bussey & Grimbeek, 2000; Lyon, Ahern, Malloy, & Quas, 2010; Lyon et

[1] Cognitive load is defined as the mental workload someone must handle while completing a task. A higher cognitive load suggests a greater use of working memory and other cognitive skills. Cognitive load can be increased in court as witnesses are being asked to recall events, understand complex questions, follow legal procedures, monitor and manage emotional responses, and face the accused. These factors can increase difficulty for witnesses to accurately recall information.

al., 2013). Lying to conceal a person's wrongdoing is consistently seen as bad by children and adults in different cultures (e.g., Cheung, Siu, & Chen, 2015; Lee, Xu, Fu, Cameron, & Chen, 2001; Mojdehi, Shohoudi, & Talwar, 2020).

Importantly, research examining the relationship between children's conceptualization and moral evaluation of lie-telling and their own honesty about negative events (i.e., wrong doings by the child or someone else) has found limited relation between the two (Talwar, Lee, Bala, & Lindsay, 2002; Talwar, Lee, Bala, & Lindsay, 2004; Talwar & Lee, 2008). Children who fail to demonstrate an understanding of truth and lies may still be honest, and children who show a sophisticated understanding may still tell lies. Given this lack of relation, children in Canadian courts (see Section VII) are not required to demonstrate an understanding of truths and lies prior to testifying in court.

One factor that has been found to be related to children's honesty is promising to tell the truth. Promising has been extensively examined in the moral development literature (e.g., Astington, 1988a; 1988b; 1988c; Austin, 1962; Bussey, 2010; Lyon & Evans, 2014; Talwar, Lee, Bala, & Lindsay, 2002; 2004). Including the word "promise" in a statement has been seen as an effective technique for inducing a sense of obligation as it demonstrates one's commitment *and* one's intention (Austin, 1962; Bussey, 2010). However, young children struggle to understand the implications of the word "promise" (Astington, 1988a; 1988b). For example, Lyon and Evans (2014) found that 3- to 5-year-old children showed greater understanding of a commitment when the words "I will" are used compared to "I promise", and that "I will" was understood at a younger age. These findings suggest that using the word promise may be less effective with younger children.



Researchers have assessed the effectiveness of promising to tell the truth on children's honesty about negative events. Promising has consistently been found to be effective in increasing honesty with children 5 years of age through adolescence (Evans & Lee, 2010; Evans & Talwar, 2024; Lyon, Malloy, Quas, & Talwar, 2008; Lyon & Dorado, 2008; McWilliams, Stolzenberg, Williams, & Lyon, 2021; Quas, Stolzenberg, & Lyon, 2018; Talwar et al., 2002). However, asking younger children (3- to 4-year-olds) to promise to tell the truth appears to be less effective (Bender, O'Connor, & Evans, 2018). This lack of effectiveness is likely due to their lack of understanding of the word promise (as noted above). However, asking children to verbalize their promise ("I promise that I will…") has been found to increase children's behavioural adherence to their promises compared to simply asking them to agree to a promise. Evans and colleagues (2018) found that when they asked children to verbally state their promise not to cheat in a game ("I promise I will not peek at the toy") including the words "I will" along with the promise significantly increased the likelihood that children would adhere to the rules and not cheat in the

game. Taken together, these findings support the idea that children should be asked to promise that they *will* tell the truth prior to providing a report of their experiences.

2.3 Children's abilities to estimate duration, timing, and frequency of events

When recalling a prior experience that brought them in contact with the justice system, a child may be asked to describe how long the event took, when it took place, and/or how often the event took place. These questions all inquire about seemingly reasonable, and sometimes legally necessary, details of a potentially criminal offence. In general, children do not spontaneously provide a great deal of temporal information in interviews (Peterson, 1996). However, investigators often actively seek such information from children. Asking for this information only makes sense if a child has the cognitive skills to provide such details. If they do not, then asking for this information is likely to result in guessing, changed answers, and/or non-responsiveness.

An initial key point to understand is that children's ability to talk about time concepts precedes their ability to understand and apply these concepts, and that this comprehension is protracted (Orbach & Lamb, 2007; Tillman & Barner, 2015). For example, a child may use the word 'yesterday', but instead of meaning the day prior, they are describing any day before today. Similarly, just because a child is able to count to 10 does not mean that a child can accurately report the number of instances of sexual abuse they have experienced. Rote recitation of a temporal concept (e.g., listing the days of the week) and application of that concept to life experiences (i.e., on what day something happened) require different levels of understanding.

The research on children's temporal concepts is still in relatively early phases. It is clear that children's ability to provide temporal information increases with age, but it is difficult to pin down precisely what concepts are established at what age. There is substantial variability in these skills among children aged 7 to 12 years (Zakay, & Hancock, 1999). The literature, however, also makes clear that providing such information is a cognitively challenging task that many children involved in the justice system will struggle to do accurately (Friedman, 1991; Friedman & Lyon, 2005).

In one innovative study, Wandrey and colleagues (Wandrey, Lyon, Quas, & Friedman, 2012) asked children to describe their prior visits to dependency court (i.e., non-criminal proceedings in which child safety is at issue) and their placement changes. In their sample of 6- to 10-year-olds, they found that children were very limited in their ability to provide information about the frequency and temporal location of prior experiences. For example, only 10% of the children were able to correctly identify the month in which a past event took place. Although Wandrey and colleagues found no developmental differences, other studies have shown overall improvements in temporal understanding with age. And at least one study demonstrated that there were few differences between adolescents (14 to 16 years) and adults on several different time scales (Jack, Friedman, Reese, & Zajac, 2016).

Duration. Reporting *how long* an event took can have implications for both understanding the overall event and for a defendant's ability to generate an alibi. Children appear to reach adult-like capabilities in reporting the duration of an event by about 10 to 12 years of age (Friedman et

al., 2010; Friedman, Reese, & Dai, 2011; Pathman et al., 2013), which may reflect both advancements in sensitivity to duration (McCormack, 2015) and in children's ability to use language that describes varying durations (Block et al., 1999).

Timing. Some criminal charges may depend on identifying *when* an event took place or how old the child was at the time (see Woiwod & Connolly, 2017). Placing an event in the temporal past appears to be challenging for children, and the difficulty increases with greater temporal distances between recall and the event in question (e.g., Hudson & Mayhew, 2011). Most of the recent research indicates that children's ability to recall how long ago an event took place begins to reach adult levels between the ages of about 8 to 10 years old (Deker & Pathman, 2021; Pathman, Deker, Coughlin, & Ghetti, 2022).

In a study of children's memory for visits to the hospital emergency room for a traumatic injury, Peterson (1996) found that 2- to 9-year-olds were very poor at reporting the time of day of the injury and the time at which they arrived at the hospital when directly asked. When not prompted for temporal details, only 9-year-olds spontaneously provided such information. In Wandrey and colleagues' (2012) study of the timing of prior dependency court visits and placements, children who attempted to date their first of several court visits were off by about six months and they were off by 9 to 12 months for placement timing. These findings highlight the difficulty in providing precise timing information.

Frequency. Although children appear to do well in discriminating whether an event was experienced once or more than once (Sharman, Powell, & Roberts, 2011; Roberts et al., 2015), when an event has been experienced repeatedly, accuracy of frequency estimates is quite low. Wandrey et al. (2012) found that although children had a general sense of the *number of times* they had been to court and the number of placements they had experienced, their precision was extremely poor. Unfortunately, children seemed relatively unaware of their difficulties (or unwilling to signal this) in providing this information because few children responded with "I don't know" to questions about event frequency. In Section IV, we address some of the reasons for children's difficulty in reporting event frequency.

In sum, children appear to struggle to provide temporal information. General estimates and time frames may seem reasonable to request, but attempting to elicit precise temporal information about past events is unlikely to provide highly accurate information (of course, there will be exceptions). Temporal information, perhaps more than most other concepts, demonstrates the tension between what children are capable of reporting and what the justice system often demands from witnesses (e.g., Price, Connolly, & Gordon, 2016). Critically, children's ability to recall temporal information is unrelated to their recall of accurate event details (Friedman & Lyon, 2005), and thus conclusions about a child's overall accuracy or honesty should not be drawn from any observed challenges in recalling temporal detail.

2.4 Children's concepts of court

A final consideration in children's cognitive abilities as they relate to their involvement in the legal system is children's understanding of court processes. Of course, most adults would expect that young children would have limited understanding of the intricacies involved in key

roles like a judge, lawyer, jury, or evidence, and that children would generally lack an understanding of courtroom procedures. The little research available on the topic clearly demonstrates these expectations to be accurate: children, particularly younger children, lack knowledge of court concepts, and this uncertainty contributes to anxiety about their participation in the justice system.

Several studies have been conducted that have demonstrated children's limited knowledge of concepts and processes related to court, as well as legal terminology. In the first major study to demonstrate this challenge, Flin and colleagues (Flin, Stevenson, & Davies, 1989) showed that children younger than 10 years of age knew little about the legal system, including both processes and terminology. For instance, many 6- to 8-year-olds believed that lying on the stand could result in their imprisonment (Flin, Stevenson, & Davies, 1989). A clear conclusion that can be drawn from the literature on children's knowledge of court concepts is that such knowledge generally improves with age (Block, Oran, Oran, Baumrind, & Goodman, 2010; Flin, Stevenson, & Davies, 1989; Melton, Limber, Jacobs, Oberlander, Berliner, & Yamamoto, 1992; Sas, Austin, Wolfe, & Hurley, 1991; Saywitz, Jaenicke, & Camparo, 1990). However, despite evidence that some legal professionals assume that children aged 10 to 12 years old will have more adult-like understanding of legal concepts (Eltringham & Aldridge, 2000; Henderson, 2002), even children as old as 15 years demonstrate limited legal knowledge both before and after court experiences (Crawford & Bull, 2006; Quas, Wallin, Horwitz, Davis, & Lyon, 2009).

Some of children's difficulty lies in unfamiliarity with behavioural expectations and courtroom procedures (e.g., where key players will sit in the room), whereas other challenges are found in understanding the specific terms used in the justice system. In one of the earliest demonstrations, Saywitz and colleagues (1993) noted two primary error types when children were asked about court terminology. First, children demonstrated auditory discrimination errors, such as mistaking "jury" for "jewelry". Second, children made homonym errors, by confusing words with more than one meaning (a court is a place to play basketball). Professionals who interact with children in the justice system must clearly describe all components of the court experience to reduce children's confusion and the potential for misunderstanding. This is particularly essential because there is evidence that limited legal knowledge increases children's anxiety about testifying (Goodman et al., 1998; Saywitz & Nathanson, 1993). We return to efforts to prepare children for court in Section VII.

III Language development in children

3.1 Developmental changes in language

Language is largely made up of four main components: phonology (e.g., sounds used to create speech), semantics (e.g., the meaning of words), grammar (e.g., how words are arranged in a sentence or the expression of tense), and pragmatics (e.g., the rules of communication such as turn taking or implicatures). These language skills develop throughout childhood and into adolescence and are important for supporting children in communicating their experiences as well as understanding the questions asked of them.

Children's vocabulary quickly develops during toddlerhood with 16-month-olds having approximately 50 words in their expressive vocabulary and by 2.5 years of age children have over 400 words in their vocabulary (Urm & Tulviste, 2016). However, during these early developmental years, children do not have the necessary understanding of grammar or pragmatics to support them in clearly expressing or reporting their experiences. Children's understanding of semantics continues to increase throughout childhood. Typically, children comprehend words before they use them, however, this is not always the case. Sometimes production proceeds comprehension (Hendriks, 2014). For example, children produce third-person object pronouns (e.g., him) and temporal words prior to understanding them correctly. Similarly, the early development of children's use of the terms "ask and tell" can result in children interchanging or misusing the terms (Stolzenberg, McWilliams, & Lyon, 2017a). Stolzenberg et al. (2017a) examined maltreated 6- to 11-year-olds' understanding of the terms "ask and tell" and found that children initially comprehend "telling" more broadly as *saying*. As a result, they may misunderstand asking as a form of telling (this was particularly problematic when asked yes/no questions). This linguistic confusion is of concern in the legal setting because children's misunderstanding or misuse of the terms may result in a report that an adult "told" the child what happened (i.e., coaching), rather than "asked." In sum, it cannot be assumed that because a child uses a word that they understand what it means. This highlights the importance of asking follow-up questions to clarify a child's statements.

During the preschool (3 to 5 years of age) and elementary (6 to 10 years of age) years, children continue to increase their vocabulary and begin to understand the rules of communication. Around 4 years of age children can produce sentences with 3 to 4 words, allowing for a basic expression of their daily experiences. One of the largest factors that influences children's language development is language exposure at home and school (Cabell, Justice, McGinty, DeCoster, & Forston, 2015; Huttenlocher, 1998; Levickis et al., 2014) and child maltreatment has been found to negatively impact language development (Allen & Oliver, 1982; Elgsti & Cicchetti, 2004; Hwa-Froelich, 2012). Generally, the amount of detail provided in reports increases with age into adolescence (e.g., Lamb, Sternberg, & Esplin, 2000), with younger children reporting fewer details and requiring more support when being questioned compared to older children (see Section VI for recommendations on questioning children), while adolescents can provide more detail (see Section V for reasons for reluctance and limited details provided in their reports).

3.2 Children's developing language skills and potentials for miscommunication

Children's developing communication skills pose challenges for the legal system in obtaining the most detailed and accurate reports. Failure to acknowledge the developmental differences between children and adults can lead to unjust outcomes (Park & Renner, 1998).

Children are regularly asked age-inappropriate questions, with questions exceeding their cognitive ability or failing to support them in providing accurate and detailed reports (Evans et al., 2009; Park & Renner, 1998; Wylie et al., 2024; Zajac & Hayne, 2003; Zajac et al., 2003). The questions lawyers ask, and the language lawyers use, can influence the accuracy of

children's testimony, and in turn trial outcomes (Evans et al., 2009; Wylie et al., 2024; Zajac & Hayne, 2003; Zajac et al., 2003). For example, Evans and colleagues (2009) found that when defence lawyers asked more syntactically complex questions to child witnesses in child sexual abuse cases, the trial was more likely to result in a conviction. Wylie and colleagues (2024) examined Canadian court transcripts of 95 children (5 to 17 years old) testifying in court in cases of child sexual abuse for the types of questions lawyers asked, how detailed children's responses were, and whether it was related to trial outcome. They assessed the use of open-ended invitations ("Tell me everything that happened") and wh- questions (e.g., wh- and how), and closed-ended questions including yes/no questions (i.e., questions that ask for a yes or no response), option-posing questions (i.e., questions that provide options), declarative questions (i.e., a statement phrased as a question), and suggestive questions. The most common question format used by lawyers was declaratives, which resulted in the lowest rate of children providing unelaborated responses (i.e., few details were provided by the child). In contrast, open-ended invitations and wh- questions tended to result in more details being provided (compared to just yes or no responding). Yet only 13% of all questions were open-ended invitations and wh- questions, with prosecutors being more likely to ask them than defence lawyers. Importantly, the use of such questions was related to case outcome with more invitations and wh- questions being related to convictions; perhaps this is due to the child witness appearing more credible when they provide details themselves (but further studies are needed).

Given that the questions lawyers ask and how children respond can impact the trial outcome, it is important to understand the relation between the two. When there is a disconnect between the question being asked by a lawyer and a child's response, this can lead to miscommunication. Miscommunication can result from several factors including, a child not understanding a question, a child interpreting the question differently from an adult, or an adult interpreting a child's response differently than the child intended.

Under-informative responding: When a simple "yes" is not enough. The majority of questions posed to children during testimony are closed-ended and can be answered with a simple "yes" or "no" response (Stolzenberg et al., 2020; Wylie et al., 2024). These questions tend to elicit under-informative responses – children simply say "yes", "no", or proffered responses (e.g., selecting one of the options from a question stem; Stolzenberg et al., 2017b, or an easily accessible guess such as colour or number; McWilliams et al., 2021). Given this, researchers have posited a *theory of formal reticence* which proposes that children tend to produce easily retrievable and minimally sufficient responses, based on the question form, and such responses can lead to misunderstanding the child's response (Stolzenberg et al., 2017a; Stolzenberg & Lyon, 2017b; Stolzenberg et al., 2020). Additionally, children may prematurely answer questions without realizing or considering that the question may have dual meanings (*Garden Path theory,* Anderson et al., 2011; Keysar et al., 1998; Kidd et al., 2011; Snedeker & Trueswell, 2004; Weighall, 2008; Woodard et al., 2016). Below we review examples of situations where formal reticence and premature answering can result in miscommunication including (1) when children don't understand, (2) questions about touch or body mechanics, and (3) referentially ambiguous or implied questions.

1. **When children don't understand the question or don't know the answer.** When asked a question, young children tend to guess if they don't know the answer and they fail to say, "I don't know", sometimes even to non-sensical questions (Lamb & Brown, 2006; Waterman, Blades, & Spencer, 2000). Children's unwillingness to note when they don't know the answer can result in miscommunication. Importantly, and related to the above-noted research on the importance of open-ended questions, children are less likely to indicate they don't know when asked yes/no and option-posing questions compared to when asked wh-questions (Andrews & Lamb, 2017; Earhart et al., 2014; Geddie et al., 2001; Gee & Pipe, 1999; McWilliams et al., 2021; Waterman, Blades, & Spencer, 2000; Waterman et al., 2001, 2004). These differences in children's willingness to say "I don't know" based on question type are likely due to response availability (i.e., it is easy to generate a response when the question just asks for a yes or no ["Did the man have a beard?"] compared to when it requires the child to generate a more detailed response ["What did the man look like?"]). For example, Waterman and colleagues (2000) asked 5- to 8-year-olds nonsensical yes/no (e.g., "Is a box louder than a knee?") or wh- (e.g., "What do bricks eat?") questions. Children were more likely to say they didn't know the answer when the question was asked as a wh-question compared to a yes/no question. Similarly, McWilliams and colleagues (2021) found that children were more likely to guess to wh- questions about colour and number (which are easy to generate answers to: "What colour was his shirt?") compared to other wh- detail questions (e.g., "What did he pick up?"). The ease of guessing proffered by these types of questions is one reason for the superiority of open-ended prompts in eliciting children's information (see Section VI Question types).

   Researchers have attempted to find methods to support children in stating when they don't understand a question or don't know the answer, such as delivering instructions ("ground rules"; see Section 6.1) or training children to identify tricky questions. Results of this research have been somewhat mixed (Brubacher & Brown, 2025). Some studies have found little effect of these procedures on children's reports, while others find benefits in children being able to identify problematic questions but sometimes also reducing responding (e.g., Brubacher, Poole, & Dickinson, 2015; Gee & Pipe, 1999 [Study 1]; McWilliams et al., 2021; Saywitz & Moan-Hardie, 1994 [Study 1]; Nesbitt & Markham, 1999;). Given that instructions do not eliminate children's errors, it is important that factfinders ask questions in age-appropriate formats (i.e., avoid yes/no questions and use open-ended invitations) to support children's accuracy.

2. **Spatial language: The importance for understanding clothing placement and touch.** Understanding the placement of clothing during an adult-child interaction can help distinguish between non-abusive and abusive touch as well as the severity of abuse. For example, if a child's clothing is described as fully on, then penetrative sexual abuse is less likely to have occurred. Questions about clothing placement and touch are regularly asked of child witnesses both in court and in forensic interviews (Stolzenberg & Lyon, 2017; Sullivan, George, Stolzenberg, Williams, & Lyon, 2022); however, these questions require children to understand spatial terms such as on/off, inside/outside, and under/over. Stolzenberg and colleagues (2017c) examined children's ability to describe clothing and sticker placement on a human figure and found that children as young as three were able to

describe simple clothing and sticker placement (on/off, under/over, in/out), but struggled when the placement became more complex (i.e., the clothing was in an intermediate location such as around the ankles – partly on and off). This is concerning as children sometimes described intermediate placements as “on”, and sometimes as “off”. Such inaccurate descriptions may result in misunderstandings about how the suspected abuse could have occurred. For example, if a child’s pants were at their ankles and they reported their pants as “on” (rather than the appropriate intermediate placement of at their ankles) then how could penetration have occurred? The form of question asked has been found to influence the accuracy of children’s descriptions of clothing placement. Asking children “where” questions (e.g., “Where were your clothes?”) improves children’s accuracy with intermediate clothing placement descriptions compared to asking yes/no (e.g. “Is the shirt on?”), forced-choice (e.g., “Is the shirt on or off?”), or open-choice (e.g., “Is the shirt on or off or something else?”) questions (Stolzenberg et al., 2017c; Wylie, Stolzenberg, & Evans, 2021).

When testifying about sexual abuse, children must also be able to describe touch and body mechanics. To answer questions about touch, children must have an understanding of the word *touch*. Young children often begin with a more restrictive definition of words (Clark, 1995; Dromi, 1987; Jay, 2002). This has been found to be true of the word touch (Hashima et al., 1988; Sullivan et al., 2022a; 2022b), with children (4 to 7 years old) endorsing the use of the word touch to describe manual touch (i.e., touch with hands) but less likely to do so for non-manual touch (i.e., touch with other body parts). While older children (8- to 9-year-olds) were better able to extend the word touch to non-manual touch, their definitions of touch often failed to include touch that occurred with objects (Sullivan et al., 2022b). As a result, a child may deny touch that occurred with an object or something other than the accused’s hand, resulting in miscommunication. Another factor that can influence children’s ability to describe touch or body mechanics is the sexual terminology used (Sullivan et al., 2022a). The use of terminology that is imprecise such as “somewhere you don’t like” or “private parts,” or technical such as “penis” or “pornography” may limit a child’s ability to clearly describe mechanics (Sullivan et al., 2022a). Similar to questioning children about clothing placement, it is recommended that children be asked about touch using wh-questions (although *how* questions should be avoided such as “How did he touch you?” as children often have difficulty with how questions, Sullivan et al., 2022a; also see Henderson et al., 2023; Wylie et al., 2021). Yes/no questions should be avoided as they may lead to higher rates of denial when touch did in fact occur (Sullivan et al., 2022b).

3. **Ambiguities in questions and children’s responses that result in miscommunication.** As children are still learning the rules of grammar and pragmatics, how they interpret and answer adults’ questions may not always align with adults’ interpretations of those same questions. When the question being asked–or the child’s response–is ambiguous, this leaves room for misinterpretation and can lead to errors in understanding what occurred. For example, the word “time” can be ambiguous as it refers both to a particular episode (“tell me about the time it happened?”) or to temporal information (“tell me what time it happened?”). While adults can easily make this distinction (Wylie et al., 2024), children often default to providing temporal information to questions that use the word “time”, even when the

question is requesting information about an event (“tell me about the time..?”; Friend, Henderson, & Lyon, 2022; McWilliams, Williams, Henderson, Evans, & Lyon, 2023). To avoid such confusions, it is recommended to ask children, “Tell me *what happened* the time….?” as this supports children in identifying that the question is asking about what happened rather than temporal information, reducing potential ambiguity (McWilliams et al., 2023).

A particularly problematic type of question that can lead to children providing ambiguous responses are “Do you know/remember if/whether” questions. For example, “Do you remember if he was wearing a black t-shirt?”. These questions explicitly ask if/whether the child knows the information, and at the same time implicitly request that information. Given that these questions are in the format of a yes/no question, children often provide a simple yes or no response to these questions (Evans et al., 2017; Evans, Stolzenberg, Lee, & Lyon, 2014). This is concerning for several reasons. First, a yes or no response is unclear as to whether the child is answering whether they know or confirming/disconfirming the requested information (e.g., the shirt was not black). Furthermore, when children do clarify their responses to follow-up questions, they are inconsistent in whether they are answering the first or second half of the question (i.e., about half the time answering *whether* they know versus responding to the requested information). This means we cannot make assumptions about what part of the question children are answering. Second, both lawyers and lay adults fail to recognize that children’s responses are unclear (Wylie, Lyon, O’Connor, Lapytskaia, & Evans, 2019; Wylie, Stolzenberg, McWilliams, Evans, & Lyon, 2021) and inconsistently interpret the child’s response as answering either one of the questions asked. As a result, “do you know/remember if/whether” questions can lead to miscommunications between children and adults and should be avoided.

Children are also susceptible to miscommunication when asked ambiguous questions that imply suggestive influence (e.g., coaching). Implied questions are commonly used by lawyers in the courtroom (St. George et al., 2022; Sobrilsky, Wylie, McWilliams, Evans, & Stolzenberg, 2025) in an attempt to discredit a child witness. For example, defence lawyers may use implied questions to suggest that a child’s report was altered or coached by others such as “Did your mom help you remember?”. A child may fail to recognize the implied meaning (that the mother coached the child’s report) and instead interpret the question as the mom being helpful or supportive of the child’s disclosure. Wylie and colleagues (2022; 2023) have found that children are likely to agree to these questions, falsely affirming coaching. Although rates of saying “yes” to implied coaching questions decreased with age, even 9- to 10-year-olds were susceptible to falsely affirming subtle ambiguous questions (e.g., “Did your mom help you practice?”).

Other types of implied questions are commonly used in court. The topics of such questions range from credibility concerns due to ulterior motives for the allegations, to concerns about disclosure (Sobrilsky et al., 2025). Only 11% of implied questions result in a rebuttal from a child or adolescent witness, meaning that children assent or dissent to the asked question and do not clarify or challenge the implied attack. As such, lawyers should be prepared to

identify and avoid questions that may have subtly implied meanings that are difficult for children to detect.

The Challenge	Avoid	Instead
Children's under-use of "I don't know"	Yes/No and option-posing questions • "Did he have a beard?" • "Was his shirt red or blue?" Note: Children are also more likely to guess responses to wh- questions about easily generated responses like colours and numbers.	Use wh- or open-ended invitation questions • "What did he look like?" • "What happened next?"
Spatial Language	Yes/No and option-posing questions • "Was the shirt on?" • "Was the shirt off?" • "Was the shirt on or off?" Note: Children often struggle when clothing is in an intermediate placement (partly on/off) and these questions result in an inaccurate description.	Use wh- questions • "Where were your clothes?"
Touch	• Avoid imprecise language (e.g., "somewhere you don't like") • Avoid technical language (e.g., penis or pornography). • Avoid Yes/No questions (e.g., "did he touch your bottom?")	• Use the child's language. • Find out what happened with open-ended prompts. If needed, use wh- questions • "Where were his hands?" • "What were his hands doing?" • "Where was his [insert body part]?" Note: Children often have difficulty with *how* questions so avoid questions such as "How did he touch you?"
Asking about a specific episode (not time)	• "Tell me about the time…" Note: Children may interpret this question as asking about *what time* it occurred.	• "Tell me what happened the time…" Note: The format focuses the child on what happened

		instead of temporal information.
Ambiguities	Asking *Do you remember* questions • "Do you remember if your Dad was there?" Implied meanings "Did your mom help you remember?" (e.g., implying the mom coached the child)	Drop the "do you remember" and just ask the wh-question: • "Was your Dad there?" Ask direct questions that are clear: "Did your Mom tell you what to say?"

IV Memory in children

4.1 General memory processes: "Children cannot report what they cannot remember"

A child's ability to describe events that they have experienced or witnessed will be a function of developmental, social, and cognitive processes. Here, we focus on a key cognitive consideration, memory, as we highlight some important foundations of what can be expected in recall.

Memory is a subjective experience. Most memory researchers agree that the purpose of the memory system is to understand and interpret the world around us and to help us make predictions about the future (e.g., Howe, 2011). Thus, the primary purpose of memory is not to retain precise and detailed information about prior experiences, but instead to remember them more generally. Naturally, this tendency to extract meaning creates a tension with the legal system wherein precision is often required of witnesses. For each personal experience, a person brings their prior experiences, thoughts, emotions, attention, cognitions, and motivation. As a result, the same event attended by many people will be experienced differently for each of them. Consider a traditional wedding ceremony. A fashion designer may focus on what the attendees are wearing and will later be able to provide rich descriptions of materials and designs. Conversely, a woodworker may notice the building structure and chairs but have little recollection of any of the clothing worn by participants. A child attending a wedding for the first time may be most intrigued by the unusual behaviours of his family members and be concerned about why some are crying. Because of the individual variability in experiences of the same event, each attendee who attended the same event will be able to provide information, but the nature and detail of that information will be very different. As a result of the varying experiences people bring to an event, memory is often described as a *subjective experience*, not a direct record of an experience. A key to understanding what children will be able to remember, and how forensic interviewers should account for children's memory capabilities during interviews, is

to recall the fundamental principle that “children cannot report what they cannot remember” (Ornstein, Larus, & Clubb, 1991).

Memory is reconstructive, fallible, and malleable. When a person tries to recall a memory, they will typically retrieve some of the stored pieces of a memory and this will be combined with general knowledge about similar events as well as current thoughts, emotions, among other factors (Howe, Knott, & Conway, 2018). As a result of this process of filling in the blanks of the original memory (“reconstruction”), as well as normal processes of forgetting, memory is fallible and prone to error (see Howe et al., 2018). Further, memory can change over time. Each time we reactivate a memory by thinking about it or discussing it with others, it is subjected to potential sources of contamination and may be forever changed as a result. Thus, memory is also malleable.

Phases of Memory

At its most basic description, memory has three phases: encoding, storage, and retrieval. Encoding is the taking in, or experiencing, of the event. Storage is the period of time after encoding until an attempt to recall the memory (also sometimes called the delay period). Retrieval is the attempt to recall the memory. We refer to these processes as we describe the understanding of children’s ability to report on their prior experiences.

Some of the original memory theorists to engage in research on children’s testimony articulated several relevant themes of memory that can be used to understand children’s memories of their experiences (see Baker-Ward & Thomas, 2021; Ornstein, Baker-Ward, Gordon, & Merritt, 1997). These themes provide a useful structure for interpreting children’s evidence:

1. **Not everything gets into memory**. For a detail to be encoded in memory, a person must attend to that detail. If a person does not encode a detail, it is not possible to retrieve it. Children may attend to different details than adults do and there are many reasons why a detail may not be encoded (e.g., prior knowledge of an event, stress, attention). Just because something was experienced does not mean that it was encoded. Thus, specific questions might target recall of information that was never encoded in the first place (one of the reasons that open-ended questions are so strongly advised, see Sections III and VI).
2. **What gets into memory may vary in strength.** Many of the same factors that influence whether or not details enter memory will also influence the strength of the memory representation. Factors like age (see Section 4.2) and experience with an event (see discussion of fixed versus variable details in Section 4.7) will influence the strength of a memory representation.
3. **The status of information in memory changes over time.** There are many events that can influence the status of memory. These events can be internal (e.g., thoughts, emotions,

fantasies) or external (e.g., encountering new information) to the rememberer. Imagine a negative interaction with a neighbour that made you grumpy and led to a perception that the neighbour was unkind. When you later learn that the neighbour has just lost his wife, you might reconsider your original recollection of the experience in light of this new information. In re-thinking the event, you may recall signs that are consistent with your new knowledge, like that your neighbour looked tired or had bloodshot eyes. Of course, the accuracy of new information can vary considerably, but the impact on memory may be the same. Further, memory can be strengthened through rehearsal or practice remembering an event (e.g., talking with others about the experience, looking at pictures; Davis & Loftus, 2007; Howe et al., 2018), but such conversations may also serve as potential memory interference if new or conflicting information is encountered (see Section 4.3). Conversely, memory is generally weakened by time, with delays between the experience and recall typically resulting in a loss of information (see Section 4.5). Because many forensic interviews will take place long after the experience that brings a child to the justice system, some memories will fade and normal memory processes allow some information to become inaccessible. We cannot remember every detail that has been encoded throughout our lives and it is normal for many experiences to fade in memory. Other memory details may not have been experienced as particularly salient or notable (e.g., Harvey et al., 2025). If a person does not take particular note of an event or detail, the memory for it is likely to decay faster.

4. **Retrieval is not perfect.** This theme has been the subject of perhaps the largest body of research (see Section VI on investigative interviewing) and has clearly demonstrated that memory retrieval conditions have considerable impact on what is reported. In addition to questioning techniques, there is also the question of which memories are retrieved, given the array of available memories that could have been retrieved. This is a complex issue, and we are not in a position to judge whether or not there are more memories “in there” for retrieval. However, knowing that people do not remember everything in a single retrieval attempt–no matter how thorough the attempt–means that new information (i.e., reminiscence; La Rooy, Pipe, & Murray, 2005) should not be discounted simply because it was not reported initially.

5. **Not everything that can be retrieved is reported.** Similar to the prior theme, even if a memory is retrieved and a child is actively thinking about a particular detail, that does not mean that the information will inevitably be reported to a questioner. There are many circumstances under which people will retrieve information in memory and decide not to report it to a conversational partner. Details may be deemed unimportant, not well understood, or perhaps there are reasons that make a child reluctant to report information. Attempts to overcome such vetted reporting of information have been incorporated into forensic interviewing guidelines (e.g., an instruction that the interviewer is “ignorant” or does not know the circumstances of the event and thus all information is relevant and important to share).

   Finally, a sixth theme was added (see Crossman et al., 2002) that focuses on reports of details that were never experienced:

6. **Not everything that is reported was experienced**. This theme will be expanded upon further in Section 4.8 (Children's Suggestibility) and is a crucial consideration when evaluating children's evidence. Importantly, it is not only suggestive questioning that can lead children to report false accounts: even everyday conversations that involve hearing another person's version of an event can contribute to children (and adults!) reporting things that never happened (e.g., Principe, 2021; Principe & London, 2022; Principe, Ornstein, Baker-Ward, & Gordon, 2000). Such conversations may be particularly problematic when they take place with a parent (Lawson, Rodriguez Steen, London, & Colemen, 2024; Principe et al., 2013, 2017) and there is evidence that parents who question their children about abuse do so in a way that may inadvertently facilitate some false reporting (e.g., Korkman, Juusola, & Santilla, 2014).

4.2 Age as a factor in memory

A general conclusion about age differences in memory reports is that children of all ages can be highly accurate when recounting past events, but younger children typically provide less information than older children (e.g., Jack, Leov, & Zajac, 2014). The reduced volume of information is likely attributable to the relatively weaker memory traces in younger children's less developed memory systems (Baker-Ward, Gordon, Ornstein, Larus, & Clubb, 1993; Ornstein, 1995) but may also be a result of less developed verbal skills (Jack et al., 2014) and the resulting capacity to describe their experiences. Caution is warranted in questioning young children about things they may not remember (see Sections 4.8 and VI). Nonetheless, an important take home message about age differences in memory reports is that even children as young as 3 years of age are, under the right circumstances, able to provide coherent narratives about their prior experiences (e.g., Jones & Krugman, 1986).

4.3 Prior knowledge and memory

Because the events that bring children to court are often unusual for children to experience, they may not fully understand the nature of the event. For instance, most parents will not teach their children about sexual activity in explicit detail when they are very young. If the event is unusual and the child does not have a knowledge structure with which to interpret it, children may not understand events they experience. When a child does not understand the event, it is more difficult to encode an experience because they do not have an existing knowledge structure that helps them to identify familiar concepts. Thus, when a child has prior knowledge, it typically facilitates remembering (e.g., Clubb et al., 1993; Ornstein et al., 2006).

Importantly, the influence of knowledge on recall is not restricted to only that which is acquired prior to an experience. There is also evidence that knowledge changes can lead to a "reworking" of memories to facilitate or increase compatibility with current knowledge (Baker-Ward, Ornstein, & Starnes, 2009; Baker-Ward & Thomas, 2021; Greenhoot, 2000).

Unfortunately, although prior knowledge has a clear benefit to remembering an event, it is also likely to contribute to errors in recall after memory fades. In such cases, children's memory for what they experienced may conflict with their knowledge and expectations about similar experiences, and memory constructive processes lead to inferences about what *likely* happened

(Ornstein, Ceci, & Loftus, 1998). Experiencing a similar event repeatedly can create prior knowledge and cause children to report details that are consistent with the event in general but may be inaccurate when describing a specific occurrence (see Section 4.7). Such instances of memory contamination or interference can be indistinguishable from actual memory.

4.4 Impact of anxiety/stress on memory

When considering the influence of stress on memory in a forensic context, it is first important to establish that children who are involved in justice processes will have had varied reactions to the events that bring them in contact with investigators. Some children will be traumatized by what they have experienced, others will be upset, and still others may not have experienced stress or do not understand why they are expected to have experienced stress. Here, we discuss the influence of anxiety on memory, but we do not presume that all children will have experienced anxiety or stress prior to giving evidence.

Research on children's memory for stressful events is difficult to conduct for ethical reasons. However, creative researchers have found ways to study children's memory for shootings (e.g., Pynoos & Nader, 1989), natural disasters (e.g., Bahrick, Parker, Fivush, & Levitt, 1998; Fivush, Sales, Goldberg, Bahrick, & Parker, 2004), medical procedures (Ornstein, Gordon, & Larus, 1992), emergency room visits (see Peterson, 2012), and abuse (Alexander et al., 2005), among other stressful experiences. The natural variability in the nature of the experiences and how children responded emotionally to the experience makes drawing firm conclusions challenging. For instance, even if we could determine precisely how stressful an experience was for an individual child (which we cannot), we would have to then relate that level of stress to the very particular details of the experience we sought to evaluate. This degree of control requires laboratory experiments that would clearly violate ethical standards. Despite these difficulties, there are still some valuable highlights that can be drawn from this body of work.

Stressful events may be more salient than non-stressful events, which may make the former more likely to be remembered (e.g., Fivush, 2002; Ornstein, 1995). However, stressful events are still subject to the same interference and contamination and basic memory processes as all other memories. Thus, while they may be remembered better due to their salience, they are not immune to the same memory problems as non-stressful events. Further, very high levels of stress might result in memory impairment (e.g., Bahrick et al., 1998; Fivush et al., 2004; Goodman & Quas, 1997; Morgan & Southwick, 2014; Pynoos & Nader, 1989), possibly from the narrowing of attention that high levels of stress may bring.

In a series of studies examining children's memory for emergency room visits up to five years after the emergency, Peterson concluded that children typically remember the core features of a stressful event well, and for a long period of time, but that although children were quite accurate, the amount of information deteriorated with time (see Peterson, 2012 for a review; Goodman, Quas, Goldfarb, Gonzalves, & Gonzalez, 2019). This finding is generally in keeping with the broader literature on children's memory for stressful events: it is possible and perhaps likely that children will remember the central features of a stressful event, but just like with everyday memories, the memories are subjected to the same processes of forgetting and interference.

4.5 Long-term memory

Because delayed reporting of some crimes (e.g., child sexual abuse) is normative (see Section V), and because justice will often move slowly, many cases that bring children to the justice system will involve a lengthy delay between the experience and the recounting of that experience. Thus, it is important to understand the influence of a long delay on recall. Several processes take place in the delay period, the most prominent of which are *forgetting* and *interference*. It is normal and expected that a person will forget things over time. It is also normal that with a long delay period, there will be increased opportunities to encounter information that interferes with the original memory for the event (e.g., conversations, media, thoughts, fantasies).

What exactly a person will remember depends on many factors, including several that have been discussed earlier (e.g., age at encoding, event salience, understanding of the event, rehearsal of the event in memory). A general conclusion that can be made is similar to the conclusion that was made about memory for stressful events: Children are capable of providing coherent accounts of prior experiences after a long delay, but generally the volume of details fades with time and delays provide greater opportunities for memory contamination (Peterson, 2002).

Adults recalling events from when they were children (Historic Child Sexual Abuse: HCSA). It is worth discussing a particular circumstance related to long-term memory that has seen an increase in the justice system over the past several years: historic child sexual abuse cases (Woiwod & Connolly, 2017). Sometimes a result of legal changes, other times a result of evolving societal views, there has been an increase in the number of people who, as adults, report sexual abuse they experienced as a child. Such cases raise interesting memory issues for consideration. While memory for sexual abuse should not differ qualitatively from memory for other salient and stressful events, the circumstances surrounding sexual abuse may introduce unique elements. Researchers have cogently argued that we should be highly skeptical of the content of memories that are reported to have been forgotten for many years, only to be retrieved with “memory work” or the help of a motivated therapist (e.g., Howe, 2012; Howe et al., 2018), and of reports of memories that were reported to be “repressed” and unavailable to access for many years (see McNally & Geraerts, 2009). These reports typically include circumstances that raise considerable questions about the reliability of the memories. However, there is also evidence that some people can remember salient events that occurred a long time ago with accuracy (e.g., Goldfarb, Goodman, Larson, Eisen, & Qin, 2019). The issue is complex and beyond the scope of the current report, but interested readers are referred to several important discussion papers (Dodier, Otgaar, & Manguilli, 2024; Goodman et al., 2003; Ornstein et al., 1998; Otgaar, Howe, & Patihis, 2022; Patithus, Ho, & Loftus, 2021).

4.6 Source monitoring

Source monitoring is a term used to describe the process by which we decide where our knowledge and memories came from (Johnson et al., 1993). This process can help us differentiate memories of actual experiences from things we have read in books, seen on

television, heard others say, or imagined. Being able to identify the source of information can help us make judgments about its reliability. Source monitoring decisions are made based on memory characteristics such as sensory details like sights and sounds, spatial and temporal information (where, when), and emotions (Johnson et al., 1993). Memories with plentiful sensory characteristics are more likely to be experienced than imagined (Foley & Johnson, 1985). Perceptual characteristics can be used to judge which of two speakers told a joke, or what news outlet delivered the information. It can also be used to decide whether a memory detail actually happened or was suggested in an interviewer's question. Making source monitoring decisions is often not easy, and because these skills take time to develop, it is even more difficult for children (Roberts, 2002; Roberts & Powell, 2001). The source monitoring process is also not always purposeful. In fact, many source attributions are made without awareness of decision making (Lindsay, 2002).

The greatest developments in children's abilities to make decisions about the sources of their knowledge and memories happen between 3 to 8 years of age (Gopnik & Graf, 1998; Lindsay, 2002; Poole & Lindsay, 2001; Roberts, 2002). However, research has identified further refinements in source monitoring ability into adolescence and early adulthood (Sprondel, Kipp, & Mecklinger, 2011; Raj & Bell, 2010). Like many other developments, the relationship between age and source monitoring ability is not straightforward because memory for source is not a single skill (Lindsay, 2002). The ability to make source decisions relies on other cognitive skills that change and develop alongside age, such as the ability to integrate new information with existing knowledge, and the awareness of the representational nature of the mind; that is, that other people may have different beliefs, intentions, and access to knowledge (*theory of mind,* Section 2.1; Flavell, 1999; Gopnik & Graf, 1988; Welch-Ross, 1995). For example, compare a 4- and 7-year-old child trying to decide how they already knew what was in the wrapped-up birthday present for Mom. The younger child has an underdeveloped sense of how knowledge is acquired, and he exclaims, "I just know it!" The older child is aware that she has not always known the answer and has not seen the gift. She accurately reasons that her dad told her what he got. Source monitoring ability will differ from child to child, and from situation to situation (Lindsay, 2002; Roberts, 2002).

Although there is no need to correctly judge the source of many everyday memories, in the legal system it is often critical. Children have to separate what they have experienced themselves from other sources of memory contamination, including what others have said. They also may have to discriminate between multiple instances of similar events, discussed next.

4.7 Memory for repeated events

Similar experiences that occur routinely (or more than once) are often referred to in the research literature as *repeated events.* In children's lives, these experiences might include going to school, partaking in hobbies, attending birthday parties and–for some children–abuse, maltreatment, and other victimization. In these cases, legal professionals often need to elicit information from children about individual occurrences to aid investigation and lay appropriate charges.

Repeated events are particularly prone to source monitoring confusions because the occurrences have similar perceptual features (Lindsay, 2002; Lindsay, Johnson, & Kwon, 1991). For example, the events may have the same pattern, occur in the same place, or on the same day of the week. Of course, occurrences of repeated events vary in their degree of similarity to one another, as in the following two cases: In Case A, a young child's stepfather touches her inappropriately during a bathtime game every Friday night when her mother works an evening shift. In Case B, a boy's uncle engages in a variety of opportunistic offences including exposure, production of child sexual exploitation material, and fondling when he can get the boy alone, and this has happened in a variety of locations. In Case A, the characteristics are very similar and there are few cues to differentiate the occurrences. In Case B, the nature of the abuse differs, as well as the location and temporal details. One laboratory study demonstrated that 5- to 9-year-old children were more accurate in their descriptions of an individual episode of a repeated event when the episodes contained more, rather than fewer, differences (Danby, Sharman, Brubacher, & Powell, 2019). This finding parallels early source-monitoring research showing that 4- and 6-year-old children (and in some cases, adults too) had greater difficulty discriminating between highly similar versus more distinct sources (Lindsay et al., 1991, Experiments 1-2). As sources increase in distinctiveness, there are more cues to help separate them in memory.

How repeated experiences are organized in memory. Memory for repeated experiences is complex and often represented by a *script*, a temporally organized framework that includes the typical components of an event (Schank & Abelson, 1977). For example, your script for going to a restaurant might include choosing food and drink, consuming it, and paying for it. Our ability to rely on memory scripts develops when we are young. Even 2.5-year-olds show awareness of similar event structures presented repeatedly (Bauer & Fivush, 1992). Scripts help us make meaning of our experiences and make future encounters more predictable. For this reason, a rudimentary script can develop after just a single experience. For example, after the first day of kindergarten, children were already able to report "what happens" (Fivush, 1984). With repeated experience, children extract a more complete script–a *general event representation*–which becomes more detailed and sophisticated over time (Farrar & Boyer-Pennington, 1999; Farrar & Goodman, 1990, 1992; Hudson et al., 1992). You can tell when a child is reporting a script because they use timeless present-tense language and impersonal "you" pronouns (e.g., in a birthday party script, "*You eat* cake and *open* presents."), as well as optional and conditional statements (e.g., "You *can* sing Happy birthday *if you want to*. You *might* get a treat bag.").

Some event details occur in a similar way each time and are represented at the script level (often referred to in the literature as *fixed* details). Memory for fixed details across repeated events (e.g., the perpetrator's identity) is very strong, and children and adults are rarely confused about these details. They are resistant to misleading suggestions about them (Connolly & Lindsay, 2001). However, fixed details are associated with a unique type of error when they are *not* present in an event, such as if the detail occurred every time except for one incidence. In one formative study, 5- to 6- and 9- to 10-year-old children watched slide sequences of a visit to McDonald's with details missing (Erskine, Markham, & Howie, 2001). (It was previously confirmed that children in this age range would have strong scripts for going to McDonald's). For some children, the slide sequences omitted three central activities (arriving by

car, waiting in line to order, and paying for the food). A week later, children's memories were tested. Very few (about 3%) erroneously reported any missing details in response to an open-ended invitation to report everything they remembered about what happened in the slides (this is a feature of desirable open-ended questions–see Section 6.1). In response to specific yes/no questions, however, children incorrectly agreed, with confidence, that they had seen the central details, and this was more common among the younger children (older children agreed to about 1.5 of the 3 central details, on average, while younger children agreed to more than 2.5 of the 3). In summary, children's memories for the typical (fixed) details are very strong, although they may err in claiming that a routinely-experienced true detail happened during a time when it was absent. Further, these results are also a good reminder that children make far more errors in response to closed than open questions (Brubacher, Peterson, La Rooy, Dickinson, & Poole, 2019; Section 6.1).

In contrast to fixed details, scripts also contain representations of details that vary predictably (e.g., clothing worn, time of day, type of food chosen). These *variable* details are highly prone to source monitoring errors (Powell et al. 1999; See section 4.6 for more details) and suggestion (Connolly & Lindsay, 2001) because the details could plausibly have occurred any time (e.g., the red shirt could have been worn the day the hamburger was chosen or the day the hotdog was chosen). This makes children with repeated experience generally more suggestible than children with a single experience (Connolly & Lindsay, 2001; Connolly & Price, 2006) and the former may also be perceived as less credible (Connolly, Price, Lavoie, & Gordon, 2008). The most common mistake that children make when recounting repeated experiences is to confuse the occurrence in which true things actually happened (Powell, Roberts, Ceci, & Hembrooke, 1999). That is, a child will remember *what* happened, but not *when* it happened. If children's accuracy about what happened during a repeated event is judged based on their ability to attribute details to the correct occurrence in which they were present, children with repeated experience will be less accurate than children with a single experience. However, if accuracy is judged by examining experienced details (irrespective of when they occurred), children with repeated and single experience will be equally accurate (Woiwod et al., 2019).

Script for a visit to a McDonald's restaurant.

Activity	Fixed Details	Variable Details
Order meal	Location: At the counter	Meal type: Nuggets, burger, fries
Eating location	At McDonald's	Which table: Near the play area, by the window, next to the door
Dining partner	Caregiving adult	Which adult: Mom, dad, grandpa
Post-eating activity	Leave through the door	Before leaving: allowed to play, talked to a friend, went to the bathroom

Our understanding of children's memories for repeated events is largely driven by laboratory studies (Connolly, Gordon, Woiwod, & Price, 2016; Connolly & Gordon, 2014; Connolly & Price, 2006; Powell et al., 1999; Powell, Thomson, & Ceci, 2003; Powell & Thomson, 1997, 2003; Price, Connolly, & Gordon, 2006, 2016; Price & Connolly, 2013; Price & Goodman, 1990). This is because staging events allows researchers to have baseline truth and thus make conclusions about children's accuracy. Information about what actually happened is rarely available in real life cases of repeated abuse. In one field study, however, there was corroborating evidence in the form of audiotapes and photographs of repeated sexual abuse (Bidrose & Goodman, 2000). Four girls, aged between 8 to 15 years at the time they reported their abuse, worked as cleaners for a man who engaged them in sexual activities with himself and other men. Together, the girls made 246 allegations, all of which were either supported by the evidence (79%) or could not be confirmed (21%). None of the allegations were disconfirmed by the evidence. Research of this nature provides further support for the notion that–while confusion across occurrences of repeated events is common and normal–memory for the central elements of what happened is quite accurate.

Memory for details that deviate from the event script. Sometimes details occur during a repeated event that are not part of the typical event script. These could be atypical but not implausible (e.g., someone playing live music at a restaurant) or they could be quite unusual (e.g., someone wearing a gorilla costume at a restaurant). The more implausible, the better the details will be recalled (Davidson, 2006; Davidson & Hoe, 1993). However, research with 4- to 8-year-old children who participated in four similar activity sessions found that even mundane deviations from the event script were reported in response to open-ended questions, but only by the older children (Brubacher, Glisic, Roberts, & Powell, 2011). Half of the 7- to 8-year-old children reported these deviations, while almost none of the younger children did. The older

children who reported the atypical details were also very accurate in attributing them to the correct occurrence.

The effect that a deviation has on memory for the instance that contains it may depend on a variety of factors. In some research, a deviation improved recall memory of 8-year-olds for all details contained in the deviation instance (Connolly et al., 2016, Experiments 1 and 2). The deviation was a (staged) argument between a magician and another researcher and occurred towards the end of the last of four event sessions. Children were found to recall all event details of that fourth event session containing the argument at higher rates than the prior event sessions. In another experiment (Connolly et al., 2016, Experiment 3), 6- to 11-year-old children watched the same magic show, but for some children, a deviation occurred at the beginning of the last session–another magician requesting help. After help was given, the first magician went on with the show. For some children, everything proceeded as normal. For others, the interruption caused the magician to fumble through the show, making mistakes. The first type of deviation is called *discrete*: it does not affect other parts of the event. The second deviation is called *continuous*: it affects how the rest of the event unfolds. In this experiment, the continuous deviation led to better memory for the whole instance containing the deviation, and the other instances, compared to the discrete deviation and no deviation. This was especially true for the 6- to 8-year-old children.

Recommendations for questioning children about repeated experiences. The research literature has generated some recommendations for talking to children and adults about repeated events. These recommendations include allowing children to provide their scripts for "what usually happens" if they are inclined to do so, adopting their names (*labels*) for individual occurrences, and ensuring that the language used in the question is appropriately matched to the type of information the interviewer seeks (Brubacher, Powell, & Roberts, 2014; Brubacher & Earhart, 2019).

Three laboratory studies have demonstrated that children may provide more information without a corresponding decrease in accuracy if they are questioned about their event scripts (i.e., what usually happens) early in an interview (Brubacher, Roberts, & Powell, 2012; Brubacher et al., 2018; Connolly & Gordon, 2014). Children with multiple abusive experiences are more likely to naturally provide information about "what usually happens" than describe specific occurrences (Brubacher et al., 2013). Interviewers can attempt to direct children's attention to individual episodes by adopting their labels (Brubacher et al., 2012; 2013; Brubacher & La Rooy, 2014). Children's labels for episodes (e.g., "The time in the tent", "the day I was home sick from school") often arise spontaneously in their responses to open-ended questions and when they provide their event scripts (Brubacher et al., 2013, 2018). When no labels arise, interviewers are advised to ask children about the last time and first time because these are generally best recalled in laboratory settings (Connolly et al., 2016; Powell et al., 2003; Roberts et al., 2015). Yet, interviewers are cautioned that the first time may be very long ago for some children, or difficult to identify in cases of grooming.

Interviewers can query about children's scripts or episodes by altering the way in which they phrase their questions; when interviewers use generic language ("What happens after school?")

children typically provide script information (i.e., what usually happens). In contrast, episodic prompts (e.g., “What happened after school yesterday”) are more likely to obtain details about a specific episode (Brubacher, Glisic, Roberts, & Powell, 2011; Brubacher et al., 2012; Schneider, Price, Roberts, & Hedrick, 2011).

Legal implications of eliciting details from repeated events

From a legal perspective, interviewers may not always need to elicit numerous specific details of many episodes. A number of jurisdictions have moved to consider continuous abuse statutes (Woiwod & Connolly, 2017). To charge an offence of continuous child sexual abuse, the court must be convinced that at least two or three (depending on jurisdiction) occurrences of abuse by the same offender have taken place. The laws were changed in recognition of the immense challenges children have in accurately attributing the details of individual incidents, and the strength of memory for scripts and routine details. Some psychologists and legal scholars argue that continuous abuse statutes have not fully resolved the problem, however. First, details from specific occurrences can aid investigation, and second, in practice children often must still describe a few incidents with detail in order to convince the court that the experiences are repeated (Dallaston & Matthews, 2022; Powell, Roberts, & Guadagno, 2007; Shead, 2014).

When repeated experiences evolve over time: Grooming. The term grooming is often used with child sexual abuse but can refer to any situation in which someone builds a relationship with another person over time, in order to manipulate, exploit, and/or abuse them (Berens, Bruer, Schick, Evans, & Price, 2023; Craven et al., 2006; Williamson, 2022). Typically, perpetrators seek victims who are vulnerable due to a lack of support networks, mental health challenges, or other reasons. Their strategies include befriending the child, creating opportunities and excuses for the inappropriate behaviours, and ensuring the child’s continued cooperation through threats, secrecy pacts, bribery, or emotional manipulation (Berliner & Conte, 1990; De Santisteban et al., 2018; McAlinden, 2012). They also make efforts to distance or isolate the victim from any existing sources of support (Ringenberg et al., 2022). In sexual abuse, there are a number of stages in the grooming process, which may or may not be employed in each case. For example, in intrafamilial grooming, there is no need to befriend the child. Across the literature, different research groups have characterized the stages in different ways (see Bennett & O’Donahue, 2014, for review). Here we provide an amalgamated overview of grooming stages:

1. Identify and befriend a potential victim (e.g., vulnerable child).
2. Gain trust with gifts, bribes, privileges, socioemotional support.
3. Prepare the environment (find or create opportunities to be alone with the child, gain the trust of the child's caregivers).
4. Further develop isolation (psychologically and socioemotionally) and control (guilt or obligation to the groomer, entrapment, threats, substance abuse dependency).
5. Desensitize the child to touch or other target behaviours (e.g., sexualized horseplay, sharing pornography, increase comfort with nudity).
6. Make the child feel responsible or complicit in the illicit activities (e.g., exchange sexual activities for favours to child).

Many grooming behaviours, particularly in early phases, are legal and may appear innocuous but are aimed to prepare the child for abuse and frequently increase in severity over time (Bennett & O'Donahue, 2014; Winters & Jeglic, 2017). They might include playing a "game" that initially does not include sexual contact, which evolves into sexualized horseplay. If the victim expresses discomfort, the grooming process may slow down, or the nature of coercion may change. As such, the grooming relationship will include positive and negative experiences and emotional manipulation (Ringenberg et al., 2022).

The emergence of the internet and ubiquitous nature of personal mobile devices resulted in increased ease of access for offenders to vulnerable and isolated victims. Although the grooming process online is similar in many ways to the process in real life, researchers have identified several differences (Berens et al., 2023; Ringenberg et al., 2022). For example, during the friendship forming stage online, offenders need to determine whether the victim is a real child or an undercover law enforcement officer. During this *risk assessment* period (O'Connell, 2003), which often occurs very early in the conversation (Black et al., 2015), groomers ask questions about the child's location and environment (Williams et al., 2013). The sexualization of the relationship naturally takes a different form online compared to real life. While some offenders are very direct in introducing sexual language very early on (Kloess et al., 2017; Winters et al., 2017), others indirectly introduce such topics by initially giving compliments that are increasingly sexual in nature. It is also critical to recognize that grooming may take place both online and in-person. Berens et al. (2023) found that many grooming cases involving both online and in-person grooming involved an authority figure in a community organization. They argued that education and policies that prevent inappropriate online contact with children may help to prevent such behaviours from progressing. It is clear that further education about the grooming process is required for all adults who have contact with children (see Berens et al., 2023).

Because grooming inherently involves contact over time, it can be considered a repeated event. It also often occurs within the context of another repeated event (e.g., over the course of gymnastics classes, the coach befriends and grooms the child). This makes the boundaries of the event difficult to recognize (e.g., what defined "the first time?"), and may affect how the abuse script develops and is represented in memory. Thus, grooming is very different in nature from the structure of repeated events that have been the focus of most research. As a result, we have a limited understanding of how the grooming process affects memory for the series of events (Deck et al., 2025).

4.8 Suggestibility of children's memory

Concerns about the suggestibility of children's memory arose from some high-profile cases in the 1980s and 1990s, where interviewers obtained stories of extreme and implausible satanic and ritualistic mass child abuse (Bruck & Ceci, 1999; Ceci, Ross, & Toglia, 1987). Over time, it became clear that the interviewing methods may have driven children to report things that had not happened (Bruck & Ceci, 1999; Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007). These interviews included asking children to speculate what might have happened, selectively reinforcing desirable responses, bribery, peer pressure, and criticizing or disagreeing with the child (Garven et al., 1998, 2000).

To contaminate children's reports, suggestions need not be coercive or explicit (Poole, Dickinson, & Brubacher, 2014; Price & Ornstein, 2022) like the well-known leading *tag* question (e.g., You know what that is, *don't you*?). In fact, any question can contain suggestive or leading information if it includes details not previously raised by the child. For example, imagine that an interviewer asked a child, "Tell me what happened when Leo hurt you," but the child previously only said he got hurt playing with Leo. What was an unintentional injury when Leo's knee connected with the interviewed child's forehead has now turned into malicious battering in the interviewer's report. A child's initial response to a leading or misleading question may be one of acquiescence (the child does not want to contradict the interviewer), ignorance (the child may not even attend to the incorrect information), or contradiction (the child corrects the interviewer). If the child does not correct the interviewer, the information persists in the record. Whether or not it changes the child's actual memory for the event may depend on a variety of factors.

Most experts agree that central and significant details are resistant to suggestion as are details that occur the same way in repeated events. Details that are peripheral, or those that vary, can become confused and prone to error. For example, in one study, 6- to 7-year-olds with repeated experience were more suggestible than those with a single experience, especially when the varying alternatives were highly associated (e.g., the sticker children received at every session was always a mode of transportation). This was not true for the 4- and 5-year-olds (Connolly & Price, 2006).

In one of the most well-known studies on children's suggestibility, 3- to 8-year-olds participated in science demonstrations and their parents read them stories about those demonstrations three months later, three times on consecutive days (Poole & Lindsay, 2001). Some of the details in the stories had happened in the science demonstrations, and others had not. The children were interviewed about the science demonstrations 1) immediately after the demonstrations, 2) soon after their parents read the stories, and 3) again a month later. In the immediate interview, open-ended ("Tell me everything that happened when you were playing with Mr. Science.") and sensory focus (e.g., "Tell me how everything looked.") prompts were asked. Children had not been exposed to misinformation and their responses were highly accurate. In the second and third interviews, the open-ended and sensory focus prompts were asked along with ten direct question pairs that asked about the experienced and non-experienced (suggested) details. In the second interview, after exposure to misinformation from their parents, 21% of what children reported to the open-ended and sensory focus prompts was the non-experienced suggested

details. This percentage dropped to 10% in the third interview, as might be expected with overall recall decrease over time. There were no age differences in the children's susceptibility to including suggested details in their recall reports to open-ended and sensory focused prompts. Age differences did emerge when considering the direct questions. Here, younger children were more prone to agree that non-experienced details happened, thus falsely reporting suggested details. Young children are generally more prone than older children and adults to accepting information suggested to them by others (Ceci et al., 1987), but there are situations in which there are no differences or even developmental reversals (e.g., Brainerd, Reyna, & Ceci, 2008).

Finally, the children were asked source monitoring questions (Section 4.6) about all of the items they agreed had happened, to give them the opportunity to reject any items. They were told that some of the things they heard in the stories really happened when they visited Mr. Science, but other things were only in the story. Children were told to say "no" if they didn't remember something or it was only in the story, (e.g., "Did Mr. Science *really* show you how to make an eyedropper go up and down in a bottle?" p. 31). These questions did not benefit the 3- and 4-year-old children greatly, but they did decrease the false reports of many of the older children. Nevertheless, there remained even some older children who still claimed they really experienced the suggested events even after interviewers warned them that some details only came from the story, gave them permission to say "no", and gave them the opportunity to reject their earlier answer.

V Children's disclosure processes

5.1 Patterns of disclosure: Delayed disclosures and recantations

Children's disclosure patterns have largely been examined in terms of timing and consistency resulting in four broad disclosure patterns: disclosers, non-disclosers, delayed disclosers, and children who recant an earlier disclosure. Children's reluctance to disclose (non-disclosers, delayed disclosers, and recanters) is often related to the dynamics of sexual abuse (e.g., Summit, 1983; Malloy, Lyon, & Quas, 2007).

Non-disclosure of abuse is common. For example, a survey of over 3,400 adults found that the majority of adults who reported experiencing sexual abuse as a child did not tell anyone during their childhood (74% of women and 78% of males; Laumann, Gagnon, Michael, & Michaels, 1992). Delays in disclosure are also common among victims of substantiated abuse with longer delays being associated with the social and emotional factors related to the abuse (Hershkowitz, Lanes, & Lamb, 2007; London, Bruck, Ceci, & Shuman, 2005; London, Bruck, Wright, & Ceci, 2008; Lyon, 2007; Lyon, Ahern, & Surich 2012 Malloy et al, 2007; Paine & Hansen, 2002). While some children disclose within months of abuse, many delay disclosure for years or even into adulthood (Miller & London, 2020; Read et al., 2006). In an analysis of Canadian criminal trials of child sexual abuse cases, the average delay between abuse and disclosure was 14 years (ranged from 2 to 48 years; Read et al., 2006). Interpersonal factors such as a closer or familial relationship with the perpetrator, less family support, or expecting a negative reaction from family members are all related to delays in disclosure (or non-disclosure) and higher rates of recantations (Easton, 2013; Hershkowitz et al., 2007; Herskowitz, Horowitz, & Lamb, 2005;

Kogan, 2004; London et al., 2008; Malloy et al., 2007; Pipe et al., 2007). A child's age at the onset of abuse has also been associated with disclosure timelines such that children who experience the onset of abuse at an older age are more likely to delay disclosure (Easton, 2013; Goodman-Brown et al., 2003; Hershkowitz et al., 2007; Kogan, 2004). Additionally, several abuse related characteristics have been associated with increased delays in disclosure including more severe and frequent abuse, perceived responsibility for abuse, and the use of strategies to induce secrecy (Goodman-Brown et al., 2003; Hershkowitz et al., 2007).

Research on recantations has found that prevalence rates vary across studies (e.g., London et al., 2008; London et al., 2005; Malloy et al., 2007; Malloy, Mugno, Rivard, Lyon, & Quas, 2016). According to Child Sexual Abuse Accommodation Syndrome theory, recantations are common and are attributable to the same influences that lead to delayed reporting (Summit, 1983; but see London et al., 2005; 2008; and London, Bruck, Miller, & Ceci, 2020 for a critique of this theory). Malloy and colleagues (2007) examined more than 250 substantiated cases of child sexual abuse and found that a quarter of children recanted at some point. A similar recantation rate was found in a lab-based study with 6- to 9-year-olds and, although there were no age differences in rates of recantation, 8- to 9-year-olds were more likely to maintain their recantation across interviews than younger children (Malloy & Mungo, 2016). To test whether recantations were signs of false allegations, Malloy and colleagues (2007) examined whether recantations were more common in cases without other evidence of abuse. They found that the rates were similar across both cases with and without other evidence, suggesting that recantations are not a sign of false allegations. Similar to delayed and non-disclosures, recantations are more common of victims of abuse whose family members were non-supportive or when visitations with the alleged perpetrator were recommended at the first hearing (Malloy et al., 2007; Malloy et al., 2016). Additionally, children are less likely to recant if they are initially removed from the home and separated from their siblings' post-disclosure, and if family members support the child's allegations (Malloy et al., 2016). Taken together, findings to date suggest that recantations occur and follow similar disclosure dynamics to delayed and non-disclosures. As such, recantation of an allegation should not necessarily be considered a sign of false allegations.

5.2 Barriers to disclosure

Several reasons have been identified for why children decide to disclose. Schaeffer and colleagues (2011) examined children's reasons for disclosing (as reported during 191 forensic interviews of children 3 to 18 years of age) and found that children disclosed as a result of internal feelings or symptoms (e.g., feeling anxious, feeling guilty, wanting it to stop, realizing it was wrong, nightmares, headaches), external influences (e.g., another victim disclosing, the child being questioned, the perpetrator and parent divorced, the perpetrator confessed or left the home), or evidence of the abuse was discovered. While these factors supported the child in reporting abuse, there are also many barriers that often prevent children from disclosing (see also Alaggia, Collin-Vézina, & Lateef, 2019; Augusti & Myhre, 2024; Brennan & McElvaney, 2020).

Children's expectations and reasoning about consequences have been found to be associated with disclosure timing (Alaggia, 2005; Goodman-Brown et al., 2003; Malloy, Brubacher, & Lamb, 2011; McElvaney, Greene, & Hogan, 2014). For example, Malloy and colleagues (2011) examined 204 forensic interviews of 5- to 13-year-olds and found that when children mentioned consequences of disclosure they most often noted physical harm to the child, negative emotions for the child, and jail time for the accused. When children expressed concerns of negative consequences for themselves or a family member they were more likely to delay disclosure (Malloy et al., 2011). Other common factors that deter disclosing sexual abuse include embarrassment and shame (Collin-Vézina, De La Sablonnière-Griffin, Palmer, & Milne, 2015; Fleming, 1997; McElvaney et al., 2014), worries of being blamed for the abuse or getting in trouble (Fleming, 1997; Schaeffer et al., 2011), fears of not being believed or negative reactions (Anderson et al., 1993; Fleming, 1997; McElvaney et al., 2014; Ullman, 2002), wanting to protect the abuser, fears of the abuser or of what would happen if they disclosed (Alaggia, 2005; Goodman-Brown et al., 2003, Kogan, 2004; Fleming, 1997), the use of grooming tactics (e.g., power dynamics, secrecy, trust building, Collin-Vézina et al., 2015; Hershkowitz et al., 2007; Schaeffer, Leventhal, & Asnes, 2011; see Section 4.7), violence, drug use in the home, or dysfunctional home environment (Collin-Vézina et al., 2015), and a lack of understanding that the behaviour was inappropriate (Schaeffer et al., 2011). Given the barriers children face when deciding to disclose it is clear why non-disclosures and delayed disclosures occur so regularly. Given the consequences and barriers children face when disclosing, selecting an appropriate disclosure recipient is also an important decision.

5.3 To whom children disclose

To whom a child discloses may influence whether they are believed, whether the case is reported to authorities, how recipients react to a disclosure, and how the report is perceived (Elliott & Carnes, 2001). Even young children are sensitive to adjusting their disclosure rates and recipients based on whether a parent or stranger is the transgressor. For example, Lyon and colleagues (2010) examined whether 4- to 9-year-old maltreated and non-maltreated children would support disclosing a parent or a stranger's transgression to an adult (parent, police, or teacher). Children were more likely to support disclosing a stranger's transgression than a parent's transgression and they disclosed more often to a parent or police officer than a teacher. Similarly, studies have found that children who allege abuse are more likely to report to police when the accused is a stranger than a family member (Hanson, Resnick, Saunders, Kilpatrick, & Best, 1999). Children's sensitivity to the identity of the disclosure recipient is important. If the child discloses to someone who does not believe them or is not in a position of authority to protect the child, the child may remain in a vulnerable position. This may require the child to disclose multiple times before it is reported to authorities. In fact, most cases of abuse are never reported to authorities (Smith et al., 2000; Winters et al., 2020).

In an examination of forensic interviews (204 children between 5 to 13 years old; Malloy et al., 2013), 80% of children mentioned disclosing to one or more disclosure recipients with the average number of recipients being 2.13 (range 1 to 6 recipients). The number of disclosure recipients was found to increase with age. Additionally, the disclosure *recipient* has been found to vary by age. While younger children (5- to 9-year-olds) tend to report most often to their

mothers, reporting to peers and teachers increases with age (10+ years old; Kogan, 2005; Schaeffer et al., 2011; Malloy, Brubacher, & Lamb, 2013). These findings suggest that children and youth often make multiple disclosures before an official report is made, and the increased disclosure to peers (who may not sufficiently intervene) during late childhood and adolescence means that victims are required to later disclose to an adult. However, recently conducted research suggests that many peer disclosure recipients do disclose the report to an adult (Bruer et al., 2024; Price, Evans, & Bruer, 2021).

Given the many barriers to disclosure (discussed in Section 5.3), such as not being believed, and the fact that not all disclosure recipients intervene or report to authorities, children often have to make multiple disclosures to multiple disclosure recipients prior to an official report being made.

5.4 Attitudes towards children's disclosures

A child's disclosure patterns not only influence whether someone intervenes and makes a formal report but can influence decision makers' perceptions of the child's disclosure. In terms of the timing of disclosure, adults typically demonstrate an understanding that child abuse victims may not disclose immediately (Kovera & Borgida, 1998; McGuire & London, 2017; Morison & Greene, 1992; Quas et al., 2005). In an examination of Canadian jury and bench child sexual abuse trials with delays between 2 to 48 years, it was found that verdicts did not vary based on length of time to disclosure (Read et al., 2006). However, more recent lab-based research has suggested that shorter delays to disclosure were related to guilty verdicts (Miller & London, 2022; Myers et al., 1999; Pozzulo et al., 2010). Time to disclosure has also been found to impact witness credibility. For example, Connolly, Price, and Gordon (2009; 2010) examined judicial decisions in Canadian trials of child sexual abuse and found that timely disclosers (i.e., when the victim was still a child) were perceived as more honest and less influenced by others, but less cognitively competent, compared to delayed disclosers (i.e., when the child victim was testifying as an adult). Similarly, in a lab-based study, when length of delay was shorter (i.e., 1-day) victims were perceived as more trustworthy, believable, and to have better memory compared to longer delays (10 months; Miller & London, 2022).

Similar to delayed disclosures, fewer guilty verdicts were made in a mock jury study when a child had previously recanted in a forensic interview compared to when no recantation was made (Campbell, Rivard, & Compo, 2016). Additionally, recantations of a child's statements are often used as a marker of dishonesty and may reduce a child's credibility (e.g., Leippe & Romanczyk, 1989; Zellman, 1992). In a lab-based study Dykstra and colleagues (2022) found that when children consistently disclosed an adult's transgression across interviews with a peer and an adult recipient, the children were perceived as more credible compared to when they inconsistently disclosed across interviews. Taken together, these findings suggest that delays in disclosure and recantations can impact how child witnesses are perceived. However, the use of experts' evidence-based testimonies can help buffer these effects. Denne and colleagues (2021) found that when experts provided evidence-based testimony about recantations, a guilty verdict was more likely to be rendered. These findings emphasize the importance of educating jurors and the court on the disclosure process.

VI Child forensic interviewing

6.1 Evidence-based child forensic interviewing

Since the last writing of this report, an abundance of interview protocols, frameworks, and guidelines have been developed to respond to the understanding that what children are willing and able to tell us is profoundly influenced by how we elicit their information (Brubacher, Peterson, La Rooy, Dickinson, & Poole, 2019; Lyon, 2014; Poole, 2016; Poole & Lamb, 1998; Saywitz, Lyon, & Goodman, 2017; Wilson & Powell, 2012). These guidance documents have also been created in an attempt to minimize the wide disparities in how children are questioned across jurisdictions (e.g., Brubacher et al., 2018) and because the use of an interview structure is associated with better legal outcomes (Pipe et al., 2013).

When questioners provide children with the socioemotional support and the opportunity to share what they remember at their own pace, in their own words, children's testimony can be accurate and informative. Despite different origins, most contemporary interview guidance has converged on some key interview phases and principles–those that are most supported by the research literature (i.e., evidence-based; Brubacher & Powell, 2024; Korkman et al., 2024; Steele et al., 2025). An evidence-based child forensic interview typically consists of the following components: introductory phase (with brief explanation of roles and room set up, ground rules, and narrative practice), transition to the topic of concern, substantive phase where children are encouraged to provide a narrative of the event in response to predominantly open-ended questions, a break, follow-up questions to allow interviewers to ask for any specific information that may have been omitted during the narrative account, and a respectful closure.

Some of the most widely adopted child interview guidelines include the American Professional Society on the Abuse of Children (APSAC) Guidelines (2023); Achieving Best Evidence (ABE) in Criminal Proceedings (Ministry of Justice, United Kingdom, 2022); the standard National Institute of Child Health and Human Development (NICHD) protocol and revised version (Orbach et al., 2000; Lamb et al., 2007, 2018), the Ten Step Investigative Interview (Lyon, 2005); the National Children's Advocacy Center's Forensic Interview Structure (2019); The SIM (Powell & Brubacher, 2020); The Step-Wise guidelines (Yuille, Cooper, & Hervé, 2009); RADAR (Everson et al., 2022); and Developmental Narrative Elaboration (Saywitz & Camparo, 2014). The Cognitive Interview (CI) also includes some guidance for interviewing children, although it was initially developed for adults (see Cyr, 2022).

In advance of describing the interview phases, it is necessary to outline the various question types that are used in interviews because they have different effects on the accuracy and completeness of children's responses.

Question types. Definitions and terminology for question types vary across research literatures and guidance documents. As such, we outline the definitions and terminology that we have adopted. With respect to interviewing children, questions are commonly grouped into three categories: open-ended, wh-, and closed. Any question type can be leading if it includes information not previously provided by the child.

Questions categorized as open-ended encourage elaborate and flexible responses, allowing the interviewee to choose what information to report (Powell & Snow, 2007). There are three main types of open-ended questions. *Initial* (or *first*) *invitations* are the first prompt to invite the child's narrative of an event or instance of a repeated event, such as "Tell me everything that happened at the dance, start from the beginning." Breadth prompts invite children to provide more event components (e.g., "What happened next?", "What else happened?"). They are also known as *General* (or *Follow-up*) *invitations* (Lamb et al., 2003), although this term also encompasses a wider variety of open-ended questions. Depth prompts invite children to elaborate on details they have already mentioned (e.g., "You said X. Tell me more about X", "What happened when X?"); also known as *cued invitations* (Lamb et al., 2003). These subtypes have different functions and elicit different kinds of information (Danby, Sharman, Brubacher, Powell, & Roberts, 2017; Feltis et al., 2010; Lamb et al., 2003).

Wh- questions have the longest list of varying terminology (e.g., direct, directive, focused, cued recall, interrogative) and are perhaps the most contested of the question types in terms of their value. While open-ended and closed questions comfortably occupy the "ideal" and "non-ideal" ends of the question type spectrum, wh- questions fall in the middle, but experts disagree on whether they are more like open-ended or more like closed questions. The wh- questions include who, when, where, why, how, and narrow "what" questions like "What colour was the man's hair?" Like open-ended questions, wh- questions need to be answered with recall rather than recognition memory. This means that children must produce a response to answer wh-questions, making children less likely to guess compared to recognition questions that present options from which to choose (Waterman et al., 2000). However, recent research demonstrated that if children possess the domain knowledge queried by a wh- question, there is a greater risk they will guess (McWilliams et al., 2021). For example, children would be more likely to guess the answer to, "What colour was the man's car?" than "What was the model of the man's car?" (further discussed in Section 3.2).

Closed questions are ones that do not invite lengthy responses, narrowly restrict the content of children's responses, and are prone to guessing (Brown et al., 2013; Klemfuss, Quas, & Lyon, 2014; Lamb et al., 2003; Powell & Snow, 2007; Waterman et al., 2001). Yes/no and other option posing questions (which present two or more options other than yes/no) are closed questions. They are also considered recognition questions because they offer answers from which children can pick rather than requiring memory retrieval. Although yes/no and option-posing are both types of closed recognition questions, research has illuminated different responses patterns between the types. For example, researchers have identified biased "yes" responding (Peterson & Grant, 2001) and biased "no" responding (Peterson & Biggs, 1997) among preschoolers asked yes/no questions. There is some evidence that young children are less likely to say "I don't know" to yes/no compared to option posing questions; however, this may rely on whether

or not any presented option is true. Peterson and Grant (2001) found that 3- to 5-year-olds rarely said, “I don’t know” to yes/no questions, but did sometimes use this response to option-posing questions where neither choice was correct (e.g., “Did the woman wear a baseball hat or a flowered hat?” when a straw hat was worn). In this same age group, a recency-tendency was observed to option-posing questions (i.e., choosing the last-presented option), although this tendency decreased with age (Mehrani & Peterson, 2015). Forensic interviewers sometimes use a “something else” option to account for the possibility that neither presented option was correct (e.g., “A baseball hat, a flowered hat, or something else?”). Although this addition does reduce the chance that the question is misleading, it does not enhance preschool children’s accuracy (London et al., 2017; Stolzenberg et al., 2017). In general, when the “something else” option is the correct choice, children choose it only around one-third of the time (i.e., at chance levels). And when they do choose it, they are then presented with a follow-up wh- question (e.g., What kind of hat?”), which they may succeed in answering only about half the time (London et al., 2017).

Open-ended questions are widely considered the best question type for all interviews because, compared to other types, these questions tend to elicit longer and more accurate responses, reduce opportunity for interviewer bias, maximize credibility, and make interviewees feel heard (Brubacher, Timms, Powell, & Bearman, 2019; Powell, 2013). Children’s ability to answer open-ended questions improves with age (Poole & Lindsay, 2001), but even preschoolers can provide narrative details in responses to such questions (Lamb et al., 2003).

Benefits of open-ended questions

Open ended questions…

- improve the quality and informativeness of children’s information.
- tend to elicit more accurate responses because they allow the interviewee to choose what to report.
- minimize the influence of interviewer bias, compared to specific questions (wh- and closed) that seek what the interviewer wants to know.
- allow interviewees to report in their own words, at their own pace, and in the order in which they feel most comfortable or remember best.
- maximize credibility because the responses are primarily interviewee-driven.
- make interviewees feel heard and valued.
- make transparent the interviewee’s communication level (compared to closed questions, which can hide miscomprehension).
- create opportunities for the interviewee to provide a narrative account of their experiences and reveal information the interviewer may not think to ask about.
- put less cognitive strain on interviewers, who can focus on listening instead of thinking about the next question they need to ask.

(Brown & Lamb, 2015; Brubacher et al., 2019; Lamb et al., 2007; Powell, 2013, 2020)

Wh- questions are less desirable than open-ended questions because they do not encourage narrative detail, and they constrain the child's report to what the interviewer wants to know rather than supporting the child to provide an account in their own words. In general, interviewers should try to minimize these questions until the child's narrative has been exhausted; an exception may include when interviewing very young children (Hershkowitz et al., 2012). Preschoolers may struggle with very broad open-ended questions, such as invitations. Interviewing experts have recommended that concrete wh- questions (who, what, where) may be paired with open-ended requests for elaboration when interviewing the very young (e.g., Interviewer: "Where did you go first?" Child: "The toy store." Interviewer: "Tell me what happened at the toy store."). Closed questions are the least desirable question type because of the ease with which they lend themselves to guessing and thoughtless responding, but they may be needed to verify information (e.g., "I heard you told your mom something bad happened. *Did you tell your mom…*?; Brubacher & Powell, 2024).

Another way that interviewers can encourage more information while remaining as input-free as possible is to use minimal encouragers (also known as facilitators, backchannel utterances, and "still-your-turn" responses). These are verbalizations such as, "Uh-huh," "mmm-hmm," repetition of the child's last few words, and non-verbal encouragements such as head nodding (Hershkowitz, 2002; Poole, 2016). Minimal encouragers communicate to the child that the interviewer is listening, and the child should continue speaking. To be used effectively, they should occur alone (i.e., not coupled with a question, such as, "Mmm-hmm, then what happened?," as they are no longer "minimal"), and following open-ended questions but not other types (Hershkowitz, 2002). Silence (or "wait time") is also an effective method to encourage children to keep narrating. In a laboratory study with 105 4- to 8-year-olds, interviewers paused up to 10 seconds after a child's response and before asking the next question (Rezmer et al., 2020). Doing so yielded new information during the period of silence from 90% of the children. Silence is highly effective during the interview because children need increased time to process questions and retrieve memories. Among maltreated children, it is also likely that they may spend time weighing the consequences before providing an answer.

Providing socioemotional support. Socioemotional support from the interviewer can include non-verbal behaviours such as non-intrusive eye contact, open seating posture, warm tone of voice, casual dress, comfortable environment (soft rooms), and smiling when appropriate. Socioemotional support is also delivered through verbal and para-verbal behaviours, including minimal encouragers, occasional use of the child's name, and praising the child for effort (not content of responses).

From the beginning to the end of the interview, interviewers should provide socioemotional support to build and maintain rapport, and to repair it when it breaks down (Blasbalg et al., 2021). Rapport has been defined in many ways in forensic and clinical interviewing literatures. It can be conceptualized as creating a comfortable atmosphere for the child and interviewer, such that children are willing to cooperate, trust the interviewer, and share their experiences (Saywitz et al., 2015). Rapport should be established early, through a series of preparatory activities described in the next section. Supportive behaviours should be present in these early phases and continue throughout the interview. While it was once believed that providing socioemotional

support could increase children's suggestibility and desire to please the interviewer, it is now understood that non-contingent support is unlikely to have negative effects (Saywitz et al., 2019). Non-contingent support is that which is delivered continuously, regardless of children's responses and behaviours. Socioemotional support may improve accuracy; however, its effects appear to be greatest on specific and leading questions (Saywitz et al., 2019). In a laboratory study where children were interviewed twice by the same (familiar) or different interviewers, the provision of socioemotional support was more important to children's disclosures of adult wrongdoing than interviewer familiarity (Brubacher, Poole et al., 2019).

In recognition of the importance of socioemotional support, the NICHD protocol underwent a revision to incorporate more guidance for interviewers to deliver these behaviours (Ahern, Hershkowitz, Lamb, Blasbalg, & Winstanley, 2014; Ahern, Hershkowitz, Lamb, Blasbalg, & Karni-Visel, 2019; Hershkowitz et al., 2017). This guidance for interviewers appears to aid children in making true disclosures of abuse: In a sample of 426 4- to 13-year-olds whose abuse allegations were corroborated by independent evidence, those children interviewed with the more supportive protocol were significantly more likely to disclose abuse than the children interviewed with the standard NICHD protocol (Hershkowitz, Lamb, & Katz, 2014; see also Blasbalg et al., 2021). This field research provides further confirmation that delivering non-contingent socioemotional support to children is appropriate and results in better evidence.

Interview phases

Introductory phase. At the start of the interview, interviewers typically introduce themselves and explain their role in a developmentally appropriate way (e.g., "My job is to listen to children and today I'm going to listen to you."). They orient the child to the room features (e.g., audio recorder, two-way mirror with monitor behind) and explain their purpose. Next come two critical components that set the stage for the interview: ground rules and narrative practice. Some protocols, like the revised NICHD protocol offer narrative practice first, before ground rules, while the others use the reverse order. There are pros and cons to each order and currently no evidence to favour one over the other.

Ground rules are conversational expectations that are aimed at empowering children to feel like the experts in the interview, reduce the authority imbalance by giving children permission to correct any interviewer errors, and heighten children's awareness that some questions could be problematic (e.g., the question might contain language the child does not understand or requests information the child does not possess). The most frequently used ground rules are instructions for the child not to guess (say "I don't know/remember"), to communicate miscomprehension ("I don't understand"), and to correct interviewer mistakes (Brubacher et al., 2015). It is also common to remind children that the interviewer is naïve about the child's experience. The evidence for the efficacy of ground rules in helping children identify problematic questions is somewhat mixed as discussed earlier (Brubacher & Brown, 2025). Giving children a practice example (e.g., for reminding children not to guess, "Let's say I asked you what's *my* dog's name, what would you say?") will enhance the likelihood that children will remember and apply the rule. There are developmental differences in children's abilities to understand and

apply the ground rules (Dickinson et al., 2015). Most interview protocols will also elicit a promise to tell the truth at some point during this phase (see discussion of promises in Section 5.5).

Narrative practice, as it is colloquially known, has its origins in narrative elaboration training (Saywitz & Snyder, 1993). It is included as an interview preparatory activity in most contemporary interview guidance. In the NICHD protocol, it is called *episodic memory training* because one of its key functions is to train children to recall specific event memories, such as what happened at one's last birthday party or what took place yesterday (Orbach et al., 2000; Sternberg et al., 1997). Indeed, one study showed that practicing 5- to 8-year-old children in reporting memories of specific episodes of repeated events led the younger children (5- to 6-year-olds) to describe episodes of an unrelated repeated event with more specificity, compared to other younger children who practiced giving generic information or talked about a one-time event (Brubacher et al., 2011). The older children's reports were less affected by the type of event they practiced.

Research has shown that engaging in narrative practice has a wide variety of benefits (Price, Roberts, & Collins, 2013; Roberts, Brubacher, Powell, & Price, 2011). These benefits include children providing more complete responses to open-ended questions (particularly the first invitation, Sternberg et al., 1997) and interviewers asking proportionally more open-ended questions and fewer questions overall (Price et al., 2013). There is not an agreed-upon length for narrative practice, although guidance documents suggest somewhere between 3 to 7 minutes. Even just two minutes of practice talking about an unrelated event conferred benefits to 6- to 10-year-old children's reports of a magic show compared to no practice (Whiting & Price, 2017). This phase can also give clues about children's willingness to continue with the interview. Forensic interviews with 4- to 13-year-old children showed that children who did not disclose abuse (when there was good reason to suspect it) were uncooperative even at the very beginning of the interview (Hershkowitz, Orbach, Lamb, Sternberg & Horowitz, 2006). The researchers in this study suggested that interviewers may need to spend more time building rapport and engaging in narrative practice with children who appear reluctant in these early interview stages.

Transition and substantive phase. Once children have received ground rules and narrative practice, interviewers will transition to the substantive (allegation) phase. This should be done with an open-ended invitation for the child to report the purpose of the interview (Lamb, Brown, Hershkowitz, Orbach, & Esplin, 2018; Powell & Snow, 2007). Two studies have investigated the most suitable wording for this invitation; a laboratory study with 5- to 9-year-olds and a field study of 4- to 16-year-olds alleging sexual abuse (Earhart et al., 2018; Garcia et al., 2022). Both concluded that phrasing including the word *what* elicited relevant details from children more quickly than phrasing with the word *why* (e.g., "Tell me what you came to talk to me about today" vs "Tell me why you came to see me today"). In the field study, which considered a more diverse range of prompts than the laboratory study, indirect phrasing (e.g., "*Do you know* what/why…") was identified as the least productive way to phrase the invitation (see Section 3.2 for more information about children's comprehension of direct and indirect requests and the ambiguity of "Do you know" questions).

After a child has disclosed some potentially relevant information (e.g., “The thing that happened at after-care”), interviewers should follow up with action-based open-ended prompts to elicit a narrative account. Open-ended questions that query actions (e.g., “Tell me what happened with the bad man”), rather than objects (e.g., “Tell me about the bad man”), tend to elicit more narrative information from children (Ahern, Andrews, Stolzenberg, & Lyon, 2018; Andrews, Ahern, Stolzenberg, & Lyon, 2016; Guadagno & Powell, 2008). In the context of a forensic interview, a “narrative account” is a coherent description of an experienced event presented largely in chronological order from beginning to end. Interviewers should try to obtain as much narrative information as possible, through the use of open-ended prompts, before moving to a break and specific follow-up questions (Brubacher & Powell, 2024; Lamb et al., 2018).

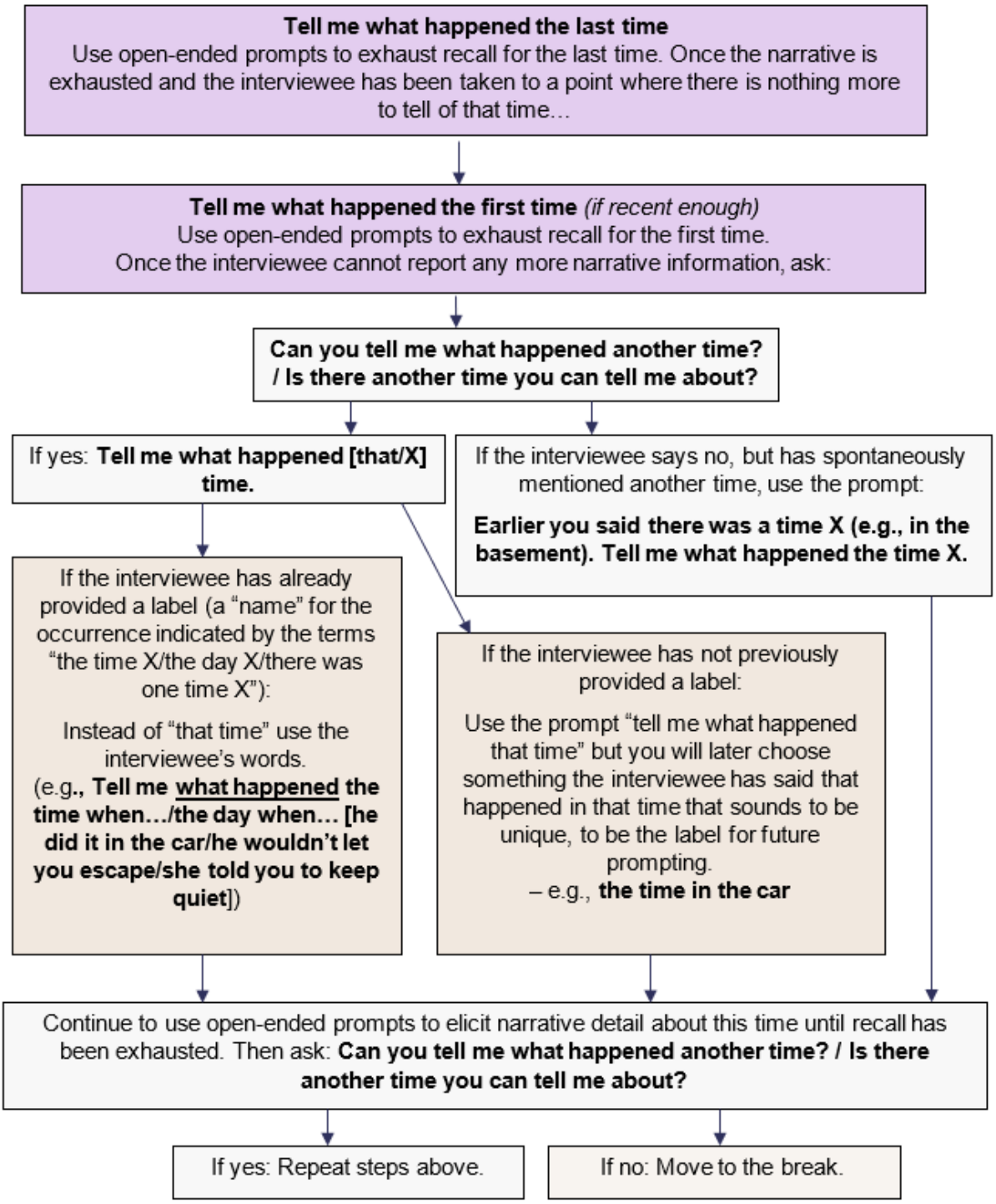
Follow-up questions. Interviewers will need to follow up on what children have said during the narrative portion of the interview because children will not report every detail that is needed for investigation. Interviewers should be thoughtful about what details need to be followed up (Burrows & Powell, 2013). Specific wh- and closed questions may be required during this phase, which can enhance the completeness of children’s reports without decreasing their accuracy (Poole & Lindsay, 1995). Interviewers are recommended to pair specific questions with open-ended prompts for further elaboration if warranted (Lamb et al., 2018). For example, an interviewer may need to follow up an initial report of touch with a question as to whether the touch was “over or under your pants” (see also Section 3.2 for questions about touch). Once the child provides a response to this option posing question, the interviewer can invite more elaboration (e.g., “Ok, you said under your pants. Help me understand more about that part”).

Wh- questions are useful in this stage of the interview to obtain missing details such as body location (e.g., “You said he put his hand inside your bathing suit. I need to understand exactly *where* on your body he put his hand.”) and clothing placement (e.g., “where [or how] were your clothes when Uncle Jay took your picture?”). Indeed, research on children’s descriptions of clothing placement has shown that asking a wh- question can result in a more accurate response than an option posing question when clothing placement is intermediate (partway on or off; Stolzenberg & Lyon, 2017 See Section 3.2 Spatial Language). Regarding body part identification, Australian prosecutors have suggested that wh- questions such as, “Where is your…” and “What is [that part] used for?” can be effective in obtaining body location details from children (Burrows & Powell, 2015). Similar findings have been observed in US attorneys’ questions to 5- to 10-year-old children (Szojka, Moussavi, Burditt, & Lyon, 2023). Wh- questions about perpetrator actions may also be helpful during the specific questioning phase. For example, when 197 5- to 17-year-olds (who had already disclosed sexual abuse during their interview) were asked follow-up questions regarding the suspect’s hand actions (e.g., “What did [Suspect] do with his hands?”), over half of the children’s responses resulted in new information (Friend, Nogalska, & Lyon, 2024). Yet, the more interviewers had previously prompted children with open-ended questions, the less likely these questions were to generate any more new details. This is another reminder of the value of exhausting the child’s narrative before moving to specific questions.

Closure. After the interviewer has all of the information that is required, or has decided to terminate the interview for other reasons (child fatigue, extreme reluctance, etc.), the interviewer

should ensure the child has their contact information, explain next steps, thank the child for sharing their experience, ask if the child has any questions, and switch to a brief discussion of a neutral or pleasant topic. The latter action is taken to move the child's attention away from the abuse-related topics.

Sample flow chart of steps to eliciting information about specific episodes (reproduced with permission from the Centre for Investigative Interviewing, Griffith Criminology Institute, Griffith University; see Powell & Brubacher, 2020).



6.2 Missteps in child forensic interviewing

Even when following the guidance provided earlier, there are still common ways in which interviewers may inadvertently have a negative impact on children's narratives. Below, we highlight several of these common missteps and provide a caution to interviewers to be mindful of these tendencies.

Stopping the narrative too soon. A major challenge for interviewers is to have the time and patience to collect a narrative account from children. Interviewers may have other interviews later that day or worries about preservation of evidence, or there might be pressing safety concerns for the child or other children. They may also be triggered by the need to obtain certain specific details (Guadagno, Hughes-Scholes, & Powell, 2013; Wright & Powell, 2006). There are numerous reasons for the desire to find out what happened as quickly as possible, but children (and many other witnesses, including traumatized adults, for that matter) require and deserve ample time to let their story come out in their own words and at their own pace. Constructing this communicative space for children means engaging in preparatory activities like narrative practice and trying to fully exhaust a narrative account before moving to specific questions. Interviewers commonly abandon the narrative too soon (Guadagno & Powell, 2008; Guadagno et al., 2013). This can be due to inadequate training, time pressure, and the perception that open-ended questions are not productive. In our experience as interview trainers and evaluators, we have found that interviewers who perceive open-ended questions to be ineffective are not using them effectively. Effective use of open-ended questions means using breadth and depth prompts to ensure that a range of sub-events from the beginning to the end of the experience have been identified and deeply explored, a variety of question stems have been employed (e.g., "then what happened?", "what happened next?") to ensure that questions do not sound repetitive, and that the interviewer keeps in mind the evidential information needed in order to craft purposeful prompts (Brubacher & Powell, 2024). In contrast, interviewers who use predominantly one type of open-ended prompt, employ repetitive stems (e.g., "Tell me more. Tell me more. Tell me more."), and do not guide the interview with intentionality (i.e., with awareness of what information to seek in a hypothesis testing approach) will–correctly–feel that their open-ended prompts have little value (Brubacher, Benson, Powell, Goodman-Delahunty, & Westera, 2020; Guadagno & Powell, 2008).

Allowing bias to creep in. Interviewers and fact finders should make sure that they keep an open-minded, hypothesis testing approach. When interviewers have a preconceived idea about what happened and allow that to guide their questioning, children's reports are shaped (see Bruck & Ceci, 1995, for review). For example, in one study, 5- and 6-year-olds were interviewed about an event in which a "janitor" played with some dolls (Thompson et al., 1997). Children were questioned by interviewers who suggested the janitor was just cleaning the dolls, behaving inappropriately with the dolls, or were neutral in their approach. Children were interviewed three times, by two interviewers with the same or different approach, and then by their parents. When interviewed by one of the biased interviewers, children's responses matched the bias, and if interviewed by the other biased interviewer next, they changed to that story. These findings suggest that an innocuous touch could evolve into a report of sexual abuse if the interviewer believes it to be so. In three experiments, when interviewers did not have bias about some or all

of the event, children were accurate. When the interviewers had expectations about what happened, children's reports increasingly matched interviewers' expectations.

Asking repeated specific questions and repeating misinformation across interviews. When young children are asked leading or specific questions repeatedly (especially yes/no questions), they have a tendency to change their responses (Poole & White, 1991; see Bruck & Ceci, 1995 for review). This is not the case for repeated open-ended questions such as, "Tell me what happened", or "what happened next". Laboratory studies have shown that when interviewers implant incorrect and leading information into their questions over successive interviews, children will accept and report these suggestions (e.g., Bruck & Ceci, 1995; Leichtman & Ceci, 1995; Thompson et al., 1997). Repeated interviews are only problematic, however, when interviews are poor (dominated by specific questions or incorporating misinformation). When they provide further opportunity for recall ("reminiscence") in the absence of contamination, they can yield new and accurate details (see La Rooy, Lamb, & Pipe, 2009 for review).

Using aids inappropriately. A variety of interview aids and props have been used in interviews and tested in empirical research, such as anatomical dolls and human figure drawings (body diagrams). While these aids can increase the amount of information children report, they come with risks (Poole & Bruck, 2012). The majority of memory and interviewing experts agree that exploratory play with dolls should not be taken as indicative of abuse; dolls and body diagrams should be used sparingly, only to clarify (not elicit) touch reports; and only if absolutely needed after a child's narrative account has been fully exhausted (Lytle, Dickinson, & Poole, 2019).

6.3 What to watch for when evaluating a child forensic interview

Ongoing evaluation of the quality of forensic interviews assists in ensuring continued adherence to interviewing best practices. Initially, to ensure that skills are deeply learned, interviewers should receive high quality training that employs elements of human learning, such as spaced exposure (learning over time with rest intervals), repetitive practice and application of concepts (e.g., as in role plays; see Powell, Brubacher, & Baugerud, 2022), and actionable feedback (Benson & Powell, 2015; Brubacher, Shulman et al., 2022; Cederborg et al., 2021; Price & Roberts, 2011). High quality training as a foundation reduces the need for ongoing evaluation of interviews as a teaching process. Instead, reviews of interviews can be conducted to assist in the maintenance of good skills and as part of continued professional development (Brubacher, Kirkland-Burke, Gates, & Powell, 2024; Brubacher, Powell, Steele, & Boud, 2022).

Interview evaluations can take several formats. Interviews might be evaluated by a superior (in-house), an external expert such as a forensic interview trainer or academic, peers (other interviewers in the organization), or the interviewer may self-review their own interview (Brubacher et al., 2022, 2024; Stolzenberg & Lyon, 2015; Wolfman et al., 2016). The effectiveness of the evaluation rests not on the format but rather on the ability of the person evaluating the interview to give feedback that is *accurate, appropriate, actionable,* and *accepted.* Interview evaluators must be skilled enough themselves that they can accurately judge the quality of the interview and adherence to recommended guidelines (Brubacher et al., 2022; Cyr, Dion, McDuff, & Trotier-Sylvain, 2012; Wolfman et al., 2016). The feedback should

also be appropriate to the interviewer's level. Interviewers who have just conducted their first few forensic interviews may only be able to process feedback about basic interview principles, whereas experienced interviewers may welcome nuanced advice or discussion of complex challenges (Steele, 2018; Steele et al., 2025). Feedback on any skill must be actionable; vague praise or criticism does not give the interviewer insight about how to improve (Brubacher et al., 2022). Finally, the receiver has to accept the feedback in order to engage with it and attempt to make changes. If the feedback is delivered in a manner that makes the receiver feel defensive, performance will not improve (see Cannon & Witherspoon, 2005 for a review on giving useful feedback).

Typical elements of the interview that are evaluated include whether the interviewer executed key interview phases (e.g., delivering ground rules, engaging in narrative practice) and an estimation of the proportion of open-ended compared to specific questions (a crude measure of the quality of the interview). Evaluations often go deeper than these surface features and may consider many other factors such as whether interviewers used facilitators effectively (backchannel utterances such as "Uh-huh", "mmm-hmm" used alone to invite further narrative from the child without an additional question being asked; Section 6.1 Question Types), adopted children's words (e.g., for body parts or occurrences of repeated abuse), included or avoided questions beyond children's developmental level, and so on (e.g., Brubacher et al., 2024; Lawrie et al., 2021).

6.4 Tele-forensic interviewing

The evidence is clear that a skilled forensic interviewer will have a positive outcome on the child's experience and the quality of their statement. However, many jurisdictions in Canada (and around the world) do not have ready access to a skilled child forensic interviewer. Those living in rural and remote communities may not have a large enough police presence to ensure a skilled interviewer is available, which can be a disservice to the children in these communities and create an imbalance in the experience of children from different communities. Children who have difficulties attending an in-person interview for other reasons (e.g., resource limitations, scheduling difficulties, anxiety) may also have restrictions on their ability to travel to a standard interview location. Tele-forensic interviews–those interviews in which an interviewer and child communicate over a video platform–provide a potential solution that can bring a skilled interviewer to a distant child. The recent experience with the COVID-19 pandemic highlights another circumstance in which access to in-person child forensic interviews may be a challenge. Taking these scenarios together, researchers and practitioners have shown an increased interest in conducting some child forensic interviews using tele-forensic technology. Because movement towards tele-forensic interviews is relatively new as of this writing, there is little research specifically assessing this approach. However, the lab-based research on the use of video-based interviews has generally shown no difference in the accuracy of children's statements between video-based and in-person interviews (Dickinson, Lytle, & Poole, 2021; Hamilton, Whiting, Brubacher, & Powell, 2017; Johnstone, Martin, & Blades, 2024). Further, there is some evidence that children's anxiety may be decreased in a tele-forensic interview (Fängström, Salari, Eriksson, & Sarkadi, 2017; Westera, Powell, Goodman-Delahunty, & Zajac,

2020), which may result in increased quality of evidence. Thus, the extant evidence supports continued consideration of tele-forensic interviews as a viable option.

Several recent published guideline documents (Brown, Walker, & Godden, 2021; Lundon, Sargent, Henderson, Gongola, & Lyon, 2020; Vieth, Farrell, Johnson, & Peters, 2020) have addressed the unique challenges posed by tele-forensic interviews. As Brown and colleagues (2021) highlight, a key feature of a successful tele-forensic interview will be intensive preparation to plan for the many ways in which technology and non-standardized environments (e.g., school, doctor's office) can create unexpected situations. In some cases, when only physical distance is required and there are no additional barriers to an in-person interview (e.g., pandemic), the child may be interviewed in a room adjacent to the interviewer in an appropriate facility and few new practices are needed. However, in other cases, like those involving rural and remote communities, there are many environmental conditions that must be accounted for. Generally, tele-forensic interviewers should:

- Conduct the interview in accord with existing best-practice guidelines for child forensic interviews (see above).
- Pay particular attention to supportive interviewer behaviours and rapport-building, and the challenges that video conversations may pose to maintaining rapport.
- Address additional practical requirements, including: reliable internet connection and technology with high quality audio and video capabilities; quiet, private room; and professional supervision of the interview environment to ensure no coaching is possible and to assist with technical difficulties.

Despite the helpful guidance, a more robust evidence base for precisely how to set-up and conduct a tele-forensic interview is needed (e.g., Klassen, Price, & Connolly, 2025). We expect rapid growth in this research area in the near future.

VII Children's in-court evidence

7.1 Children's experiences prior to and during court

As we discussed in Section I, there is clear evidence that the courtroom context is unique and often stressful for children. Children who appear in court have already experienced sometimes traumatic events that brought them to court. The majority of child witnesses experience anxiety and show evidence of stress symptoms, including sleeping and eating problems, depression, bed-wetting, and self-harming while waiting to go to court (Plotnikoff & Woolfson, 2009). But the courtroom experience itself has also been shown to be a substantial stressor for children, with sometimes long-term consequences (Goodman et al., 1992; Quas et al., 2005).

One way in which children's anxiety can be reduced is through knowledge and preparation about the upcoming event. Court preparation programs have been available for children in Canada for more than 30 years (Sas, Wolfe, & Gowdey, 1996) and they focus on providing children with knowledge and experience about the upcoming proceedings. Such programs may

include court visitations, practice responding to questions, meeting people who will be present during the court experience, and learning strategies for coping with challenges that arise. Evidence shows that such programs can have beneficial effects on children's well-being, including the reduction of anticipatory anxiety (e.g., Gadoua, Daignault, Cyr, Lachambre, & Dufour, 2023; Nathanson & Saywitz, 2015).

Despite the promising findings related to court preparation programs, many children's court experiences are difficult. Given the often extremely negative impact that appearing in court can have on children, we now review some key aspects of the in-court experience that must be considered by professionals who work with children in the justice system.

7.2 Cross-examination: "how not to" question children

A key component of a criminal trial is the presentation of evidence and the testing of that evidence through cross-examination. Cross-examination is designed with the ultimate aim of casting doubt on the prosecution's evidence. The ability to cross-examine a witness is viewed as critical to defence because defendants have the right to challenge the evidence presented against them. A primary aim during cross-examination is to control the witness' responses (Henderson, 2002). Legal training on how to conduct a successful cross-examination typically focuses on how to get a witness to agree to a statement posed by defence counsel, or to pose questions in such a way that a witness will contradict themselves. Eliciting inconsistencies is considered a successful outcome of a cross-examination. Naturally, the questioning style of cross-examination, then, is largely comprised of closed, leading, and yes/no questions. As we have already established, this style of questioning is highly problematic for eliciting accurate statements from children (e.g., Snow & Powell, 2007; see Section 6.1).

More than a decade ago, legal scholar John Spencer summed up the state of child witness cross-examination eloquently:

> First, the traditional adversarial cross-examination is not a reliable method of either testing the truthfulness of what the child has previously said, or of obtaining from them further information that is accurate, and hence it does not help the court to reach a decision in accordance with the truth. Secondly, for children it is potentially abusive. (Spencer & Lamb, 2012, p. 178)

As Spencer notes, the typical style of questioning not only fails to promote access to the truth, it is also emotionally challenging for children. Experiencing cross-examination has been described as one of the worst parts of court for children (Randell, Seymour, McCann, & Blackwell, 2021). In one study, Hanna and colleagues (Hanna, Davies, Henderson, Crothers, & Rotherham, 2010) found that 40% of their sample of 68 child witnesses cried during cross-examination and 25% of children experienced the defence attorney raising their voice at them. In another study, most child witnesses reported comprehension, complexity, and pace problems, as well as being

interrupted (Plotnikoff & Woolfson, 2009). Indeed, cross-examination has been described as a "how not to" guide to questioning children (Henderson, 2002, p. 279).

Effects of cross-examination on accuracy. There are volumes of evidence that the questions posed in the courtroom are developmentally inappropriate for children and do not serve a truth-seeking function. Cross-examination questions are linguistically complex and difficult for children to comprehend (Andrews, Lamb, & Lyon, 2015; Bettenay et al., 2014; Hanna et al., 2010; Perry et al., 1995; Plotnikoff & Woolfson, 2009, 2012; Zajac, Gross, & Hayne, 2003; Zajac, O'Neill, & Hayne, 2012). In response, children rarely request clarification and often answer nonsensical or ambiguous questions (Zajac et al., 2003). Not surprisingly, children are much less accurate in cross-examination compared to direct examination, and these effects are particularly problematic for younger witnesses, especially those under 10 years of age (Jack & Zajac, 2014; O'Neill & Zajac, 2013; Righarts, O'Neill, & Zajac, 2013; Zajac & Hayne, 2003, 2006; Zajac, Jury, & O'Neill, 2009), but are still present in adolescents (Jack & Zajac, 2014). Children are seen as less credible when they are asked leading questions (Castelli, Goodman, & Ghetti, 2005). Thus, by its very nature, cross-examination is designed to elicit what the adult wants the child witness to say, not to access the child's truthful responses.

Although it may seem intuitive that as the evidence base grows for how to appropriately question children, the nature of cross-examination of children will have improved over time, this has not occurred. Unfortunately, in at least one study, it seems that cross-examination of children has not improved, and indeed, may have even become more complex and may have more negative impacts on children than in decades past (Zajac, Westera, & Kaladelfos, 2018).

Alternatives to traditional cross-examination. There has been substantial debate within the academic and legal literature about balancing the needs of the defendant against the manner in which the literature clearly states is the best way to elicit accurate information from children (see Myers, 2017; Spencer & Lamb, 2012). Several countries have made policy advances that retain elements of traditional cross-examination, but also move closer to appropriately questioning children in court. For example, in many countries (e.g., Chile, Ireland, New Zealand, Scotland, South Africa, United Kingdom), intermediaries can be used to question children. The intermediary is trained in child development and child forensic interviewing and has the expertise to assess the appropriateness of child/adult communication. Lawyers can submit questions for the child witness to the intermediary who will review the questions for developmental appropriateness. In some cases, the intermediary then poses the questions to the child. Such innovations allow for the primary elements of cross-examination to remain in place, but provide safeguards to promote a more developmentally appropriate experience for children (e.g., Caruso & Cross, 2012; Doak et al., 2021). Despite benefits, research and consultations with various legal stakeholders have revealed some limitations to their use. These limitations include that an intermediary's focus on simplifying language is sometimes at odds with other questioning goals and best practices (Brubacher, Deck, Plater, Lamb, & Powell, 2025; Hoff, Powell, & Plater, 2022), and–in trials specifically–that they occasionally intervene too often or at inappropriate times (Vandenberg, 2022).

7.3 Legal remedies to improve the in-court experience

Research has long established that the courtroom is not the optimal setting for children to provide information. When children are interviewed in a courtroom setting, they report less information and experience increased anxiety compared to children interviewed in a small private room (Nathanson & Saywitz, 1999). Children have also been found to be less accurate in their responses when testifying in a courtroom (Goodman et al., 1998; Nathanson & Saywitz, 2003; Saywitz & Nathanson, 1993). This decreased accuracy and comfort are likely attributable to the strange circumstances of legal proceedings that are often confusing and discomforting for children.

Bill C-2: *An Act to Amend the Criminal Code (Protection of Children and Other Vulnerable Persons).* In an effort to improve the experience for children and facilitate their provision of evidence, changes were made to the *Criminal Code* and *Canada Evidence Act* (Bill C-2) that came into force in 2006. These changes were enacted with the aim of reducing revictimization of vulnerable witnesses (including children younger than 18 years) by the justice system, while maintaining protection of defendant rights (Bala, Paetsch, Bertrand, & Thomas, 2011). To begin, children under the age of 14 years are presumed to have the capacity to testify, and their testimony "shall" be received if they promise to tell the truth and are able to understand and respond to questions (*Canada Evidence Act*, 2006). While a child's competence can be challenged, the presumption is of competence. In addition, the public can be removed from the courtroom and the judge may appoint counsel to conduct a cross-examination of a child or vulnerable adult witness if the accused person is self-representing. Further, additional provisions allowed for testimonial aids to protect young victims and witnesses and make it easier for them to testify. Section 486.2(1) of the *Criminal Code* now states that a witness under the age of 18 years must be allowed to testify from outside the courtroom (via Closed Circuit Television [CCTV]), from behind a screen, or with a support person, unless doing so will interfere with the proper administration of justice. Further, videotaped evidence made within a reasonable time after the alleged offence must be admissible for a witness under the age of 18 years at the time of the offence (section 715.1). These testimonial aids are available for all child witnesses, on application, unless it interferes with the proper administration of justice.

These changes were monumental in the treatment of child witnesses in Canada and brought Canadian practice in-line with what the empirical evidence suggests is likely to facilitate children's evidence provision. Research has indicated that the use of such testimonial aids decreases testimonial stress (Hamlyn, Phelps, Turtle, & Sattar, 2004; Yeats, 2004) and children who use live video (CCTV) or videotaped evidence report being less nervous about giving evidence testimony (Landstrom & Granhag, 2010). Further, children questioned via video either show increased accuracy and resistance to suggestion with this approach relative to in-person questioning, or no differences compared to live testimony (Brown et al., 2021; Dickinson et al., 2021; Doherty-Sneddon & McAuley, 2000; Goodman et al., 1998; Hamilton et al., 2017; Landstrom & Granhag, 2010; Pathirana, 2017). Early evaluation of the implementation of these reforms indicated that there was considerable uptake, with the majority of applications successful, and that the provisions were perceived positively by the courts (Bala et al., 2011).

There have been some concerns expressed that testifying with accommodations will decrease the emotional connection between the child and the trier of fact. Indeed, early research bore this concern out, with research showing that children who testified live were evaluated as more credible than children who testified via CCTV, and then via videotaped evidence (Goodman et al., 1998; Landstrom & Granhag, 2010; Landstrom, Granhag, & Hartwig, 2007). However, perhaps increased familiarity with video technology will show that these concerns may no longer be valid. In any case, the gains in child comfort in sharing their experiences may outweigh any concerns with the distance experienced when testifying from video.

Remote testimony. Courtroom accommodations, like CCTV from nearby rooms, have recently seen extension into testimony for children that does not require the children to attend the courthouse at all. Often referred to as remote or virtual testimony, a child may testify via live video link from a room that may be far away from the courthouse. This practice allows the child to be in a comfortable environment that still provides the solemn, controlled setting of a courtroom. Remote testimony rooms are increasingly found in Canadian Child Advocacy Centres (see Section VIII)–locations with which children already have some familiarity (see McDonald, Stumpf, & Gallant, 2024).

Support dogs. In addition to the courtroom accommodations specifically provided by law, many jurisdictions around the world have introduced support dogs that assist children with forensic interviews and courtroom testimony. The evidence is growing that the use of dogs has benefits for many children, including significantly reducing stress and anxiety (Howell, Hodgkin, Modderman, & Bennett, 2021; Krause-Parello, Thames, Ray, & Kolassa, 2018; Rock & Gately, 2024; Spruin, Mozova, Dempster, & Mitchell, 2020; but see Côté et al., 2024; Cyr, Dion, Daighnault, Gendron, & Côté, 2024 for no effect of the presence of dogs and concerns about distraction). Typically, a dog will lay at the child's feet or rest their head on the child's lap while they are questioned. Though more research is needed on how to best integrate dogs into work with child witnesses, the extant research is generally positive with regards to the use of support dogs. There is no specific provision within the *Criminal Code* that allows for an application for a dog to support a child witness, but prosecutors have used section 486.1 to apply for the dog to serve as a "support person" that will assist the child in providing a full and candid account by reducing the child's anxiety (see McDonald & Poulin, 2022 for a discussion).

Despite the important advances in accommodating children's testimony in Canada, many other countries have made much more progress that Canada should consider as we continue to improve the experience of children in the justice system. We return to this discussion in Section IX.

VIII Child Advocacy Centres

8.1 Introduction to Child Advocacy Centres in Canada

It should be very clear from the evidence reviewed thus far that children's experience in the justice system can be stressful and, in some cases, can re-traumatize children. In recognition of the challenges posed to children who are victims of and/or witnesses to abuse and their

families, there has been an international movement towards coordinating the service providers who work with the children and families. Commonly known as Child Advocacy Centres (CACs; or Child and Youth Advocacy Centres, CYACs), these centres bring together professionals from varying backgrounds to coordinate the justice response on a child's behalf (e.g., McDonald, Scrim, & Rooney, 2013; Child Advocacy Centres/Child & Youth Advocacy Centres across Canada, 2021; National Children's Alliance, 2021) with the aim of reducing system-induced trauma and better serving cases involving children and youth in the justice system. Though the structure of individual CACs varies (Herbert, Walsh, & Bromfield, 2018), medical, child protection, police, mental health, victim support and advocacy, and prosecution are usually the core disciplines and agencies involved in cases at a CAC. Together, these multi-disciplinary teams (MDTs) represent the gold standard in response to children's justice needs and their activities will include case review, coordination and shared decision-making. The collaboration seeks to reduce duplication of efforts (e.g., multiple investigative interviews), role confusion, and opportunities for miscommunication or missed communications, with the ultimate aim of the provision of culturally competent, child-focused wrap-around services to support young victims and witnesses. These professionals may be co-located at a single centre to facilitate optimal communication, or they may work collaboratively from their regular workspaces and the coordination takes place through joint meetings and regular communication. Some CACs even have support dogs on staff.

In Canada, CACs (or CAC-like centres) have been operating since the 1990s when the Regina Children's Justice Centre was established and a moderate pace of development followed (e.g., the Saskatoon Centre for Children's Justice in 1996 and the Zebra Child Protection Centre in Edmonton in 2002). A 2010 commitment of seed funding from Justice Canada's Victims Fund led to a rapid increase of CACs and now the large majority of Canada's provinces and territories have such organizations, many with several CACs (Stumpf, 2024a). To support the growing interest in the CAC model, National Canadian guidelines for CACs/CYACs were released in 2021 to assist new organizations as they work toward establishing a CAC; promote consistency across the country; and ensure that the integrity of the CYAC model is retained (Child Advocacy Centres/Child & Youth Advocacy Centres across Canada, 2021).

8.2 The role of Child Advocacy Centres in facilitating children's involvement in the justice system

The CAC approach benefits children. CACs are designed to provide wrap-around services to children, including mental and physical health services, in an effort to decrease the trauma associated with being involved in the system. CACs will typically have someone in the role of a victim advocate, who serves as the family's primary point of contact with all of the organizations and professionals involved in investigations. The advocate may assist with scheduling appointments and referrals to mental health or medical services and may support a child and their family through court proceedings or make referrals to victim witness support services. There is growing evidence that CAC-based investigations reduce stress and trauma experienced during abuse investigations for children and families (Elmquist et al., 2015). Though research directly on children's perception of their CAC experience has been difficult to conduct, CACs include elements that have independently been shown to reduce children's

trauma, including highly trained professionals, child-friendly setting, access to mental health services, and support for the family. For example, caregivers who are supported during investigations contribute to more positive outcomes for children (Malloy & Lyon, 2006), and caregivers are more satisfied with CAC-based versus non-CAC investigations (Jones, Cross, Walsh, & Simone, 2007).

Researchers have also demonstrated that CACs feature more evidence-based practices (e.g., videotaping interviews, interviews conducted in child-friendly facilities), result in greater case coordination among professionals (police involvement, case reviews, MDT involvement), and increase access to mental health services (Cross et al., 2007, 2008), relative to non-CAC investigations. Further, in one study, children who worked with a CAC were more than twice as likely to receive a forensic medical examination than those in comparison non-CAC communities, and this increase was driven primarily by non-penetration cases (Walsh et al. 2007; see also Smith, Witte, & Fricker-Elhai, 2006). Importantly, prosecutions have been found to be more likely when a sexual assault exam has been conducted, regardless of the findings of the exam (Bracewell & Greenwood, 2021).

The benefits of the CAC approach are also evident in legal processes. Child abuse cases processed with MDTs are more likely to result in substantiation and prosecution (see Herbert & Bromfield, 2019; Miller & Rubin, 2009; Smith et al., 2006; Tjaden & Anhalt, 1994; Wolfteich & Loggins, 2007). Such MDT collaborative approaches are more common in communities with CACs (Cross et al., 2007). CAC cases have also been shown to have higher rates of law enforcement involvement (Smith et al., 2006), and result in faster charging decisions than non-CAC comparison communities (Walsh, Lippert, Cross, Maurice, & Davison, 2008). Further, in one study, prosecutor involvement at MDT meetings increased acceptance for prosecution by 80%, a finding the author argued may reflect, at least in part, the prosecutor's ability to ensure appropriate investigative steps have been taken (Bracewell, 2018). Though there is substantial variability within Canada in Crown prosecutors' type and degree of involvement at the investigation phase (including some prosecutors who have no involvement at all; Price, Dion, Earhart, & Brubacher, 2019), this finding demonstrates a potential considerable benefit of increased communication between prosecutors and investigators.

The concentration of specialized professionals who work on child abuse investigations means that the structures are available for increased training, learning, development of expertise, and improved role understanding among professionals (Lalayants & Epstein, 2005; Powell, Wright, & Hughes-Scholes, 2011; Sheppard & Zangrillo, 1996). All of these opportunities, if taken up in earnest, should contribute to a continuous loop of increasing professional competence, better service for children, and better outcomes for children and families.

In addition to these important benefits to children and families, the CAC approach also increases professionals' productivity. In one US-based study, researchers observed a 33% cost savings for investigations conducted within a CAC versus a non-CAC (Shadoin et al., 2006). In Canada, the Sheldon Kennedy Child Advocacy Centre in Calgary, Alberta (now the Luna Child & Youth Advocacy Centre) released a social return on investment (SROI) study in 2015 which indicated that the CAC approach reduced the cost of child abuse response by $550,000

annually. Further, the British Columbia Network of Child and Youth Advocacy Centres completed a SROI in 2022 that indicated that for every dollar invested in CYACs in British Columbia, $5.54 in social and economic value was created. Thus, not only is the CAC approach beneficial for professionals, children, and families, it also makes sense financially.

> A recent study of BC Child and Youth Advocacy Centres found that for every dollar invested in an Advocacy Centre, $5.54 in social and economic value was created.

Though much of the research on the CAC model has taken place in the United States, the evidence base for Canadian-based CACs is increasing. An evaluation of funding provided to CACs in Canada clearly indicated that CACs reduced hardships for families. CACs met their aim of providing a central point of contact for services, reducing the burden of multiple visits on families, and closed gaps in service provision (Justice Canada, 2018). Further, the Department of Justice's CAC Research Subcommittee identifies and seeks to address ongoing and new research needs and activities relevant to CACs in Canada. Additionally, led by Luna Child & Youth Advocacy Centre in Calgary, the Canadian Child and Youth Advocacy Research and Knowledge Centre has recently been established that will invest in ongoing training, research, and dissemination of knowledge (Parker et al., 2025; this Centre has been re-named Kindex Research and Knowledge Centre of Canadian CYACs). This network of practitioners, CAC-based researchers, and academics are all working towards increasing the evidence base for CAC practices, and to increasing knowledge sharing around how to best serve children and families involved in the justice system.

In sum, the evidence is growing about the wide range of benefits to children, families, and professionals that access to a CAC brings. Ultimately, CACs increase access to justice for children.

IX Recommendations for the system: How to obtain good evidence from children

Developmental training and education for legal professionals who interact with children.

In the original report (Sas, 2002), Louise Sas recommended professional training of forensic interviewers and the development of appropriate language protocols and training for legal professionals. We strongly echo this recommendation, with a now even more robust body of work to support the need for educated, trained, experienced, and skilled child forensic interviewers. We extend this recommendation to all players in an investigation involving children who may interact with or make decisions about the child. The damage to a child's evidence that can be done without knowledge and training, as well as the benefit to children of a knowledgeable and skilled professional cannot be overstated. Awareness of children's capabilities, and alignment of adult behaviour and expectations with these capabilities, will enhance the quality of children's evidence. Such education can take multiple forms including online courses, workshops, written and video materials, and some organizations within Canada

have moved to having experts engage in direct interactions with children (e.g., professional child forensic interviewers) who can engage with children in an age-appropriate manner. All options for furthering knowledge should be considered.

Expand access to Child Advocacy Centres and their services

We also strongly agree with Sas on the creation and maintenance of structures within the justice system that assist children with what is often a foreign and scary process. While Sas focused on court preparation programs, the evidence now suggests that the wrap-around services, like those often provided by Child Advocacy Centres, including court preparation programs, contribute to children's quality evidence provision, and to their recovery after justice experiences. We recommend the expansion of CAC access to all children in Canada, and continued expansion of their services (e.g., remote testimony, training of interviewers, support dogs) and the research base for the work that they do. Universal access to CACs would increase equity for child-accommodated services and increase the likelihood that provisions legally available to children are also practically available to them.

Consider and investigate alternatives to traditional cross-examination of child witnesses

Finally, as discussed extensively earlier, the current system of cross-examination is inherently damaging to children because of its goal to discredit child victims' and witnesses' evidence (i.e., introduce reasonable doubt) in order to support the defence's case. Alternatives (e.g., use of intermediaries, timing of cross-examination, educating those who conduct cross-examination about the importance of non-suggestive questioning, structural changes to the court process for young people) are available for study and consideration in the Canadian context, and Canada is currently behind more forward-thinking countries in implementation of such accommodations. While we are making progress in many other domains, this remains an area that would benefit from more concentrated exploration.

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