Interviewing Child Witnesses

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Introduction

There are several reasons why children can come in contact with the police or have to appear in court. They can, for instance, be victims of sexual or physical abuse. Or they may have witnessed a crime. In such cases, it is very important that the young witness is interviewed properly as his or her statements could prove to be crucial later in the investigation.

Over the years more and more researchers, as well as policy makers, have realised that most investigative interview procedures have been designed for use in adults and that these procedures could be inadequate for use in children. It is therefore necessary to critically evaluate the interview techniques for proper use in children because they may have special needs with regards to investigative procedures (Bull, 2010).

In the present paper I will first discuss child development in general and the implications this knowledge has on children in the legal system. I will then focus on one interview technique, namely the Cognitive Interview (CI) and more specific, its modified version, the Modified Cognitive Interview (MCI) and discuss whether this is a suitable technique for interviewing children.

Social factors and interviewing children

Several studies (e.g., Baxter, 1999; Bruck & Ceci, 1999) have demonstrated that children are more suggestible (susceptibility to suggestion) and compliant (the tendency to trust an adult and the will to please the adult by giving correct responses) than adults. For instance, children seem to be more vulnerable to leading questions, and this effect is stronger for pre-school aged children (three to five years old) than for school aged children.

When suggestive questions are asked and the child wants to perform well he/she possibly chooses or ‘recognizes’ the best option from the choices that are
offered by the interviewer, without that necessarily being an actual memory of the event. It is therefore dangerous to fully depend on recognition questions and this is especially true for children under the age of six (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007).

It is not surprising that children are vulnerable to social influence, as they are not adults’ equals and the fact that they are not is much emphasized in most upbringings. A child might, for instance, think that the interviewer already knows some of the answers (Saywitz, 2002). Studies that addressed the influence of manner, style and behaviour of the interviewer on interviewing children did find significant effects (for examples see Bull, 2010). It is therefore important that police officers are aware of the way they are perceived by the child, namely as an authority figure, and the impact this may have on the answers to their questions.

Cognitive factors and interviewing children

Cognition involves the way people process information and perceives the world around them. The world of the average child is literally as well as metaphorically speaking much smaller than the world of the average adult. However, in a forensic interview children are asked to give detailed descriptions of people, places, times and spaces. Young children can also have difficulties understanding the questions asked by the interviewer and look at the use of the question from different person perspectives (Saywitz, 2002). This discrepancy between the ‘worlds’ of adults and children can cause difficulties in the communication between the interviewer and the child.

From the age of two or three years old children seem to have at least some understanding of different person perspectives (Bee & Boyd, 2007). Flavell and his colleagues (1990) have defined two levels in perspective taking in children. In level one, the child knows that other people can experience something differently than the child him- or herself. This is the knowledge a two- or three-year-old has. In level two the child develops a set of complex rules that help understand more precisely what another person sees or feels. This knowledge starts to develop in four or five year old children. Perspective taking is one of the techniques used in the CI, which I will discuss in more detail later.
Witness statements are mainly based on memories. Sometimes these memories are of very recent events, but there can also be a delay between the event and the interview. Unfortunately, memory is no objective registration of the world around us and we do not always attend to and remember what is important in hindsight, but what seems important or is salient at the time (Wessel & Wolters, 2010). Especially for young children this can differ from what adults attend to since they have not as much realization yet of what could be relevant knowledge (Saywitz, 2002). For instance, a child might have no realization yet of suspicious behaviour and attends to a dog, while an adult would attend to the suspicious handler. Furthermore, with regards to interviewing, children often do not know what is relevant for the police to hear while reporting (Fisher & Geiselman, 2010).

One of the key findings from research on interviewing children is asking open-ended questions (e.g., Could you please describe the appearance of the perpetrator?). Instead of closed-ended questions (e.g., did the perpetrator have blond hair?). This is also one of the elements of the cognitive interview. It is important to ask open-ended questions because those questions encourage recall whereas closed-ended questions encourage recognition (Lamb et al., 2007).

The Cognitive访谈

The Cognitive Interview (CI) is a popular interview technique for interviewing witnesses, especially in the UK (Memon, Meissner, & Fraser, 2010). The CI was developed by Fisher and Geiselman (1992) and was designed to help the police with interviewing adult witnesses. An important aspect of the CI is the relationship between the interviewer and the witness. The witness has to trust the interviewer in order to disclose the information and make the interview successful (Horselenberg, Merckelbach, Crombag & Van Bergen, 2010). Furthermore, the witness-centred interview is an important aspect of the CI and using open-ended questions facilitates this. The witness is reminded not to guess, but tell the interviewer when he or she does not know or remember.

The CI consists of four main techniques that can be used to help memory recall and improve communication (Fisher & Geiselman, 1992; Memon & Köhnken, 1992). Firstly, the witness is asked to do a mental reinstatement of the physical and personal contexts that existed at the time of the event (context
reinstatement). Secondly, it is important that the witness is encouraged to extensively look for detail and disclose as much information as possible (report all). Thirdly, the event has to be recounted in chronological order as well as reversed order (change order). Lastly, the event has to be described from a variety of person perspectives (change perspective), which, as mentioned previously, can be difficult for young children.

A large number of lab studies have demonstrated that using the CI as an interview technique improves the number of correct details reported with only a slight increase of the number of incorrect details. The results of field studies also indicate that using the CI enhances the amount of detailed information disclosed by the witnesses (see Köhnken, Milne, Memon, & Bull, 1999; Memon et al., 2010).

The CI also has some limitations. The first limitation is pragmatic. Conducting a CI is very demanding for the interviewer. It takes relatively long to administer, there are several complex techniques that have to be instructed and it requires active listening and questions adapted to the responses of the interviewee. Furthermore, the results of effects of the CI on perpetrator identification are not univocal. This is important to take into account when determining at what moment the CI should be administered. Lastly, context reinstatement could provoke imagination and this can be negative for people that are highly suggestible, such as young children (Horselenberg et al., 2010).

The Cognitive interview and children

Since 1992 several adaptations have been made to the cognitive interview. One of the newer versions is the Modified Cognitive Interview (MCI), which is a modified version of the CI that is suitable for use with young children (age four to nine years old) (Holliday, 2003a; 2003b; Memon et al., 2010). The CI has been modified because there were concerns that some of the elements in the original CI were too difficult for children (Memon, Cronin, Eaves & Bull, 1996). The MCI is designed to meet the individual needs of the witness. This is especially useful for vulnerable witnesses such as young children. Results have shown that using the MCI when interviewing children reduces the effect of suggestibility (Holliday & Albon, 2004). To underline the possible use of the MCI in children 45% of the
studies investigating MCI have used child witnesses as participants (Memon, et al., 2010).

There are two modified versions that are emphasized in the meta-analysis by Memon et al. (2010). The first one is the version of the MCI proposed by Holliday (2003a). In this version the element of changing perspectives is removed. Another version of the MCI was proposed by Davis, McMohan, & Greenwoord (2005). In this version changing perspectives is also removed as well as change of order, but these elements are replaced by the instruction to go through the event once more in chronological order.

Although stated with some caution, due to a limited number of studies it seems that especially the first two CI techniques combined (context reinstatement and report all) facilitate more recall, compared to the individual use of the techniques (Holliday & Albon, 2004). Using the MCI with omitting the elements of changing perspective and change order while combining context reinstatement and report all could therefore be a good technique to interview children.

**Discussion**

Meta-analyses by Köhnken et al. (1999) and Memon et al. (2010) demonstrated that the CI is a well-established interview technique for interviewing adults. The modification of the CI, the MCI seems promising as an interview technique for children but needs to be tested further, especially with young children.

There are several specific issues that can be raised with regards to the studies that have been conducted to date. Many of the studies were lab-based. This raises the issue of whether the results found can be generalized to a real world context such as children in a police interview.

Furthermore, only a limited number of studies have used professional interviewers, in most experiments, the interviewers were students (Memon et al., 2010).

Also, the majority of the studies were conducted with minor delay (48 hours on average in the 1999 meta-analysis) however, in criminal investigations witnesses, including children, are often interviewed repeatedly with longer delays (LaRooy & Lamb, 2011).
The meta-analyses of different versions of the CI by Köhnken et al. (1999) and Memon et al. (2010) indicate that in most of the studies described the control group was untrained or was interviewed using a Structured Interview (SI) and not by using another interview technique that could be potentially useful for interviewing children. It is therefore important to compare the MCI with more different interview techniques for children instead of comparing only to adults and the SI.

As stated before, children can be compliant towards adults and may be willing to please the authority figure by doing well. The MCI seems to be a good interview technique because it offers some protection to suggestibility (Holliday & Albon, 2004). It is nevertheless important to emphasize the ‘I don’t know or remember’ and ‘do not guess’ instruction in the MCI and use open-ended questions as often as possible to minimise suggestibility even more.

Children from the age of approximately three to six years old seem to be the most vulnerable group in all respects. It is important that all child witnesses are interviewed with extra care, but this is especially true for pre-school children. Police officers that interview children should therefore receive education on basic developmental psychology and special training on how to interview young witnesses, based on their specific needs (Bull, 2010).

In conclusion, the MCI could become a valuable tool for interviewing children due to the adaptations, friendly atmosphere during the interview, and importance of free recall and adapted instead of pre-determined questions, and is preferred over the original CI, but needs to be further tested.
References


Enhancing memory performance:
Interviewing child witnesses with the cognitive interview

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There are a large number of legal cases where children are victims and/or witnesses. According to the U.S. 2011 Child Maltreatment Report, more than 3 million children were subjected to a report as a victim regardless of the substantiation of the case (U.S. Department of Health and Human Services, 2012). Similarly there were nearly 60,000 substantiated maltreatment cases waiting for a protection decision in the UK in 2012 (National Society for Prevention of Cruelty to Children, 2013). The statistics point out the frequency of child interviews conducted within a year. Therefore it is crucial to find ways to interview them efficiently. The growing literature on memory and child witnesses suggests that when children are interviewed with age-appropriate techniques, they can provide accounts as accurate as adults (Lamb, Malloy & La Rooy, 2011). This paper aims to outline the characteristics of child eyewitnesses and discuss the Enhanced Cognitive Interview (ECI) as an effective technique in child interviews.

Developmental aspects

There are developmental features which are essential with regards to the eyewitness performance in children. Preschoolers are more limited in their cognitive skills compared to school children. Children of 3 years have a vocabulary of approximately 900 words which allows them to construct sentences with only three or four words. The vocabulary increases with age and school aged children can use a more complex language (Leman, Bremner, Parke, & Gauvain, 2012). Due to this difference, young children (3 to 5 ages) have narratives with fewer details whereas children above 6 are found to be more detailed in their stories (Goodman & Reed, 1986). This is also caused by the higher number of omission errors (vs. commission errors) young children tend to make (Ceci & Bruck, 1993). Furthermore, preschoolers have difficulty to understand long and complex questions. Interviewers need to address the questions with a simplified language so as to obtain elaborate answers (Saywitz & Camparo, 1998). Research also found
that specific questions and external cues are more efficient with young children in eliciting details while school aged children respond better to open-ended questions (e.g., Hershkowitz, Lamb, Orbach, Katz & Horowitz, 2012). One reason for young children to recall better with prompts is that they do not have the cognitive ability to use retrieval strategies (Lamb, et al., 2011).

Another constraint preschoolers have is the perspective taking. Until age 7, young children’s thinking is limited to one aspect and they are not flexible to perceive the situations from different perspectives (Leman et al., 2012). However they can take perspective or do reverse thinking when they are familiar with the incident in question (e.g. Milne & Bull, 2002).

Children of all ages are found to be suggestible (Ceci & Bruck, 1993). One of the factors that is increasing suggestibility in young children is intimidation, thus adults should create a positive atmosphere instead of an authoritative one (Steward, Bussey, Goodman & Saywitz, 1993). Moreover when children are exposed to repeated, leading and misleading questions they opt to change their answers in order to please the adult (e.g., Siegal, Waters & Dinwiddy, 1988).

**Interviewing children as eyewitnesses**

Despite the different capabilities, susceptibility to suggestion is a threat for witnesses of all ages and young children are not necessarily more suggestible than the rest (Bruck & Ceci, 2004). In order to reduce the effect of developmental differences, researchers suggest age-appropriate interview techniques (Cronch, Viljoen & Hansen, 2006). Such interview techniques have been developed so as to elicit more information from children and to raise their accuracy. The Cognitive Interview (CI; Fisher & Geiselman, 1992) is one of these techniques.

The original CI comprises of four mnemonics originating from principles of memory. It is found to increase the quality and the quantity of the information (Memon & Bull, 1991). The research shows that in comparison to structured interviews, CI elicits more correct details. Geiselman and Padilla (1988) found a 21% increase in the number of disclosed details in children varying between 7 and 12 years. The findings also revealed that the number of incorrect details did not increase (see also Milne & Bull, 2003). Although the accuracy levels are more or less the same in the CI and the structured interviews, the CI offers more cues to
make progress with the case. Geiselman and Fisher (1988) introduced an enhanced version of the CI (ECI) by adding social and communicative perspectives to the procedure.

**The Enhanced Cognitive Interview**

The first step of the ECI consists of establishing a well-founded relationship and communicating the rules of the interview. A friendly atmosphere is crucial to reduce the fear and the anxiety caused by the unpleasantness of talking to a stranger (Fisher & Geiselman, 2010). Moreover children are oblivious to what is expected from them since they are usually not familiar with the legal system. Thus, providing them a set of rules subdues the uncertainty and guides them through the interview (Saywitz & Camparo, 1998). For instance, the ‘don’t guess’ rule instructs them to respond ‘I do not know’ when they actually do not have the answer. This rule takes away the social pressure of pleasing the adult interviewer and decreases the possibility of disclosing incorrect details. Another advantage of the introduction phase is being able to assess the children’s developmental level and construct the interview according to their language skills. The age-appropriate and simplified instructions improve the children’s comprehension of what is required from them (Steward, Bussey, Goodman, & Saywitz, 1993).

The ECI continues with a free recall phase of what has happened. The free recall eliminates the adverse effects of misleading questions and relies on the witness’ memory. It is an efficient way to elicit a high number of details from older children and adults. In contrast, younger children reveal fewer details in their free recall narratives (e.g. Goodman & Reed, 1986; Saywitz & Camparo, 1998). This is an anticipated result considering young children’s immature vocabulary and communication skills. However Hershkowitz et al. (2012) demonstrated that children as young as 3 years of age have the cognitive and the verbal ability to narrate an abusive event in real life cases. Smaller vocabulary did not hinder obtaining an accurate testimony when the questions matched children’s language skills.

The first mnemonic is the mental reinstatement. This strategy derives from the ‘encoding specificity’ principle which asserts that the physical and the psychological reinstatement of an event are cues to recall (Tulving & Thomson,
Once the mental reinstatement is activated, the details pertinent to the encoded environment become more accessible. The children are instructed to travel back in time and form a mental image of the incident.

The second component comprises of asking for every detail they can recall. Both adults and children omit certain details which they perceive as irrelevant. Exhaustive recall mnemonic encourages them to report everything regardless of its importance so that the crucial information is not lost (Hayes & Delamothe, 1997).

The third component promotes recalling from different perspectives such as narrating the incident from the perpetrator’s eyes. It originates from the multi-component view which points out that a variety of different methods may trigger the retrieval of several sets of details (Bower, 1967). Milne and Bull (2002) found that 5 and 6-year olds were able to narrate from another perspective; however it should be noted that this mnemonic might be incomprehensible for younger children. According to the Piagetian theory, children gain the ability to reason around 3-4 years. This ability allows them to understand other people’s perspectives. On the other hand, the perception changing instruction requires abstract thinking. Children do not leave the egocentric thinking until 7 years and do not fully mature in abstract thinking until 12 (Leman, et al., 2012). Thus this method should be used carefully with children below 12. The same concerns apply to the last component of the ECI, the reverse order recall. The backward order of the incident triggers the facilitation of the details that are not present in the encoded forward order. Although the young children might fail to comprehend both of these tasks, Memon and Bull (1991) argue that the utilization of these two components is possible by using simple words and short sentences.

The free recall phase is followed by specific questions. This phase is used to elucidate unclear matters. The questions are based on the information collected during the free recall and constructed according to the words children previously used. They get a better understanding of the questions when the language of the interviewer matches theirs (Saywitz & Camparo, 1998). Moreover, as mentioned above close-ended questions are more appropriate for young children (Price & Goodman, 1990). A study by Dietze and Thomason (1993) demonstrated that younger children in the specific question condition produced as many details as
they did in the mental reinstatement condition. Thus, it is reasonable to expect more details from them by including a specific question phase.

In addition to the ECI’s efficiency in obtaining elaborate testimonies, it has other diverse advantages for the legal system. First and foremost, it is easy to learn and apply the techniques. In their study Fisher, Geiselman, and Amador (1989) trained the police officers in CI and compared the amount of information they elicited before and after their training. The findings showed that the number of details they collected from the witnesses increased by 47% subsequent to the training. Another promising quality of the CI comes from the research on repeated interviews. The technique is found to increase the number of correct details in the second interview regardless of how the first interview was conducted (McCauley & Fisher, 1995; Milne & Bull, 2003). The interviews typically take place after a certain amount of time and the long intervals gradually decreases the memory performance (Leman et al., 2012). However, the CI is able to lessen the destructive effect of time. A study by Larsson, Granhag, and Spjut (2003) demonstrated that the CI elicited more information even 6 months after the original event. The delay between the incident and the interview constitutes a higher risk of susceptibility to misinformation. Milne and Bull (2003) exposed children to misleading information either before or after the CI and found that the technique was protective against susceptibility when it was conducted prior to the exposure. However it should be noted that interviewing a suspect prior to misinformation does not usually reflect real life situations.

To sum up, ECI appears to be effective in eliciting details from children with the positive atmosphere it provides and mnemonics that trigger retrieval. Moreover it has been efficient when tested in various contexts. However this technique has its weaknesses. Especially, the last two mnemonics are controversial for young children; therefore excluding them with children below 7 seems favorable. Research has found that procedures which exclude the perspective change and the reverse order components elicit the same amount of information as the ECI. Additionally this modified version of CI (MCI) takes less time to conduct which is a beneficial aspect for practitioners (e.g. Dando, Wilcock, Milne & Henry, 2009; Davis, McMahon & Greenwood, 2005). Future studies could focus on MCI when interviewing young children.
References


Assessing the Efficacy of the Cognitive Interview for use with Child Witnesses

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The Child as Eyewitness

The validity of children’s testimony has been the subject of long and rigorous study in the field of Forensic Psychology. Many early researchers challenged the credibility of children’s reports, their findings pointing to developmental milestones that supposedly prevent children from providing detailed and accurate accounts of witnessed or experienced crimes (Ceci & Bruck, 1993). More recent studies have challenged this conclusion, and shed light on the remarkable capabilities of child witnesses, some as young as three years of age (Ceci & Bruck, 1993; Hershkowitz, Lamb, Orbach, Katz, & Horowitz, 2012). Although child eyewitnesses tend to report less information than adults, their recall is not less accurate (Marin, Holmes, Guth, & Kovac, 1979).

Developmental Hurdles

In their review of research on child eyewitness suggestibility, Ceci and Bruck (1993) established that older (school-age) children generally provide more detailed and accurate accounts of witnessed events than younger (pre-school) children. Older children are also less fantasy prone. Despite these age differences, the authors reported ample findings to support the assertion that even young children are capable of providing accurate testimony. They attributed reported age differences to developmental (metacognitive, linguistic) gains occurring in childhood as well as biological (stress of re-living the event) and social/motivational conditions during the interview process.

Cognitive limitations. Eyewitness competence involves an array of skills including comprehending questions, understanding the interviewer’s expectations, searching for and retrieving information from memory, and constructing an appropriate response (Hershkowitz et al., 2012). Most people do not begin to form memories prior to the age of three, due to a phenomenon known as infantile amnesia (Berk, 2013). Significant cognitive developments take place between 3-6 years of age (Siegler, 1991, as cited in Hayes & Delamothe,
The ability to comprehend questions develops around 3-4 years of age, and the ability to use relevant contextual information required to answer them develops to the age of 6 (Loukousa, Ryder, & Leinonen, 2008; Ryder & Leinonen, 2003). Pre-schoolers, whose language and comprehension skills are not fully developed, may incorrectly answer questions they do not understand (Berk, 2013). Additionally, preschoolers are poor at source monitoring (identifying where they got certain information), and are less competent than older children when it comes to using narratives to report autobiographical memories in detail (Berk, 2013). This may explain findings that older children give more detail-rich narrative responses to interview questions. Likewise, the greater number of incorrect details reported by younger children may be attributed to immature meta-memory skills (Saywitz, 1987, as cited in Hayes & Delamothe, 1997). It has also been suggested that very young children have a poorly developed Theory of Mind (ToM). ToM refers to an individual’s ability to detect their own and other people’s perceptions, feelings, desires and beliefs (Berk, 2013). As ToM develops, children are better able to comprehend an interviewer’s questions and intentions; and can potentially take on several perspectives when recalling an event.

**Question type.** Hershkowitz et al., (2012) examined age differences in children’s responses to interviewer’s questions regarding reported instances of abuse. The researchers found that children 5 years and older were more likely to give informative and accurate answers in response to open-ended prompts, whereas children between the ages of 3 and 4 were more responsive to specific (directive) recall prompts. The authors speculated that this finding might result from children’s rapidly developing metacognitive and linguistic capacities between the ages of 3 and 5. Narrative capabilities are more sophisticated in later childhood, as is the ability to comprehend the demands of the interview situation and the latent intent of the interviewer.

**Social and motivational conditions.** By the time children provide an official testimony or appear in court, weeks months, or years may have passed since the event in question. During that time, in addition to natural memory decay, repeated and suggestive questioning may have led to the development and maintenance of false beliefs (Berk, 2013). Andrews & Lamb (in press) found that repetition of questions posed to children by adult interviewers often led them to
conclude that their original responses were being challenged and/or were inadequate. As such, many children may feel pressured to change original answers when figures of authority (which often, interviewers are) repeat questions; this behavior is especially pronounced when questions are close-ended and/or suggestive. Suggestive and leading questions (‘She hit you, didn’t she?’; ‘Was he wearing a red shirt?’) are to be avoided, as children—even more so than adults—are highly suggestible (Andrews & Lamb, in press; Ceci & Bruck, 1993). When repetition is necessary, interviewers should use open-ended questions, and explain the need for repetition to children, lest they misinterpret the interviewer’s intent (Andrews & Lamb, in press). Exposure to stereotyping of the accused (ex: the bad guy is in jail) prior to questioning may also taint children’s testimonies (Berk, 2013).

**The Revised Cognitive Interview**

Researchers have developed and adapted various approaches for interviewing child witnesses. The Cognitive Interview (CI) was originally designed for use with adults (Fisher, Geiselman, Raymond, Jurkevich, & Warhaftig., 1987; Geiselman, Fisher, Firstenberg, Hutton, Sullivan, Avetissian, & Prosk, 1984). However, it has been tested and in some cases, adapted, for use with children (Hayes & Delamothe, 1997; McCauley & Fisher, 1995; Saywitz, Geiselman, & Bornstein, 1992). The revised cognitive interview (CI-R) is a version of the original Cognitive Interview that has been adapted for application in field settings. In addition to the original CI’s main principles of encoding specificity and varied retrieval, the CI-R includes cognitive principles like focused and extensive retrieval, imagery, witness-compatible questioning, and transfer of control (from interviewer to interviewee) (Fisher & Geiselman, 2010; McCauley & Fisher, 1995).

The CI-R, like standard interview protocols, begins with a period of rapport building between interviewer and interviewee. Rapport building is extremely important, as interviewees are often anxious at the start of an interview (Saywitz et al., 1992; Fisher & Geiselman, 2010). Establishing a friendly rapport can put the victim/witness at ease, and build trust between him/her and the interviewer. Research has demonstrated that rapport building is especially helpful with children (Saywitz et al., 1992). After a comfortable rapport is established,
witnesses are guided through four main mnemonic procedures. Witnesses are instructed not to guess, but rather, to use the ‘I don’t know,’ or ‘I can’t remember,’ options when applicable. The CI-R is interviewee based, and as such, the interviewer should allow the witness to guide the process, tailoring follow-up questions to the individual’s mental state and account as necessary (Fisher & Geiselman, 2010). The four general retrieval methods are as follows:

**Context re-instatement.** In this exercise, witnesses are told to visualize the context in which the event unfolded. They are asked to mentally recreate their physical surroundings and emotional state at the time of encoding. They may be encouraged to do so with eyes closed. The interviewer may ask the child to imagine where the event took place, incorporating sights, smells, sounds, and how they felt as the to-be-remembered event (TBR) event unfolded.

**Report all.** Witnesses are instructed to report all recollected details, regardless of their perceived importance. Reporting of minor details may trigger recollection of more important event features.

**Perspective switching.** In this method, interviewees are told to recall the event as experienced by someone else. Sometimes, this can mean taking on the role of the perpetrator, the victim, or another witness.

**Reverse recall.** Witnesses are encouraged to recall the event in a variety of temporal orders. For example, after detailing the events as they took place, the child may be asked to repeat his/her story backwards.

Additional mnemonic techniques can be included; these are mainly aimed at helping the interviewee recall specific information such as names (e.g. by running through the alphabet and identifying the letter the name begins with, Saywitz et al., 1992).

**The use of Cognitive Interview with Children**

In the majority of studies in which some version of the CI has been used with children, it has been found to increase accurate recall of forensically relevant details without increasing the rate of incorrect items reported (Geiselman & Padilla, 1988; Saywitz et al., 1992; Chapman & Perry, 1995). For example, Hayes and Delamothe (1997) showed children aged 5-7 and 9-11 a videotaped story and then assessed their recall using the re-instatement of context and report all
instructions. Children questioned using these cognitive prompts demonstrated increased recall accuracy in comparison to children given the Structured Interview (SI).

Similarly, McCauley and Fisher (1995) found that child witnesses interviewed three days after the to-be-remembered event (TBR) and two weeks later using the CI-R recalled significantly more accurate details than those interviewed with the SI. Two weeks after the TBR, participants re-interviewed with the CI-R showed greater evidence of reminiscence (recollection of new material) than those interviewed using the SI. Though the CI-R elicited a higher number of inaccurate facts, the authors stressed that the rate of accurate to inaccurate information for the two groups was equivalent. The CI-R elicited 64% (first interview) and 46% (second interview) more accurate information from interviewees than did the SI (McCauley & Fisher, 1995).

Memon et al., (1993) interviewed 24 6-7 year olds about a witnessed event using either the SI or CI techniques. Results showed a significant increase in information elicited about location of objects and people when the CI was used. The authors also noted, however, that some of the children did not appear to fully understand and effectively use the standard CI techniques.

**Implications for Future Use**
The majority of studies in the literature reviewed here have indicated that the use of certain CI-R components contributes positively to the completeness and accuracy of child eyewitness accounts, without an increase in the rate of incorrect reporting or confabulation. To my knowledge, no empirical evidence exists to suggest the CI-R should not be used with children who have been victims of traumatic abuse. However, Hershkowitz et. al (2012) report that reliving an episode of abuse can be highly stressful for children. Therefore, the context reinstatement component of the CI-R may cause children who have experienced a crime first hand much distress. Similarly, reporting the event from the viewpoint of the alleged perpetrator, as with the perspective switching procedure, can be very upsetting for children (Saywitz et al., 1992). It may be that the CI-R is more valid for use with child witnesses as opposed to child plaintiffs, or at least more appropriate for interviewing child victims when the context re-instatement
exercise is omitted. However, Saywitz and colleagues (1992) did report that children who participated, as opposed to those who witnessed a crime, made fewer errors in recollection when later subjected to the CI. More research is needed to clarify findings in this particular vein.

The CI-R inherently seems to avoid the application (whether intentional or otherwise) of social pressure. Fisher and Geiselman (2010) specifically state that interviewers should refrain from suggestive and leading questioning and should avoid pressuring interviewees, especially children, to answer questions they are unsure of. The researchers note that children may defer to an adult interviewer’s authority. Additionally, they specify that open-ended questions be relied upon primarily, with close-ended prompts avoided when possible. In light of findings reported by Hershkowitz et al., (2012) that 3-4 year old children respond more informatively to directive, close-ended prompts, use of the CI-R may confer greater advantages with children over the age of 4, given the open-ended nature of interview prompts.

Perspective taking is a skill that may pose difficulties for very young children, whose theory of mind (ToM) is not yet fully developed (Saywitz et al., 1992; Hershkowitz et al., 2012). As such, the omission of the relevant mnemonic approach in the CI-R, as done by Hayes and Delamothe (1997) is acceptable. Other researchers have reported that the change perspectives technique is the least successful with children (Saywitz et al., 1992; Geiselman & Padilla, 1988). Children under the age of seven have trouble comprehending and following instructions to change retrieval perspectives, and do not have a well-developed ability to organize event sequences consecutively (Memon et al., 1993; Saywitz et al., 1992; Farrar & Goodman, 1992). Despite using only two of the CI-Rs main retrieval techniques, Hayes and Delamothe (1997) reported increases in accurate details recalled comparable to those found in studies with adults in which all four CI-R strategies were employed.

In light of the findings discussed, it may be advisable to tailor CI-R strategies and complexity of language to the developmentally appropriate level when using this interview technique with children. One way to do this is by omitting perspective taking and reverse recall strategies in interviews with children under the age of 7. Additionally, exposing child witnesses to a practice run of the
exercises and instructions is likely to help them adjust to the demands of the situation (Saywitz et al., 1992). Mantwill, Köhnken, and Ascherman (1995) also recommend giving explicit instructions to the witness to avoid confabulation, in addition to the instructions against guessing. With age-appropriate adjustments and some added instruction and clarification, much benefit can be gained through use of the CI-R technique with child witnesses.
References


Does the Enhanced Cognitive Interview Meet Child Witnesses’ Needs?  
An evaluation from a developmental- and social psychological perspective  
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In a Dutch report on the secondary victimization of eye-witnesses in the criminal justice process, a professional providing help to child victims states that she always discourages child victims between 4 and 7 years old to go to the police because the interview is often worse than the crime, and the chances are high that the perpetrator will not be convicted (Wijers & De Boer, 2010). This advice is quite shocking. Without declaring the crime, the chances of the perpetrator getting caught are zero, and the chances that the perpetrator makes more victims are high. However, this statement also shows the crucial importance of using the right technique when interviewing vulnerable witnesses. If child interviewing is done wrongly, a child may be even further victimized.

Naturally, criminal investigators want to minimize secondary victimization; psychological harm to the victim caused by the criminal procedures itself (Orth, 2002). However, they also want to elicit as much accurate information about the crime from the victim as possible, in order to make sure that the perpetrator is convicted. Therefore, interviewing techniques that minimize chances of secondary victimization but maximize the amount of accurate information obtained are essential.

One popular technique, also often used to interview child witnesses, is the enhanced cognitive interview [ECI] (Fisher & Geiselman, 2010). The ECI prescribes social and cognitive strategies to elicit as much information from a witness as possible, without inflicting harm to the witness or compromising on accuracy (Fisher & Geiselman, 2010). To minimize harm, emphasis lies on extensive rapport building, transferring control to the interviewee, and the use of appropriate non-verbal behavior and questions (Fisher & Geiselman, 2010; Köhnken, Milne, Memon & Bull, 1999). Furthermore, ‘mental context reinstatement’, the ‘report everything instruction’, ‘multiple perspective taking’, and ‘reversed order telling’ are used as cognitive strategies to enhance memory performance (Fisher &
The Cognitive Interview

Geiselman, 2010; Horselenberg, Merkelbach, Crombag, & Van Bergen, 2010; Köhnken et al., 1999). In this paper I will evaluate whether the ECI is an appropriate technique for child interviewing. Specifically, I will discuss the efficacy of the social dynamic instructions and the cognitive strategies from a developmental and social psychological perspective.

The ECI starts with a rapport building session, which is followed up by other strategies in the substantive part of the interview to maintain rapport (e.g., Fisher & Geiselman, 2010; Fisher, Milne, & Bull, 2011). This has two objectives: providing an encouraging environment for witnesses to share their experiences, and making sure that the story of the witness is not influenced by the interviewer (e.g., Fisher & Geiselman, 2010; Memon, Holley, Wark, Bull, & Köhnken, 1996). In terms of effectiveness, research consistently shows that efforts at building rapport translate into child witnesses reporting more details of the witnessed event, even when they are reluctant to begin with (for an overview: Hershkowitz, 2011). This is crucial, because, for example allegedly abused children may be unwilling to disclose their experience (London, Bruck, Ceci, & Shuman, 2005), and this reluctance also affects the amount of abuse-related details they will provide once they disclose (Orbach, Shiloach, & Lamb, 2007).

Importantly, within this rapport building session a major characteristic of the ECI is that it is witness-centered; the aim is to transfer control over the interview to the interviewee (Memon, Meissner, & Fraser, 2010). This may be helpful in two ways. First, if the child feels that he/she is in control, this may lead to increased feelings of self-efficacy, which in turn reduces experiences of threat and depression, increases motivation, and enhances memory performance (e.g., Bandura, 1989; 1993). Thus, feelings of control in the child decrease chances of secondary victimization, while increasing the amount of information remembered. Second, manner of the interviewer, which communicates who is in control and determines body language and question type, also influences the suggestibility of a child (Bull, 2010). That is, if the interviewer adopts an authoritative style (i.e., formal, detached, in charge), communicating interviewer authority, children are more likely to go along with misleading questions, than when a supportive style is adopted (i.e., open body posture, smiling, eye-contact, introducing oneself by first name), in which the child is approached as an equal (Bull, 2010; Bull & Corran,
2001). Importantly, in the ECI, suggestibility may be further reduced by encouraging children to use a “don’t know” option if they are unsure, rather than to guess about what happened (Bull, 2010; Holliday & Albon, 2004). This is vital to reduce the report of false details.

After establishing rapport, the ECI proceeds to the free recall phase in which cognitive strategies are used to enhance memory. First, interviewees are instructed to mentally recreate their physiological, cognitive and emotional states that were present at the original event (Fisher & Geiselman, 2010). The rationale for this is that people remember past events better, if the context of retrieval matches the context of the original event (Tulving & Thomson, 1973). Children receive the following type of instruction:

“Close your eyes. Picture yourself back in the room where you watched the video. How were you feeling? What can you see in the room? What can you hear in the room? Who were you sitting next to?” (Holliday & Albon, 2004, p. 269)

From a developmental perspective there are several possible arguments for the effectiveness of mental context reinstatement. First, the strategy may be efficacious with young children (<6) because their autobiographical narratives are less systematic and complete (Nelson & Fivush, 2004), and because they do not fully integrate contextual details into their experience yet (Brown, 2011). If you mentally guide these children step by step through what they did and what they saw, you may obtain more information than by merely asking them what happened. Second, mental context reinstatement may prevent source monitoring errors. That is, in eye-witness testimonies, people may believe in hindsight that they saw something happening, when in reality they obtained this piece of information from another witness (Johnson, Hashtroudi, & Lindsay, 1993). Such mistakes are more likely made by young children, and especially preschoolers (Berk, 2009, p. 298). By mentally reinstating the original context of the event, only those details that were truly witnessed may be retrieved from memory (Chalfonte & Johnson, 1996; Smith & Vela, 2001), leading to less contaminated memories.

However, older children may be susceptible for false detail memory because of other cognitive developments (Brainerd & Reyna, 2012). Specifically, according to fuzzy-trace theory, older children (>10) learn to effectively use their working memory by storing the gist of an event (i.e., its senses, patterns and meanings)
rather than verbatim memory traces (i.e., surface features such as size and color of objects: Reyna & Brainerd, 1995). Because gist traces mainly contain the meaning of an event, children who rely on these traces are more susceptible to false recognition and misinformation effects when it comes to details of the event (Brainerd & Reyna, 1998, 2002). This is also called the developmental reversal effect. Recreating the situation in the mind may therefore help older children to re-remember the true details, by ‘reliving’ the situation.

Indeed empirical research shows that mental context reinstatement increases the amount of details reported by child witnesses of different ages, compared to non-cued free recall interviews (for an overview: Brown, 2011, pp. 232-235).

The mental reinstatement instructions are directly followed by the ‘report everything’ instruction. Here, children are encouraged to report everything they remember, however small or irrelevant a detail may seem, and even if it does not fit with autobiographical order or contradicts earlier statements (e.g., Fisher & Geiselman, 2010). The purpose of the instruction is to provide cues for all important details and to prevent a witness from being selective in what (s)he reports, because the witness does not know what is relevant to the police.

This seems a sensible instruction. Note that it was already mentioned that young children (<6) have difficulty with providing a systematic and complete narrative (Nelson & Fivush, 2004). This may also lead to the omission of information that they actually remember (Berk, 2009, p. 299). By clearly instructing them that it does not matter if what comes into mind does not fit with the order of the story, and that they should report it anyway, the consequences of this developmental limitation may be minimized. Empirical evidence indicates that especially the combination of the mental context reinstatement and the report everything instruction are efficacious for interviewing children (Holliday & Albon, 2004; Milne & Bull, 2002).

This last statement already gives away that the effectiveness of the other cognitive strategies of the ECI is being debated. In the ‘change order strategy’ interviewees are asked to repeat their narrative in a reversed chronological order. For children this may be problematic, because children only develop telling a narrative in a chronological order when they are approximately 6 years old (Nelson & Fivush, 2004). Asking a child to tell a story in reversed order increases cognitive
load. Since a child’s cognitive capacity is limited this strategy could overcharge the child, leading to errors and confabulation (e.g., Saywitz, Geiselman, & Bornstein, 1992). However, others argue that with frequent prompts (e.g., think back of the last thing you did. What did you do before that?), the change order technique is suitable for children (e.g., Holliday 2003a, 2003b; Holliday & Albon, 2004; Milne & Bull, 2002). Indeed, 5 to 6-year-olds responded well to the strategy and reported some correct new details with this mnemonic (Holliday & Albon, 2004). The best conclusion for now probably is that the reversed order mnemonic can be used with children, but it should be done meticulously.

About the ‘change of perspective’ instruction is less debate. Generally, scholars agree that it should not be used when interviewing children. Especially when a theory of mind is not fully developed, it is confusing for children to try to tell a story from another’s perspective (e.g., Geiselman & Padilla, 1988; Newcombe & Huttenlocher, 1992; Saywitz et al., 1992). Also, research shows that at least with young children (<7), the technique does not contribute to remembering new correct details, compared with other ECI mnemonics (Holliday & Albon, 2004). Therefore, it seems best to leave the perspective taking instruction out of cognitive interviews conducted with children.

In conclusion, the ECI seems to fit child witnesses’ developmental challenges quite well. This qualitative conclusion is supported by quantitative meta-analyses that show that, although effect sizes are higher for adults, the ECI effectively elicits more new details from child witnesses than other interviewing techniques, without compromising on accuracy (Köhnken et al., 1999; Memon et al., 2010). Part of this success probably lies in the fact that the ECI offers memory retrieval strategies to children. That is, although children may not be capable of fabricating and using successful retrieval strategies themselves, if they are conveyed to the child by adults, they are often capable of using them effectively (Saywitz et al., 1992).

However, practitioners should be careful when using the change order instruction, and refrain from using the changing perspective mnemonic at all. Accordingly, scholars have argued that these two mnemonics should be left out and that instead a “try again” strategy should be used, asking the child to repeat their story once more (Davis, McHanon, & Greenwood, 2005; McCauly & Fisher,
This is an interesting suggestion, but until now study results are mixed (cf., Jack, Leov, & Zajac, 2013; McCauly & Fisher, 1995; Milne & Bull, 2003). Hence, more research is needed into whether the newly reported details do not come at the cost of accuracy.

Importantly, the cognitive interview may be especially suitable for interviewing child victims and child witnesses. Through the focus on rapport building and transferring control, a safe environment is created. This reduces the chances of secondary victimization. Thus, from this perspective, the professional who stated that she always discourages parents of child victims to go to the police because the interview is often worse than the crime, should nuance her position. In my eyes, there is only a very small chance that a child is further victimized when an enhanced cognitive interview is used, provided that it is executed with care.
References


Interest in children’s testimony has developed vastly over the past four decades, driven by many highly publicised cases of childhood sexual abuse (Goodman, 2006). As a result, the importance of best practice when interviewing children has become the focus of large body of research. Professionals such as police officers and social workers encounter children who are witnesses, victims and suspects of crimes and are involved with the subsequent investigations. Interviewing techniques that conform to the best practice guidelines is perhaps more important when interviewing children in part because children are not likely to be questioned in court. Advice provided by the Home Office in the United Kingdom proposes that video recorded interviews of children can be used in court instead of them standing as a witness in person (Home Office, 1992, 2002). This means that the interview is the only source of the child’s testimony. The aim of this paper is to examine the National Institute for Child Health and Human Development (NICHD) as an interviewing technique for children.

Because children can often be the only source of information following a crime (e.g. in sexual abuse cases), a vast amount of research has focused on children’s abilities to provide reliable and detailed accounts of events they have witnessed, experienced or are suspected of. Research into memory development has found that the amount of information provided by children increases with age (Goodman & Reed, 1968; Lamb, Sternberg, Orbach, Hershkowitz, & Horowitz, 2003) and that younger children are more likely to make errors of omission (not reporting details) than errors of commission (reporting inaccurate details) (Ceci & Bruck, 1993). Despite this finding, younger children’s (3 years old) reports of past experiences have been found to be no less accurate than older children (6 years old) (Goodman & Reed, 1968).

Both children and adults are susceptible to suggestion, but children, especially pre-school children are more suggestible than adults (Ceci & Bruck, 1993). One of the main sources of suggestion in interviews is interviewer bias. The interviewer
may already believe they know what happened, and this can influence the way in which they conduct the interview by gathering confirmatory evidence. Children have been found to provide accurate reports of past events when the interviewer remains neutral, but when the interviewer is suggestive children will change their reports to fit with the bias of the interviewer (Thompson, Clarke-Stewart & Lepore, 1997).

Language is an important component of memory as it allows us to describe our past experiences. Language develops with age and children’s ability to describe past events increases with age (Fivush, 2011). Children also have difficulties reporting complete and structured narratives (Nelson & Fivush, 2004). For this reason, researchers have examined the types of questions that yield more accurate and reliable information from children. The results show children are more accurate when answering open-ended questions as opposed to option-posing where the interviewer presents the child with options (Lamb & Fauchier, 2001; Orbach & Lamb, 2001). Research by Peterson and Bell (1996) demonstrated that children’s reports were accurate when open-ended questions were used, and significantly decreased when specific questions were used.

Young children have been found to be more likely to make commission errors when the interviewers questions are suggestive, and make incorrect selections to option-posing questions due to their increased susceptibility to suggestion (Cederborg, Orbach, Sternberg & Lamb, 2000; Craig, Sheibe, Kircher, Raskin & Dodd, 1999; Davies, Westcott & Horan, 2000; Korkman, Santtila & Sandnabba, 2006; Lamb, Hershkowitz, Sternberg, Boat & Everson, 1996; Poole & Lindsay, 1998; Sternberg, Lamb, Davies & Westcott, 2001; Thoresen, Lønnum, Melinder, Stridbeck & Magnussen, 2006). Research has also examined yes/no questions. Research by Peterson and Grant (2001) shows that children have a tendency to answer yes to forced choice questions and rarely provide “don’t know” responses.

Given that that the intention of the interviewer is to gain as much information which is accurate, a series of best practice guidelines were developed internationally from around the 1990’s. In the United States best practice guidelines were published by the American Professional Society on the Abuse of Children (APSAC, 1990). In the United Kingdom the Home Office published the Memorandum of Good Practice (Home Office, 1992) and Achieving the best
evidence in criminal proceedings: Guidance for vulnerable and intimidated witnesses, including children (Home Office, 2002). Within these guidelines there are recommendations to interviewers in relation to rapport building and question style (Lamb et al., 2009).

Despite the publication of best practice guidelines, research examining the types of questions used in interviews with children has found that practitioners don’t always follow best practice guidelines and interviewers continue to use option-posing questions (Cederborg et al., 2000; Davies et al., 2000; Korkman et al., 2006; Thoresen et al., 2006). In response to these findings, the NICHD began developing a structured interview protocol for interviewing children. The NICHD Interviewing Protocol was developed by Michael Lamb and colleagues (Lamb, Orbach, Hershkowitz, Esplin & Horowitz, 2007; Orbach, Hershkowitz, Lamb, Sternberg, Esplin & Horowitz, 2000; Sternberg, Lamb, Orbach, Esplin & Mitchell, 2001). The resulting Interviewing Protocol involves two main stages called the pre-substantive and substantive stages. The aim of the protocol is to guide the interviewer through the interview incorporating the findings of research and best practice guidelines.

In the pre-substantive stage, first, the interviewer explains the rules of the interview to the child which consists of teaching the child the difference between telling the truth and telling a lie. Talwar, Lee, Bala, and Lindsay, (2002) found that children aged 3-7 grasped the concept of lying, but found that children remained willing to lie to conceal transgressions, but agreeing to tell the truth decreased lying behaviour. Next the interviewer tells the child that providing a “don’t know” responses is acceptable during the interview. An important part of the pre-substantive phase is for the interviewer to engage in rapport building with the child. Building a relationship with children prior to interviewing has also been found to affect the outcome. Research by Carter, Bottoms, and Levine (1996) found that children who were interviewed in a supportive manner were more resistant to suggestive questioning while children who were interviewed by an intimidating interviewer were more prone to suggestive questioning. Here the interviewer engages the child in discussion about activities enjoyed by the child. In this section the child is asked about a series of events, from a few days/weeks ago, to yesterday. This also serves another purpose in that it familiarises the child with
the types of questions that will be used during the substantive part of the interview and also to assess the child’s ability to provide details about past events.

For the substantive stage, the interviewer invites the child to report the event. The interviewer is encouraged to use six types of utterances throughout the interview. The first type are facilitators which are prompts used to encourage the child to continue with their response. Invitations are open-ended requests for the child to report details about the event. Cued invitations are used to focus the child on specific details mentioned previously by the child, these are then followed up with invitations to provide more details. Directives are a more focused cued invitation that asks for specific details about something the child has already reported. Option-posing questions are used to prompt the child to talk about specific details that they have not already mentioned, but their use is discouraged due to the risk of suggestion. Suggestive utterances are specific questions that assume information.

The structure of the substantive stage of the NICHD Interviewing Protocol encourages the interviewer to start with invitations for the child to report details of the event. Once this child has reported the details of the event, the interviewer moves on to investigating the event using open-ended questions and then more focused questions, and then moves on to cued invitations, directives, option-posing and suggestive questions when the child fails to discuss the details of the event. If the child does not discuss the event when presented with invitations, but does when cued invitations are used, the interviewer is then encouraged to try using invitations again. At all stages the interviewer is encouraged to use the most open-ended utterances before trying more risky question types. As previously mentioned, younger children are more likely to make commission errors to option-posing questions and therefore their use is discouraged throughout the interview, and only used when invitations prove ineffective.

Overall the NICHD Interviewing Protocol takes into account the developmental needs of children by guiding interviewers through the interview, building rapport with the child and using questions that allow the child to say what they remember in a free recall manner. The interview also reduces interviewer bias by encouraging interviewers to use invitations before they move on to more suggestive question types. The interview procedure then funnels from a broad
explanation of the event given by the child, to more specific elements of the event, and at every point the interviewer first uses invitations before, and only if needed, moving on to ask more specific questions.

Field studies using the NICHD Interviewing Protocol have revealed positive findings. Research conducted in Israel (Orbach et al, 2000) and the USA (Sternberg et al., 2001) report that interviewers using the NICHD Interviewing Protocol elicited more information using more open-ended questions. Sternberg et al report that in the interviews using the NICHD Interviewing Protocol, 89% of the children made allegations compared to only 36% of the children who were interviewed using a standard interview technique, however, it is not clear how valid and reliable these allegations are. Furthermore, Lamb et al. (2007) report that the results of a collection of field studies using the NICHD Interviewing Protocol show that use of the protocol leads to interviewers using three-times as many open-ended questions and half as many option-posing questions compared to other interview techniques.

Also, research by Lamb et al. (2009) shows that British police following the Home Office best practice guidelines use less suggestive techniques than interviewers using other techniques, but they also found that use of the NICHD Interviewing Protocol yields better results than using the Home Office best practice guidelines when interviewing victims of child sexual abuse in the UK.

Most research into child witnesses has focused on child sexual abuse cases (Goodman, 2006) and this has resulted in most techniques, including the NICHD Interviewing Protocol focusing more on victims. However, there is a limited amount of research examining its use with child witnesses (Lamb, Sternberg, Orbach, Hershkowitz, & Horowitz, 2003) and child alleged suspects (Hershkowitz, Horowitz, Lamb, Orbach, & Sternberg, 2004). The results of the research with witnesses shows that both witnesses and victims provided similar amounts of information using the NICHD Interviewing Protocol, however, interviewers used more open-ended questions with witnesses than with victims. Furthermore, interviewers used more option-posing questions with victims than witnesses. The results of the research with alleged suspects found that interviewers used less invitations and option-posing questions with alleged suspects who denied involvement in the crime than those who admitted involvement.
Overall research is showing that the NICHD Interviewing Protocol can improve interviewers’ abilities to secure accurate and detailed reports from children, even compared to the best practice guidelines. Much of the research examining the protocol has examined past interviews and it would be beneficial for laboratory research to be conducted using this technique. However, the use of invitations, and continuous encouragement for the interviewer to use invitations appears to be an important aspect of this research and the results of the field studies show it can be effective. Given further research this technique could become a very successful tool for interviewing children who are victims, witnesses or even perpetrators of crimes.
References


Requirements for a Reliable Testimony

To give a reliable testimony, a child has to correctly discern and memorize the facts and circumstances of a crime, and afterwards recall and verbally reproduce these facts. (Greuel et al., 1998). It is therefore necessary to take the cognitive, memory and linguistic (respectively communicative) development into account when addressing the reliability of children’s testimony and the utility of an interview technique. As children rely eminently on feedback from adults in their everyday-life, it is also crucial to have a close look at social influences that might affect the formation and reconstruction of memory and cooperativeness before and during an interrogation (Bull, 2010). These aspects will be taken into account in the subsequent evaluation of the National Institute of Child Health and Human Development Investigative Interviewing (NICHD) Protocol.

Interviewing Children with the NICHD

The NICHD (Lamb, Hershkowitz, Orbach, & Esplin, 2008) is a fully structured investigative protocol initially developed for interviews with alleged child victims of sexual abuse. Nowadays it is adapted for the use with alleged child victims of physical abuse and witnesses of a crime. Field studies with alleged victims of child sexual abuse or child maltreatment prove the enhancement of interview outcomes compared to former practiced techniques (Lamb et al., 2009). The protocol was designed to interview children of all ages (Lamb, Orbach, Hershkowitz, Esplin, & Horowitz, 2007).

From a developmental perspective, as it is an interview, a minimum level of communicative skills and development of autobiographical memory is needed. Hence, one could argue that the NICHD poses challenges for young children. For instance, children under the age of six have difficulty to report their narratives in a complete and structured manner (Nelson & Fivush, 2004). Likewise, Hershkowitz, Lamb, Orbach, Katz, & Horowitz (2012) showed that from the age of five on,
children give proportionally more new and former undisclosed information in response to free recall questions than younger children, whereas three- and four-year-old children are more responsive to directive questions as who, what and when compared to other question types. Nevertheless, it is possible and informative to interview even children at three years of age with the NICHD (Hershkowitz et al., 2012). Even though young children provide less information than older children, adolescents and adults (e.g. Jack, Leov, & Zajac, 2013), the amount of free recall information can be increased using the protocol regardless of age (Lamb et al., 2009).

Looking at the protocol in more detail, the interview consists of a pre-substantive and substantive part. The pre-substantive part focuses on creating a supportive environment through rapport building. To establish a good relationship, which is essential to evoke disclosure (Hershkowitz, 2011), the interviewer introduces him- or herself and explains the purpose of the interview and the child’s task in a distractor-free room (no noise, other people, toys etc.). The child is empowered to be a unique source of information and the necessity to tell the truth and to admit knowledge gaps is emphasized. Furthermore the interviewer encourages the child to correct the interviewer when necessary, and tests his/her ability to differentiate between truth and lie.

Looking at the development of lying, children from the age of three years are able to demonstrate an understanding of an untruthful and a truthful statement (Talwar & Crossman, 2012). However, Talwar and Crossman reviewed that this knowledge has no relation to actual behaviour; which is in fact related to moral judgements of lie-telling and anticipated punishments for telling the truth. Consequently, the part of the NICHD that assesses the child’s understanding of truth and lie is in my opinion deficient. Rather than only emphasizing the difference between truth and lies, it should be made clear that the truth is always better than a lie and that the child will not be punished for it. This is even more important for school-age children than for pre-schoolers, since it is not likely that pre-schoolers lie in an undetectable manner, due to limitations in their development of theory of mind and executive functioning (Talwar & Crossman, 2012).
As further part of the pre-substantive phase, to familiarize with the NICHD interview, detailed answering to open-end questions and refocusing is trained with a neutral event which preferably occurred around the time of the alleged crime (e.g., a birthday party). All in all, the pre-substantive phase should facilitate and enhance retrieval and accuracy capacities (Lamb et al., 2008). According to me, the pre-substantive phase helps the child to feel comfortable and to focus on the relevant time, for example when there is a substantial delay between event and interview.

The substantive part of the NICHD starts with identifying the target event/s under investigation by giving input-free, completely open, non-suggestive prompts. This approach meets the knowledge that statements elicited with a minimum of information given by the interviewer are more accurate and less erroneous than utterances in response to option-posing or suggestive prompts (Bull, 2010). When an allegation is made, the free recall section begins. The child is prompted to answer as detailed as possible to open-ended questions and substantive invitations until he/she states to have provided a complete description of the event. Cued invitations are only used when general invitations appear to be ineffective (which is more often prominent in children under six years of age).

What is important to remember when using cued invitations is that action cues are more effective than other cues (e.g., event and time-segmenting cues; Lamb, Sternberg, Orbach, Esplin, Stewart, & Mitchell, 2003). Unfortunately, this recommendation is not included in the scripted NICHD protocol.

If multiple incidents are reported, the NICHD recommends using the temporal markers first and last occurrence of the event to prompt recall. This is essential for a possible trial since event-specific information is needed for a conviction. An account of the first event is inquired based on the assumption that new and unusual incidents should be remembered better and more distinct without the interference of the development of a general scheme. The last event is important because of the shorter delay to the interview. Thereby it is more likely to be accessible and less contaminated by post-event information.

Importantly, however, interviewers should not force a specific label to refer to an event. Rather they should use a label the child has chosen (Brubacher, Malloy, Lamb, & Roberts, 2013). These could be for example, temporal (e.g., first time,
Monday), locational (e.g., the time in the garage), abuse-related (e.g., the time he touched...) or situational (e.g., the day my mum visited her friend). Changing a label in course of the interview leads to the elicitation of less episodic information. The use of temporal cues further omits developmental aspects of temporal understanding. The child’s ability to autonomously relate experiences to temporal markers (e.g. morning, while, after) develops later than the ability to order actions (e.g. dressing routine; Nelson, & Fivush, 2004; Orbach, & Lamb, 2007).

After a phase in which more focused questions are used, and an attempt to acquire missing information and clarify misunderstandings, the child is asked about the first disclosure and whether there is anything that he/she would like to add. If not, the interview ends with a neutral topic, to release the arousal potentially evoked by the interview.

The interview prescribes that the use of props or toys, verbal prompts that encourage children to imagine, option-posing prompts or “yes/ no” questions and suggestive prompts should be avoided as these techniques could impede retrieval or induce false memories (Lamb et al., 2008). This seems sensible considering the susceptibility of children to spontaneous and suggestion induced false memories and that these false memories are far more difficult to detect than the previously described conscious lies (Brainerd, Reyna, & Ceci, 2008). The source monitoring theory (Johnson, Hashtroudi, & Lindsay, 1993) predicts an age related decrease of false memories, because the ability to monitor the source of recollection (internal or external) advances from childhood to adulthood. Contrarily, the Fuzzy-trace Theory (Brainerd, Reyna, & Ceci, 2008) and the Associative-activation theory (Howe, Wimmer, Gagnon, & Plumpton, 2009) state a counterintuitive developmental reversal pattern of false memories with older children being particularly vulnerable. This is because they rely more on the gist memory trace, i.e., the underlying meaning, of an experience or on associative activation in their knowledge base. For instance, in situations known from experience older children tend to show higher false recall and recognition rates than younger children as they automatically assume certain connections (e.g. that a sports car is red).
Merits and Limitations

The main goal of the NICHD is to elicit as much information as possible (e.g. Lamb et al., 2003). Research therefore analyses the number of forensically relevant details as dependent variable. But this outcome variable might not be sufficient as it omits false memories and deception. Unfortunately, research on these variables is hard to conduct in the field as the ground truth is nearly never available. Therefore information has to be drawn from experimental studies. See therefore the above described developmental trends of false memories and lying. Notwithstanding that it is not possible to be definitely sure of the occurrence of an alleged crime, Hershkowitz, Fisher, Lamb and Horowitz (2007) used independent evidence (e.g. confessions, disinterested witnesses, photographs, medical examinations) to judge plausible (likely to have happened) and implausible allegations to determine the credibility assessment of allegations. The analysis of appurtenant interviews revealed that the use of the NICHD protocol yielded more true positive, true negative and less false negative valuation of occurrence (Hershkowitz et al., 2007). Nevertheless, even though Hershkowitz et al. reported a higher accuracy rate the results seem to be whitewashed because uncertainty judgements are counted as incorrect judgments. As these are more prevalent in non-protocol conditions a positive bias towards the use of the NICHD emerges. Moreover, the use of the NICHD does not improve the detection of implausible allegations (which is about chance level).

A major limitation of the presented and available studies is that nearly all research is conducted by Lamb and his colleagues who also developed the protocol. Therefore critical analyses of the NICHD technique might be underrepresented and the interpretation of their results might be influenced by confirmation bias.

To determine whether the effects found in the research by Lamb and colleagues are due to the NICHD interview it is necessary to analyse the control conditions used. In most studies (e.g. Hershkowitz et al., 2007; Lamb et al., 2008; Lamb et al., 2009) a baseline, determined before the NICHD training, was compared to post-training outcomes. With this method a study-effect cannot be differentiated from an interview-effect. Therefore it is conceivable that it was not the new interview technique that yielded improved outcomes, but the
interviewer’s knowledge of the study. Another approach is to contrast different interview techniques implemented in the same timeslot. This also indicates whether the NICHD-technique is superior to other interview techniques.

Taking into account that the extensive training takes approximately one week followed by role-playing practices (Lamb et al., 2008) and its effects diminish without constant supervision (Lamb, Sternberg, Orbach, Esplin, & Mitchell, 2002), the acceptance of the NICHD-protocol among interviewers seems to be challenged. As an interview should be practicable and approved by the persons that conduct it, there seems to be a need of improvement concerning user friendliness. According to me, even though practitioners might not warrant the detailed and potentially time consuming structure of the NICHD, concerning the possible negative effect of social influences its use has to be recommended as with it social biases are minimized.

In conclusion, the funnel-like question style with exhausting open-ended questions before asking more focused questions meets the standards of best practice recommendations (Lamb et al., 2007). From a developmental perspective it can be expected that younger children elicit less information in the free-recall sections than older children and adults. The subsequent use of more specific questions might foster false memories. However, children’s susceptibility to this phenomenon might have been overestimated in the past as new research indicates a developmental reversal. Nevertheless, research is still needed to understand the determinants that improve a child’s testimony. This is necessary to obviate under- or overestimation of a child’s abilities. For instance, the use of temporal markers might demand too much of young children and the referring part in the NICHD to elicit event-specific information should be revised. Still, considering the stated limitations, the NICHD can be seen as an interview technique that sufficiently meets even young children’s developmental particularities with standardized and simple formulated questions.
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Children in the legal system
Summaries of oral presentations in Gothenburg 2013-12-04

Germany
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Suspects
Children under the age of 14 years are generally not criminally liable (§ 19 StGB). Juveniles between the ages of 14 and 18 are limited criminal liable (§ 3 JGG). It is necessary to assess in the individual case whether the juvenile was able to apprehend the wrongfulness of his or her malfeasance and was able to act accordingly. To form an opinion on the juvenile’s developmental maturity the court may consult the Youth Court Assistance (Jugendgerichtshile) or experts. If they come to the conclusion that the juvenile had sufficient competences at the time of the alleged crime, he or she is sanctioned under the German Juvenile Criminal Law.

The principle of the German Juvenile Criminal Law (JGG) is to focus on the education of a young offender. Sanctions are therefore selected with the aim to compensate for developmental deficits. Primary goal is to counteract new crimes. To do so, the judge is able to impose mild and harsh sanctions. The mild educative (§§ 9 ff JGG) and disciplinary measures (§§ 13 ff JGG) are not present in the adult criminal law. Juvenile imprisonment facilities (§§ 17 f JGG, § 7 JGG) are separated from adult ones. In order to minimize stigmatising and negative repercussions the minimal sanction as possible is chosen. Furthermore there is a separated criminal record for crimes sentenced under the juvenile and adult criminal law.

After turning 18 and until the age of 21 it is at the courts discretion to decide if they sentence under the Adult or Juvenile Criminal Law (§ 105 JGG). The Juvenile Criminal Law should be applied when the crime involved elements that are typical for youth crimes or the mental age resembles that of a juvenile and the deficits may be compensated by advances in the development. If this is not the case, the Adult Criminal Law should be applied. From the age of 21 on, people are in general sentenced under the Adult Criminal Law.
**Witnesses**
In Germany, everyone is liable to give a testimony when summoned by court. Thus, also children of every age are obliged to give a testimony when asked to do so. The statement may only be refused under specified circumstances, e.g. kinship. In contrast to adults, children under the age of 16 years are not put under oath. Between 16 and 18 years the court may decide whether they want to question under oath or not.

In complex cases the court might ask for an export report on the child’s credibility of the assertion. To do so, the expert, usually a psychologist will evaluate the capability of the child to give a testimony as well as the quality and the validity of the statement. The expert will assess these dimensions by analysing the records of the case and interviewing the child.

**Plaintiffs**
Under the age of 18, children are minors in Germany and not fully legally competent. Everyone can bring in an indictment, but under the age of 18, the minor needs a legal representation, i.e. legal guardian, that carries on the lawsuit (§ 51 ff ZPO). Nevertheless, the police are obliged to start an investigation when minors give an incriminating report.

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Children are not treated the same as adults in the legal system. There is a selection of measures which can be used to enhance children’s evidence in court. There are also measures in place to protect children. The aim of this short paper is to examine these measures.

A report by the Ministry of Justice (2011) states that children will often have a video recorded interview when reporting events they have experienced or witnesses. Although the police are responsible for any criminal investigation, this does not mean that they should conduct the interview. The interviewer should be someone who has or is able to build a rapport with the child and who has relevant interview training. The location of the interview can be changed to a more familiar location if this suits the child.

In court, The Youth Justice and Criminal Evidence Act (1999) provide ‘special measures’ for youth witnesses. Special measures are used only if the court decides that their use will improve the quality evidence given by the witness. These special measures include allowing child witness to be behind a screen in court, or to appear via video link. The court can also exclude people from the courtroom, but not the accused, legal representatives or people appointed to assist the witness. In the presence of children, courts may ask legal professionals to remove their wigs and gowns. Children evidence can be accepted as a video recording of the interview that was conducted during the investigation, and if this is the case the court may allow the child to be cross examined via video link. The court can also allow the witness to use an intermediary who relays questions to and answers from the witness. Finally, the court can allow witness to use any devices that enable effective communication.

Children under 14 years of age do not give sworn evidence. The Youth Justice and Criminal Evidence Act (1999) states that children under 14 or people who are unable to understand the seriousness of the oath are to give unsworn evidence. However, there is still a penalty for providing intentionally false of a fine up to £250. There is a range of support for witnesses at the various stages of the legal process from interview, to pre-court and finally for court (Ministry of Justice, 2011).
The Crime and Disorder Act (1984) states that no child under 10 years of age can be guilty of a crime, and therefore cannot be arrested, but children over 10 years can be arrested as adults. Once in custody the custody officer must begin to find an ‘appropriate adult’ who could be a parent, guardian, local authority or any responsible adult who is over 18 years old and not in the police. Children should not be placed in a cell unless no other option is available, and if they are placed in a cell they must not be with an adult detainee (Police and Criminal Evidence Act, 1984). Children should not be held longer than 24 hours.

If a decision is made to charge a child suspect then there are two options. The child can be given bail and a date to attend court, or they can be detained. If they are detained, it is up to the local authority to arrange the detention in a suitable centre for children (Police and Criminal Evidence Act, 1984).

Children aged between 10 and 18 years will attend a youth court. This is a form of magistrate’s court, but is not open to the public. There is no jury and either three judges or a district judge conduct the court. Parents or legal guardians must attend court with the child. This court is less formal and the child’s first name is used. For crime such as theft, burglary, anti-social behaviour and drug offences the youth court pass sentence. However, for more serious offences such as murder or rape are passed to a crown court.

The youth court has two main options for sentencing. For less serious crimes a community sentence is used which is a form of community payback involving unpaid community work. For more serious crimes a Detention and Training Order can be imposed (this is a sentence of 4-24 months). Half of this sentence is served in a child detention centre while the remaining half is served in the community under the supervision of either a social worker or youth offending team.

In summary there are a range of measures used by the courts the enable child witnesses and victims to provide evidence in a safe and effective way. There is support in place to help children at various phases of the investigation and trial. For suspects, there are rules to protect them and to allow them to receive child appropriate punishments for the crimes they are committed of.

References


In England and Wales, a ‘child’ is defined as an individual under the age of 18. The safeguarding of children, including those who have witnessed an unlawful act, is of primary concern in accordance with the country’s Children Act. The UK government also adheres to the U.N. convention on the rights of the child, which it has been a signatory to since 1991.

Prior to the Interview (Preparation). Crown Prosecutors are instructed to consider issues such as child protection, consent, and psychological assessment as preliminary tasks to inform their approach to the involvement of a child witness in investigations. A pre-interview assessment should include collecting demographic information about the child (often taken from the parents or other adults familiar with the child) and details of the event in question and the individuals involved. There is no lower age limit for child eyewitnesses, but the investigative team should be satisfied that the child is capable of understanding and responding to questions posed. The child’s race, culture, ethnicity and first language are also important considerations. Such information should inform decisions about the length, structure, style and pace of the interview. The home office recommends that the investigative team involve a member of the police as well as a representative of the local child protective services. Additionally, Witness Care Units, address the needs of children and their families from the time a defendant is charged up to the final hearing. Each child is assigned a Witness Care Officer who relays logistics and provides explanations and support.

During the course of the Interview. Either of the aforementioned members of the investigative team may lead the interview, given that he/she has received the appropriate training, and has developed the best rapport with the child. The interviewer is to keep a written record of any discussion with the child, noting the date and the presence of others. Parents and guardians should usually not be present. During the course of the interview, the child should not be actively encouraged to recall the event in question, nor should he/she be interrupted while reporting relevant details. Interviews should be carried out in a way that minimizes the child’s distress, and is considerate of his/her family. For example, the number of times the child has to recount the
details of the event in question should be kept to a minimum. The role of any individual involved in the investigative team should be clearly and thoroughly explained to the child and his/her guardian. While some children may have some knowledge of the interview process, most will not, therefore the interviewer should make an effort to explain the purpose of the interview and the process at a level appropriate to each child’s understanding. Interviewers should also address any questions the child might have. If it proves more accommodating to the child, the interview may be conducted over the course of multiple sessions. The resultant videotape should be reviewed by the investigators and shown to the child before being released to the defense or any third parties. Any medical/psychological examinations of the child carried out for the purpose of the investigation must be conducted by qualified professionals, and must be appropriately preserved as evidence. Children should not be subjected to unnecessary examinations.

**Modes of presentation of evidence in court.** The law presumes that child witnesses under the age of 17 will present their evidence outside of the courtroom by means of video recorded interview. If considered beneficial and necessary to the proceedings, cross-examination may be conducted via live link. This means that they sit in a separate room when they give their evidence and when the defence advocate asks them questions. Children have the right to refuse to present evidence through either of these means, however. Should the child refuse these options, he/she may present all evidence in the courtroom from behind a screen, pending careful consideration of such a request. Use of the screen may also be waived by request. Often, the video statement may need to be edited for purposes of time, continuity, and clarity. All edits need to be shown to the child and explained to him/her. Should the case be high-profile, courts can order the media not to identify a child witness, and not to print/show images or video of the child.

**Consent/Assent.** However the child chooses to present evidence, his/her request should be reviewed several times before it is carried out, as children are prone to change their minds. Video-recorded consent is not necessary from the child, but interviewers should check that the child is participating in the interview of their own volition. Absolutely no inducements are to be offered to secure the child’s participation. In cases where the child is not competent to
provide assent, and his/her guardian refuses consent, the interview cannot take place without a court-mandated order.

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The Dutch legal system
There are several different legal systems used in the world. The system that is used in the Netherlands is the civil law legal system. The process is inquisitor with a leading role for the public prosecutor in the preliminary investigation. The judge has hierarchical control and plays an active role in discovering the truth\(^1\).

Dutch criminal law and juveniles
Criminal law applies when juvenile delinquents commit and offense juvenile. In juvenile criminal law penalties are not as long as in regular criminal law. A juvenile is defined as someone aged between 12 and 18\(^2\).

There are some exceptions for the application of juvenile criminal law. Offenders aged 16 or 17 can in some situations be judged according regular criminal law and adults between 18-21 can in some situations be judged according juvenile criminal law.

There are several methods that can be used to punish juvenile delinquents. Some of the options are: Bureau Halt (for minor offenses), community service and juvenile detention.

Juveniles with a developmental or psychological disorder that have committed a violent or sexual offence can be placed in a juvenile institution.

Children under the age of 12 cannot be prosecuted. The can, however, be arrested and they can also be interviewed as a witness or as a victim.

Interviewing children
The Dutch police have a special instruction when it comes to interviewing children (Dekens & Van der Sleen, 2010). Children under the age of 12 have to be interviewed in a special child friendly interview studio and the interview is audio- as well as videotaped. The interview is conducted by a certified police officer who is part of a specialised youth and vice squad.

\(^1\) [www.wodc.nl/images/ewb03ple-samenvatting_tcm44-57718.pdf](http://www.wodc.nl/images/ewb03ple-samenvatting_tcm44-57718.pdf)
When it is decided that a child needs to be interviewed in a child friendly studio the child and the parents (or care-takers) are informed about the routines before, during and after the interview. A ‘producer’, who can also coach the interviewer, watches the interview from the control room. The child and the interviewer are the only ones present in the studio. In some cases a behavioural scientist (e.g. psychologist), can be asked to advise during the interview. The interviewer is not involved in the criminal investigation as a whole, but does get the information about the case provided in the statement in order to prepare the questions for the interview. He or she also receives information about the child in order to facilitate building rapport.

The interview model used by the Dutch police when interviewing children in a special studio is called the scenario model. This model was developed for minor witnesses who are interviewed in the child friendly studio by a certified interviewer.

The model is a structured, step-wise, interview technique, based on three different situations that can occur during the interview. The scenarios are called A (spontaneous free recall after neutral first question), B (disclosure after indirect questioning) and C (witness needs information before disclosure starts). The interviewer can switch between the scenarios during the interview. The interview consists of three phases, an introduction, a case-oriented phase and a conclusion.

Until recently drawings were commonly used as a tool to help young witnesses during the interview. Recent studies have demonstrated that using drawings has similar disadvantages as using anatomically correct dolls. It is therefore advised not to use them anymore. Substances shapeless dolls with clothes on, but without facial expression or sexual organs can, however, still be used because they are less suggestible. Use of these dolls is only allowed in scenario A, when the child discloses spontaneously, but has difficulties indicating positions (Zuring, 2013).

References
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Content of the presentation
In my presentation I will discuss the position of children who are seeking asylum in the Netherlands with their parents. Specifically I focus on the issue of children in detention and the child amnesty regulation of 2013. Besides this, I will discuss the demands that are put on children in family reunification cases. I chose to focus on these three issues because they aroused high media- and political attention in the Netherlands in the last year. Due to time-constraints, I will not discuss the position of unaccompanied minors in the asylum procedure.

Children of asylum seekers
In the general asylum procedure, children younger than 15 are only involved in interviews when there are serious doubts about the asylum story of the parent and it is expected that the child can resolve these doubts. From 15 years-old children have to sign their own application and have to participate in both an initial- and detailed interview. In principle, most applications have to be treated within 8 days, however, sometimes the asylum procedure inclusive appeals can last for years. After a final decision is issued, children either get a residence permit, or they have to be deported by the Repatriation and Departure Service.

Children in detention
Children in the asylum procedure may be detained for two reasons. The first is border custody; once a family arrives in the Netherlands via Schiphol without a permit or visa, they are detained until the asylum procedure starts. The second is detention before deportation. Here families are detained until they can be deported because the immigration service fears that they will flee. In 2012, 352 families and 70 unaccompanied minors were detained.

The political opposition and Defense for Children argue that current practices are in conflict with the convention on the rights of the child and with the discrimination principle. In response the state secretary Fred Teeven promised that fewer children will be detained before deportation, and only if parents transgressed earlier imposed measures such as a duty to report. Opponents do not deem this enough. Border custody is still in place and
conflicting with the abovementioned international agreements. For now, this issue is still debated.

**Children’s Amnesty 2013**

The goal of the children’s amnesty regulation is to provide children of rejected asylum applicants who are rooted in the Netherlands with the opportunity to acquire a residence permit. The idea is that it is inhumane to deport children who arrived in the Netherlands very young or who were born here and have been living here for a long time, because they are fully integrated in the Dutch society and alienated from their origins.

However, the political opposition, Association of Dutch Municipalities, and the Dutch Children’s Ombudsman argue that the amnesty regulation is wrongfully executed. Especially the requirement that children have to have been under state supervision for their complete time of residence is scrutinized. The requirement implies that children have to have lived in asylum centers all the time. This yields 300 borderline cases with children whose parents were not welcome anymore in asylum centers, and are instead cared for by municipalities. The opposition states that these children are also rooted in the Netherlands, that they were known by the municipalities, and that therefore the amnesty regulation should apply to them too. However, so far the state secretary does not want to make an exception for these children.

**Children in family reunification cases**

When asylum is granted, a parent can apply for family reunification within three months. In 2009 a strong suspicion of fraud was expressed. The government suspected that many Somali were using family-reunification procedures to collect children who were not their own. Therefore, the factual family tie criterion was introduced. From now on, families had to prove that they were a factual family in daily life in the country of origin. This is tested through interviews with all family members in the Netherlands and in the country of origin.

As a result of the policy changes the rejection rate of family reunification rose from 12% in 2008 to 82% in 2012, which was reason for the children’s ombudsman to investigate whether the procedures were in line with the Convention on the Rights of the Child. The main conclusion of the report is that
the rights of the child are violated in the Dutch family reunification procedure at a large scale. The ombudsman found that too many questions were asked in too little time, that children felt pressured, that interviewers were not objective, and that the focus in decision making is too much on inconsistencies while there is too little consideration for the circumstances of the interview. Thus, the conclusion that a factual family tie is lacking is drawn too fast.

In a response to the report state secretary Fred Teeven says that he does not recognize the situation sketched by the ombudsman at all. There is nothing wrong with the attitudes and methods used by IND-personnel. He further denies completely that children’s rights are violated in current procedures.

**Conclusion**

In conclusion, the rights of the child seem to be jeopardized in the Dutch asylum procedure when it comes to detention procedures, the children’s amnesty regulation, and in family reunification cases. Furthermore, knowledge about effective practice in child interviewing is largely disregarded in family reunification.

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Children as the suspect

Every individual below the age of eighteen is referred as a minor in the Turkish Penal Code (TCK, 2004). A minor committing a crime is a mitigating cause. The children having not attained the full age of twelve are not held responsible for their criminal actions. If deemed necessary, security precautions (also called protective measures) are arranged. These security precautions consist of providing consultancy to the parents or the guardians of the child as well as providing general care, education, health care and shelter (Child Protection Law (ÇKK), 2005). The criminal responsibility of children who attained the age of twelve but not yet completed the age of fifteen on the commission date of the offense depends on their ability to perceive the legal meaning and the consequences of the offense. If they have developed the ability to apprehend the offence, then they can be prosecuted; however the punishment is abated by two thirds. Lastly, children who attained the full age of fifteen but not yet completed the age of eighteen on the commission date of the offense are responsible for their actions; however the punishment is abated by one half (TCK, 2004). A child who commits a crime is first brought to the juvenile branch of the police force. According to the ÇKK (2005) it is the prosecutors who are responsible for interviewing the child. However they have the right to ask the police officers to obtain a statement. There are also certain rules that apply to child suspects. For example, they cannot be held in custody for types of crimes which require a maximum 5-year imprisonment sentence. Moreover they cannot be handcuffed and should be informed about the legal procedure and the suspect rights (e.g. right to silence). However in a survey done by Öntaş (2006), 61.6 % of the police officers who were asked about the treatment of a child at the police department reported handcuffing the child. Additionally 24.4 % reported that they did not inform the children about the legal processes they will undergo. After the investigation, the case might be taken to the court. The child, child’s lawyer, parents or guardians might request a social worker to be present at the hearings. According to the Penal Procedure Law (CMK, 2004), the hearings of minors should be closed to public.
Children as eyewitnesses and victims
The cases of adult suspects are in jurisdiction of the Magistrates’ Court, the Criminal Court or the High Criminal Court. In other words, the Juvenile Court is not involved when the child is a victim or a witness. Similar to the suspect interviews, the interview should be conducted by the prosecutor. It is mandatory to record (audio or visual) the statement (TCK, 2004). However there are no guidelines on how to record it. Furthermore if the children are traumatized as a result of the crime, their statements can only be obtained once, unless further interviewing is deemed necessary. Besides, a healthcare professional (psychologist, psychiatrist, social worker or pedagogue) should be present during the interview. Otherwise this evidence is not worthy in front of the court. In practice, a mental health professional, a lawyer, a cameraman and a recording clerk are usually present during the interview (Nalbant, 2012). As far as the prosecution phase is concerned, the child does not have to be present at the hearings. However if the child is present, a healthcare professional should accompany him or her. The suspect can be requested to step out of the court room in order to prevent a confrontation between the child and the defendant (CMK, 2004). However the healthcare professionals working in courts report that judges do not adhere to this article (Nalbant, 2012). In sum, although there are progressive steps taken (e.g. the foundation of the juvenile police and the juvenile courts) Turkey needs many more improvements with respect to interviewing children in legal settings. One of the keys to success is the training of the legal professionals (i.e. the prosecutors and the judges) working with children.

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