

## **Challenges in Conducting Child Sexual Abuse Assessments**

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### **Introduction**

With the increasing awareness in Irish society of child sexual abuse and the accompanying increase in reports to both civil and criminal authorities of such crimes, the challenges involved in eliciting reliable information from children that can be used to inform decision-making, both in the child protection context and in the context of prosecuting such crimes, has become more evident. This article discusses the challenges of interviewing children when there are concerns about child sexual abuse. To set the context, it is important to understand that disclosing sexual abuse experiences is difficult, not just for children but also for adults. The article will, therefore, begin by outlining some of the research that highlights the prevalence of delays in disclosing sexual abuse, taking account of what is known about the prevalence of sexual abuse across Europe. The process of evaluating children's disclosures, when a concern arises that a child may have been sexually abused, will then be described. Society continues to rely heavily on children's statements in order to intervene from a child protective, mental health or legal perspective. While many argue that this places an unfair burden on children, it is in the very nature of sexual abuse that such experiences take place for the most part in secret, between two people, at least one of whom (the more powerful one) does not want it to be discovered. The child is often the only person willing to impart the information needed to effectively intervene, and yet the child can be just as reluctant as the abuser to disclose the abuse.

The majority of cases of child sexual abuse are not known about by official agencies in any European country.<sup>1</sup> Differing definitions and methodologies make it difficult to suggest overall prevalence figures. Nevertheless, based on the information we have available, prevalence rates for penetrative child sexual abuse are higher for girls, ranging from: 2.9 per cent to 10.5 per cent (Sweden); 3 per cent (UK); 4.9 per cent (Turkey); 5.6 per cent (Ireland); and 7.8 per cent (Greenland). For boys, they range from: 0.6 per cent to 5.5 per cent (Sweden); 1 per cent (UK); 2.7 per cent (Ireland); and 3.2 per cent (Greenland).

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<sup>1</sup> C. May-Chahal & M. Herczog, *Child Sexual Abuse in Europe* (Strasbourg: Council of Europe Publishing, 2003), p.10.

Broader definitions of contact sexual abuse for girls range from: 10 per cent (UK); 11.3 per cent (Turkey); 13.9 per cent (Sweden); 15.8 per cent (Denmark); 19 per cent (Spain); 20.4 per cent (Ireland); and 39.8 per cent (Switzerland). For boys, they range from 6 per cent (UK); 6.7 per cent (Denmark); 15.2 per cent (Sweden); 15.5 per cent (Spain); and 16.2 per cent (Ireland).<sup>2</sup>

### **Delays in Disclosure**

An issue of increasing concern in recent years is the phenomenon of delayed disclosure of childhood sexual abuse, given the implications for child protection, social justice and mental health outcomes.

There is consensus in the research literature that most people who experience sexual abuse in childhood do not disclose this abuse until adulthood, and when disclosure does occur in childhood, significant delays are common. The research to date on disclosure patterns is based on two sampling methodologies—studies of adults reporting retrospective experiences, and studies of children. The former group of studies has the benefit of drawing on large-scale national probability samples which can be considered to be representative of the general population. The latter group, with some small exceptions (predominantly adolescent studies), use samples of young people who have disclosed sexual abuse but would not be considered as representative of all children who have been abused: "... children who decide to tell someone about being sexually abused and whose cases therefore come to court are not representative of sexually abused children in general."<sup>3</sup>

Survey studies of adults have revealed significant delays in disclosing and highlighted the proportions of adults who report childhood experiences of sexual abuse that have never been disclosed prior to being asked in a survey. Smith et al.<sup>4</sup> examined a sub-sample (n=288) of women from the National Women's Study in the U.S.,<sup>5</sup> who had reported a childhood rape prior to the age of 18. Smith et al.'s findings can be summarised as follows: immediate disclosure (within one month)—27 per cent; delayed disclosure (more than a month)—58 per cent; and non-disclosure (disclosed during survey only)—28 per cent.

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<sup>2</sup> K. Lalor & R. McElvaney, "Overview of the Nature and Extent of Child Sexual Abuse in Europe" in *Protecting Children from Sexual Violence: A Comprehensive Approach* (Strasbourg: Council of Europe, 2011).

<sup>3</sup> E. Olafson & C.S. Lederman, "The State of the Debate about Children's Disclosure Patterns in Child Sexual Abuse Cases" (2006) 57(1) *Juvenile and Family Court Journal* 27 at 29.

<sup>4</sup> D.W. Smith, E.J. Letourneau, B.E. Saunders, D.G. Kilpatrick, H.S. Resnick & C.L. Best, "Delay in Disclosure of Childhood Rape: Results from a National Survey" (2000) 24 *Child Abuse & Neglect* 273.

<sup>5</sup> Resnick et al. (1993), cited in Smith et al., fn.4 above. H.S. Resnick, D.G. Kilpatrick, B.S. Dansky, B.E. Saunders, & C.L. Best, 1993. "Prevalence of civilian trauma and posttraumatic stress disorder in representative national sample of women" (1993) 61 *Journal of Consulting and Clinical Psychology* 984.

McGee et al.<sup>6</sup> conducted a telephone survey of 3,118 adults in Ireland and found that 47 per cent of those respondents who had experienced some form of sexual assault prior to the age of 17 had told no one of this experience until the survey. Smaller studies have explored the extent of the delay in disclosing. A Swedish study of 122 women who had experienced childhood sexual abuse<sup>7</sup> found that 32 per cent disclosed during childhood (before the age of 18), while the majority told in adulthood (68 per cent). The delay was up to 49 years, with an average of 21 years (SD = 12.9). Of those who told in childhood, 59 per cent told only one person. McElvaney<sup>8</sup> investigated delay in a legal sample of 10 adults who had made formal complaints of childhood sexual abuse in Ireland and found delays ranging from 20 years to 50 years.

Large-scale studies of adolescents have also found significant delays in disclosure and alarming rates of non-disclosure prior to the survey. Kogan<sup>9</sup> examined the timing of disclosure of unwanted sexual experiences in childhood or adolescence in a sub-sample (n=263) of adolescent women, aged 12 to 17, from the National Survey of Adolescents in the U.S.<sup>10</sup>—a nationally representative study. Kogan’s results can be summarised as follows: immediate disclosure (within 1 month)—43 per cent; delayed disclosure (less than one year)—31 per cent; and non-disclosure (disclosed during survey only)—26 per cent. In Sweden, Priebe and Svedin<sup>11</sup> conducted a national survey of 4,339 adolescents, of whom 1,962 reported some form of sexual abuse (65 per cent of girls and 23 per cent of boys). Details of the time lapse in disclosing was not available from this study. However, of those who had disclosed and answered the questions on disclosure (n= 1,493), 59.5 per cent had told no-one of their experiences prior to the survey. Of those who did disclose, 80.5 per cent mentioned a “friend of my own age” as the only person they had told. In this study, 6.8 per cent had reported their experiences to social authorities or police.

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<sup>6</sup> H. McGee, R. Garavan, M. de Barra, J. Byrne & R. Conroy, *The SAVI Report: Sexual Abuse and Violence in Ireland* (Dublin: The Liffey Press, 2002).

<sup>7</sup> Jonson & Lindblad (2004).E. Jonson & F.. Lindblad 2004. “Disclosure, reactions and social support: Findings from a sample of adult victims of child sexual abuse”. 9 (2) *Child Maltreatment* 190.

<sup>8</sup> R. McElvaney, “Delays in Reporting Childhood Sexual Abuse and Implications for Legal Proceedings” in D.P. Farrington, C.R. Hollin & M. McMurrin (eds), *Sex and Violence: The Psychology of Crime and Risk Assessment* (London: Routledge, 2002), p.138.

<sup>9</sup> S.M. Kogan, “Disclosing Unwanted Sexual Experiences: Results from a National Sample of Adolescent Women” (2004) 28(2) *Child Abuse & Neglect* 147.

<sup>10</sup> Kilpatrick & Saunders D.G. Kilpatrick & B.E. Saunders . *The National Survey of Adolescents in the United States* [Computer File]. Medical University of South Carolina [producer], 1999. Inter-university Consortium for Political and Social Research [distributor], 2000 Ann Arbor, MI.

<sup>11</sup> G. Priebe & C. Svedin, “Prevalence, Characteristics and Associations of Sexual Abuse with Sociodemographics and Consensual Sex in a Population-Based Sample of Swedish Adolescents (2009) 18(1) *Journal of Child Sexual Abuse* 19.

Studies of children in the context of forensic/investigative interviews where children are interviewed by professionals due to concerns that the child has been sexually abused also point to high non-disclosure rates, particularly striking in cases where there is corroborative evidence that abuse has occurred—medical evidence,<sup>12</sup> confessions from the abuser, or video-taped evidence/witness reports.<sup>13</sup> Lyon<sup>14</sup> reported his findings from a review of studies published between 1965 and 1993 of children diagnosed with gonorrhoea where the average disclosure rate among 579 children was 43 per cent (n=250).

Finally, studies of children involved in legal proceedings have also contributed to the knowledge base on delays in disclosure. Goodman-Brown et al.<sup>15</sup> examined U.S. district attorney files of 218 children. Their categories were slightly different from the previous studies noted above, but, in summary, immediate disclosers (within one month) constituted 64 per cent of the sample while 29 per cent disclosed within six months. This study is unusual insofar as the sample studied had reported their experience of abuse to the authorities and a prosecution was in progress. Goodman-Brown et al. also pointed out that families who participated in this study were more likely to represent those children who experienced abuse by someone outside the family. Research has found that delays in disclosure are longer for those abused within the family.<sup>16</sup> Therefore, children who disclose more promptly may be overrepresented in legal samples.

### **Child Sexual Abuse Assessments in Ireland**

Figures from 2007 to 2011 show a progressive increase each year in Ireland in reports to the statutory child protection agency—the Health Service Executive (HSE)—of concerns that a child has been sexually abused, despite some evidence from the US and Australia that sexual abuse reports are on the decline. In 2011, 3,326 children were referred to the HSE reporting concerns of sexual abuse, an increase of 12 per cent from the previous year.<sup>17</sup> A proportion of these referrals are dealt with by local social work services and may not indicate the need for a formal child sexual abuse assessment. Typically,

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<sup>12</sup> T.D. Lyon, “False denials: Overcoming Methodological Biases in Abuse Disclosure Research” in M. Pipe, M. Lamb, Y. Orbach & A. Cederborg (eds), *Child Sexual Abuse: Disclosure, Delay and Denial* (London: Lawrence Erlbaum Associates, 2007), p.41.

<sup>13</sup> R.L. Sjöberg & F. Lindblad, Limited Disclosure of Sexual Abuse in Children whose Experiences were Documented by Videotape (2002) 159 *The American Journal of Psychiatry* 312.

<sup>14</sup> See fn.12 above.

<sup>15</sup> T.B. Goodman-Brown, R.S. Edelstein, G.S. Goodman, D.P. Jones & D.S. Gordon, “Why Children Tell: A Model of Children’s Disclosure of Sexual Abuse” (2003) 27(5) *Child Abuse & Neglect* 525.

<sup>16</sup> T.B. Goodman-Brown et al., fn.15 above; I. Hershkowitz, Y. Orbach, M.E. Lamb, K.J. Sternberg & D. Horowitz, “Dynamics of Forensic Interviews with Suspected Abuse Victims Who do not Disclose” (2006) 30 *Child Abuse & Neglect* 753; R.L. Sjöberg & F. Lindblad, fn.13 above; and S.M. Kogan, fn.9 above.

<sup>17</sup> Health Service Executive, *Review of Adequacy for HSE Children and Family Services* (Dublin: HSE, 2011).

assessments are conducted by multi-disciplinary teams whereby a pair of professionals will take responsibility for interviewing parents and the child (separately) and preparing a report on the basis of the assessment, offering an opinion as to the credibility of the child's account, and identifying any therapeutic needs that may have been identified in the assessment. The parents are interviewed first, and asked to give an account of both the developmental history of the child and the concerns that led to the referral. The child is then interviewed, typically by one of the professionals while the other professional sits behind a one-way mirror and records the interview, intervening when the need arises with suggestions or feedback on the interview. Children may be seen for 2–3 interviews. The process of conducting these interviews is informed by international best practice guidelines.<sup>18</sup> Such guidelines have been developed for the purpose of forensic interviews where the video-taped recording of the child's interview may be used as the child's statement and is admissible in court as direct evidence. They do, however, prove useful in conducting assessment where the primary purpose of the assessment is to inform decision-making in child protection proceedings.

In Ireland, s.16(1)(b) of the Criminal Evidence Act 1992 allows the video-recording of Garda specialist interviewers' interviews with children up to 14 years of age to be admissible in court proceedings for evidential purposes. This provision affords protection to children to avoid the need for providing live evidence unless specifically directed by the court. The legislation allows for any competent person to conduct this interview, but since its commencement in October 2008, these interviews have been primarily conducted by Gardaí. There is a protocol in place between the HSE Children and Family Services and An Garda Síochána relating to the training and conducting of interviews and specialist interview suites have been set up throughout the country. A number of social workers and Gardaí have undertaken training in relation to how these interviews are to be conducted, in line with the international best practice guidelines referred to above. A protocol has been developed to guide the conduct of such interviews—*Good Practice Guidelines*.<sup>19</sup> A review of practice in 2011 highlighted difficulties in implementing this protocol, in particular, the need for clarity of the roles of Gardaí and social workers in the process.

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<sup>18</sup> American Professional Society on the Abuse of Children (APSAC), *Guidelines for Psychosocial Evaluation of Suspected Sexual Abuse in Young Children* (Chicago, Illinois: APSAC, 1999) ; Home Office, *Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses, Including Children* (London: Her Majesty's Stationery Office, 2000); and the *National Institute of Child Health and Human Development (NICHD) protocol*, discussed in Y. Orbach, I. Hershkowitz, M.E. Lamb, K.J. Sternberg, P.W. Esplin & D. Horowitz, "Assessing the Value of Structured Protocols for Forensic Interviews of Alleged Abuse Victims" (2000) 24 *Child Abuse & Neglect* 733.

<sup>19</sup> An Garda Síochána, *Good Practice Guidelines* (Dublin: An Garda Síochána 2003).

The HSE, under the Child Care Act 1991, has an obligation to ensure children are protected. Mental health professionals are concerned about the psychological impact of experiences of sexual abuse—early intervention is deemed to be most effective in ameliorating any negative consequences for the child and family. Before child protection and mental health professionals can intervene to support a child and family, it is necessary to establish whether the child has been sexually abused and investigate the level of risk that may pertain to other children with whom the alleged abuser has contact. Specialist multi-disciplinary units and teams throughout the country assess children’s allegations through interviewing parents and children, and an opinion is offered at the conclusion of this assessment as to the credibility of the allegation. These opinions inform decision-making processes that strive to protect children deemed to be at risk and provide therapeutic interventions for these children and families where indicated.

The Community Child Centre (CCC) in Waterford is one such specialist unit providing these assessments to a catchment area covering the counties of Waterford, Wexford, Carlow, Kilkenny and South Tipperary. The CCC publishes its annual report each year showing details of numbers of referrals, types of referrals, and outcomes of assessments, among other indices. The 2011 report shows that the service received 160 referrals in 2011, 120 of which attended. For the most part, children ranged in age from 3 to 17 years. Five children under the age of three were seen, and a 21-year-old adult with intellectual disability was seen. Eighty-three (70 per cent) of the children seen had made some form of direct disclosure prior to referral and this was the reason for referral. Thirty-nine (32.5 per cent) were referred due to a concern about sexualised behavior, while 22 (18 per cent) were seen because they were in contact with a known alleged abuser. Other reasons for referral included: initiating sexual behavior with another child (eight); concern regarding medical findings (five); other behavioural indicators (two); and disclosure by the abuser (one). With regard to the outcome of the assessment, 21 (29 per cent) were deemed to have given a credible account of sexual abuse. Of these, six (21 per cent) gave an account of penetrative abuse, 17 (58 per cent) gave an account of non-penetrative abuse, and six (21 per cent) gave an account of non-contact abuse. Eighteen per cent were deemed to be inconclusive insofar as the child’s statement did not meet the criteria for a credible account but concerns remained that the child may have been abused. Twenty-four per cent of the children offered accounts that were not deemed to constitute sexual abuse, i.e. the opinion was that these children were not sexually abused, while a further 4 per cent were considered unable to be assessed, usually due to young age. The practice in the CCC is to screen children under five years of age to evaluate whether they are competent to engage in a

formal assessment. Nine per cent of the assessments were incomplete. Finally, 24 per cent were seen for medical evaluation only.

An analysis of the three main categories—confirmed abuse, confirmed non-abuse and unconfirmed—confined to those children who attended for a full assessment (i.e. excluding those who attended for medical only), indicates that the percentages reflected are 27 per cent (confirmed), 31 per cent (confirmed non-abuse), and 23 per cent (inconclusive). Fifty-two per cent of the alleged abusers in the confirmed cases were family members. In all, 93 children were seen for medical examination. Sixty-four per cent (60) children had normal ano-genital findings, while 35 per cent (33) had abnormal findings.

### **International Guidelines for Interviewing Children**

International guidelines have been developed over the past 20 years in an attempt to both standardise and develop best practice in interviewing children where there are concerns that the child has been subjected to child maltreatment. APSAC<sup>20</sup> developed a series of guidelines to inform practice in this area in the U.S. In the U.K., the Home Office developed similar guidelines, the most recent of which is *Achieving Best Evidence*.<sup>21</sup> The NICHD protocol<sup>22</sup> was developed in the U.S. as operational guidelines in response to the realisation that professional interviewers showed difficulty in adhering to practice guidelines. Drawing on the work of previous protocols and, in particular, research on the efficacy of questioning styles, the NICHD protocol consists of progressive phases of the interview, moving from open-ended questioning style to more closed questions when seeking clarification details.

In the introductory phase of the interview, the interview is explained, in particular: the need for the child to provide as much detail as he or she can; the importance of telling the truth; and the need for the child to indicate if, at any time a question is asked, that he or she does not understand the question. The child is typically asked to say “I don’t know”, or correct the interviewer if the interviewer misunderstands something the child says, and this is often demonstrated by the interviewer checking that the child understands this instruction. A rapport-building phase is designed to help the child settle into the interview situation and to begin to build a relationship with the interviewer. Research has shown that children who are distressed during an interview are more likely to remember more details if

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<sup>20</sup> See fn.18 above.

<sup>21</sup> See fn.18 above.

<sup>22</sup> See fn.18 above.



the interviewer is warm and supportive.<sup>23</sup> The child may be asked questions about his or her hobbies, or a recent social gathering. If a child has difficulty thinking of something, the interviewer may draw on some of the history provided by the parents. The child is asked to relay a recent event. This serves many purposes. The interviewer can gauge how good a story teller the child is, how much detail he or she is able to provide in a free narrative, and whether the information provided by the child matches information already provided by the parents, where relevant. The child is inducted into the communication of the interview. He or she is the informant. The interviewer has the opportunity to use prompts that will introduce the child to how the interview will be conducted, and the child has the opportunity to adapt to this style of conversation. This type of introduction has been found to significantly increase the number of details given by the child in a free-recall manner.<sup>24</sup>

The interview then moves on to discussing the target event or experiences. This may be introduced by the child or by the interviewer: if by the interviewer, all efforts are made to set the scene in as open a way as possible. If, for instance, the incident took place in the home when a relative was staying, the child may be asked to name all the people living in his or her house and to say something about them. If it took place at a family event, the child may be prompted to tell the interviewer about the event. When the child begins to discuss the alleged abuse experience, the interviewer then progresses into the “free recall” phase of the interview, where the child is invited to tell the interviewer everything that happened, from beginning to end, as best he or she can. “Tell me everything about a [person/object/action/time/location]. Thus, developmentally appropriate strategies are used to structure simple and organised prompts that facilitate the use of simple prompts, particularly recall prompts. Follow-up questions can encourage more free narrative, e.g. “Tell me everything that happened after you got your gifts until the others went home”.<sup>25</sup>

This is followed by additional recall and cued-recall prompts that are used to elicit more detail about the alleged incident. When the interviewer judges that the free-recall phase has been exhausted, more directive questioning styles are used to clarify details such as When? Where? Who? What? Suggestive questioning, whereby an expected answer to the question is contained within the question, are avoided at all times (e.g. you didn’t want to, did you?). Closed questions may be necessary for clarification. It is

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<sup>23</sup> A.J. Quas, A. Bauer & W.T. Boyce, *Physiological Reactivity, Social Support, and Memory in Early Childhood* (2004) 75 *Child Development* 797.

<sup>24</sup> K.J. Sternberg, M.E. Lamb, I. Hershkowitz, L. Yudilevitch, Y. Orbach, P.W. Esplin et al., “Effects of Introductory Style on Children's Abilities to Describe Experiences of Sexual Abuse” (1997) 21 *Child Abuse & Neglect* 1133.

<sup>25</sup> J.M. Hagborg, L.A. Stromwall & I. Tidefors, “Prosecution Rate and Quality of the Investigative Interview in Child Sexual Abuse Cases” (2012) 9 *Journal of Investigative Psychology and Offender Profiling* 161.



recommended that such questions be followed by an open question, e.g. “Did he touch you in the bedroom?” can be followed by “Tell me everything about that”. This technique can minimise the reliance on recognition memory.<sup>26</sup>

In addition to eliciting information about the child’s account of an alleged experience of abuse, the child sexual abuse assessment process typically tests this information through a consideration of a number of hypothesis-testing mechanisms. This is to explore whether there is an alternative explanation for what the child has described. Thus, the information provided by the child is “tested” to facilitate the assessment team in forming an opinion as to credibility. Finally, an assessment of therapeutic need is conducted so that recommendations may be made for intervention, where indicated.

The NICHD protocol has been criticised by many in the field. Its structured, inflexible nature is deemed, some argue, to be more suited to children who are in the “active” phase of disclosure, i.e. they have already verbally disclosed their experience and are ready to give a full, reliable and credible account if questioned in an appropriate manner, and that it is less suited to children who are reluctant to talk, children who have recanted, very young children, and children with developmental disorders.<sup>27</sup> The developers of the protocol have themselves acknowledged that “it does not really focus on ways of overcoming reluctance to disclose abuse, and the version of the protocol designed for interviews with suspected victims who would rather not talk has yet to be validated”.<sup>28</sup> In particular, they acknowledge that special techniques may be needed for interviewing children and adults with learning, communicative or intellectual difficulties—a population not only more vulnerable to abuse but also “less likely to benefit from effective intervention or justice in court”.<sup>29</sup> Extended forensic evaluations have been developed in the U.S. for children who have undergone a forensic evaluation but where concerns remain that the child has been sexually abused. There is an increasing body of evidence supporting extended assessments as a promising development.<sup>30</sup>

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<sup>26</sup> M.E. Lamb, K.J. Sternberg & P.W. Esplin, “Making Children into Competent Witnesses” (1995) 1 *Psychology, Public Policy, and Law* 438.

<sup>27</sup> E. Olafson & C.S. Lederman “The State of the Debate about Children’s Disclosure Patterns in Child Sexual Abuse Cases” (2006) 57 (1) *Juvenile and Family Court Journal* 27

<sup>28</sup> M.E. Lamb, I. Hershkowitz, Y. Orbach & P.W. Esplin, *Tell Me What Happened: Structured Investigative Interviews of Child Victims and Witnesses* (Chichester: John Wiley & Sons Ltd., 2008), p.282.

<sup>29</sup> See fn.28 above.

<sup>30</sup> K.C. Faller, L. Cordisco-Steele & D. Nelson-Gardell, “Allegations of Sexual Abuse of a Child: What to do When a Single Forensic Interview isn’t Enough” (2010) 19 *Journal of Child Sexual Abuse* 572; I. Hershkowitz & A. Turner, “The Effects of Repeated Interviewing on Children’s Forensic Statements of Sexual Abuse” (2007) 31 *Applied Cognitive Psychology* 1131; and D. La Rooy, M. Lamb, M.E. Pipe, “Repeated Interviewing: A Critical Evaluation of

## Questioning Children about Their Experiences: Some Challenges

Consider this study: Saywitz et al.<sup>31</sup> examined 72 five- and seven-year-old girls' memories of a pediatric examination. For half of the girls, the examination included genital touch, and for the other half, the examiner substituted an examination for scoliosis. When asked free-recall questions about the event one-month afterward, 22 per cent of the girls who had been touched mentioned vaginal touch, and none of the girls who had not been touched did so. When asked a direct question about genital touch with the aid of an anatomically correct doll ("Did that doctor touch you there?", while pointing to the doll's vagina<sup>32</sup>), 86 per cent of the girls who had been touched acknowledged genital touch, and 3 per cent of the girls who had not been touched falsely claimed that they had.

This study has been used for many years as support for the position that a spontaneous account of a sexual abuse experience by a child, in response to a very general question about interaction with a person, is strong evidence of sexual abuse having occurred. However, it also highlights two other dilemmas: (1) in response to more direct questioning, 14 per cent of children who had experienced genital touch continued to deny this; and (2) just as worrying, 3 per cent of children disclosed an experience that never happened.

In our everyday conversations with children we instinctively help children in ways that we are unaware of. We do what is referred to in the literature as "scaffolding", that is, we provide structure and support to enable a child tell us a story about what happened to her today in school. Following on from a question about what kind of day she had in school, we might ask about how it was in the school yard. If she had homework last night on a particular area, we might ask her how she got on in class with her homework. Was it ok? Did the teacher say anything about it? Did the teacher like the drawing she did? We ask what in professional interviewing is termed a lot of leading questions. We do this to help the child to know what we are asking her about. In professional interviews, we have to constantly be alert to this type of conversation. The balance needs to be struck between providing the child with sufficient scaffolding so that she knows what we are talking about and not too much that is going to influence her responses. In survey design, we anchor questions to help the respondent focus his or her concentration,

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Risks and Benefits" in K. Kuehne & M. Connell (eds), *The Evaluation of Child Sexual Abuse Allegations: A Comprehensive Guide to Assessment* (Hoboken, N.J.: John Wiley & Sons, 2009), p.327.

<sup>31</sup> K.J. Saywitz, G.S. Goodman, G. Nicholas & S. Moan, "Children's Memory of a Physical Examination Involving Genital Touch: Implications for Reports of Child Sexual Abuse (1991) 5 *Journal of Consulting and Clinical Psychology* 682.

<sup>32</sup> K.J. Saywitz et al., fn.31 above, p.684.

improve his or her recall and elicit more detailed and more accurate information. So too in interviews, it is necessary to anchor the conversation for the child. Leaving questions too open results in the interviewer not being able to elicit information; leaving them too closed results in inaccurate and limited detail provided by the child.

With the introduction of standardised interview practices, research examining such interviews in detail has been possible. Interviewing practices, in particular interviewing styles, have come under scrutiny. Such research has revealed interesting findings that can enhance practice and improve the reliability of children's accounts, thus, in turn, assisting the successful prosecution of offences. Examples of these include the use of multi-part prompts in questioning children and the use of closed questioning styles.

### *Multi-part prompts*

These are questions that contain two or more simultaneous demands for information, e.g.: "Tell me everything about how he caught you? When did it happen?"<sup>33</sup> Children as they grow older develop the cognitive skills to deal with multi-part prompts. However, even adults struggle with such prompts yet they are commonly used in everyday conversations. A husband comes home from work and asks his wife: "Did you ring the electricity board today? What's the story with the connection fee? Did they make a mistake?" To answer this fully, his wife would need to say: "No, I don't know, I don't know I didn't ring them"—or a simple "no" would probably suffice. Or she might need to say: "Yes, they're going to get back to me and I don't know if they made a mistake or not." Adults and older children generally manage these multi-part prompts by responding to the key prompt, the one that captures the response best. But, for the most part, people are aware of these multiple prompts and might even feel irritated by them. One might respond: "Well if you ask me one question at a time I might be able to answer you!" However, we know from research that: (a) children develop this skill as they get older, and so younger children struggle more with them; (b) children are for the most part unaware of them; and (c) use of them results in inaccurate and limited detail. Studies have investigated the effect of multi-part prompts by randomly assigning children to two groups: one where children were given a single prompt and the other where children were given multi-part prompts. Children interviewed using single prompts were more accurate than those given multi-part prompts regardless of age, being equally observed for children aged 3–4, 5–7, and older children up to 19 years of age. Of concern is that: the children were not aware of the prompts; they answered all questions; they didn't comment on lack of understanding;

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<sup>33</sup> C. Katz & I. Hershkowitz, "The Effect of Multipart Prompts on Children's Testimonies in Sexual Abuse Investigations" (2012) 36 (11-12) *Child Abuse & Neglect* 753.

and they even said that the questions were easy when they got them wrong. Part of the problem here is children's eagerness to be seen as competent interviewees—their need for approval.

There is evidence that children's abilities to be aware of the difficulty in multi-part prompts develops with age. Also it has been shown that when children are warned that questions are going to be difficult, and when they are trained to indicate that they have difficulty understanding questions, they respond more competently.

Nevertheless, studies have been conducted showing that trained interviewers use a lot of multi-part prompts in their questioning of children. Katz and Hershkowitz<sup>34</sup> examined interviews of children in Israel and found a high prevalence of use of multi-part prompts. Children produced a lower number of words in response to multi-part prompts as compared to single prompts; older children (7–9 years) produced more words than younger children (4–6 years). The number of central details (as compared with peripheral details) declined in response to multi-part prompts. Children were more likely to respond to the last demand and rarely answered both demands or asked for clarification. In exploring the extent to which questioning styles affected the richness and quality of the children's testimonies, the authors found that interviewers are typically unaware of children's cognitive limitations and their inability to process multiple prompts. The average response to multi-part prompts was shorter and contained fewer forensic details compared with the responses to simple prompts. Moreover, the results showed that multi-part prompts were especially harmful to the children's ability to provide central information that describes core elements. Previous research conducted by Waterman, Blades and Spencer<sup>35</sup> found that children will attempt to answer any question, even if it is unintelligible, thus reinforcing the danger of asking multi-prompt questions.

### *Direct Questioning Styles*

The more pressure is put on "reluctant disclosers" in investigative interviews, the more likely they are to give less detailed and less reliable information. Hershkowitz et al.<sup>36</sup> examined interviews of 100 children in Israel where there was strong independent evidence of abuse. The children (4–13-year-olds) were

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<sup>34</sup> See fn.33 above.

<sup>35</sup> A.H. Waterman, M. Blades & C.P. Spencer, C. P., "Do Children Try to Answer Nonsensical Questions?" (2000) 18 *British Journal of Developmental Psychology* 211; "Interviewing Children and Adults: The Effect of Question Format on the Tendency to Speculate" (2001) 15 *Applied Cognitive Psychology* 521; and "Indicating When You do not Know the Answer: The Effect of Question Format and Interviewer Knowledge on Children's 'don't know' Responses" (2004) 22 *British Journal of Developmental Psychology* 335.

<sup>36</sup> I. Hershkowitz et al., fn.16 above.

interviewed using the NICHD Protocol. Half of the children denied having been abused. The researchers found significant differences in the dynamics of interviews with disclosing children and non-disclosing children. Interviewers interviewing the non-disclosing children adhered less to the guidelines, provided less support to children during the rapport-building phase, and used fewer open-ended free-recall prompts in the pre-substantive phase (before the substantive issues are introduced). The children's behaviour also differed. Non-disclosing children were less co-operative in the early phase of the interview and this predicted whether they made allegations later in the interview. This finding has significant implications for practice: if reluctant disclosers can be identified early in the interview, increased support can be offered which may help the child to disclose. A further study<sup>37</sup> examined non-verbal behaviour and found that non-disclosers were more likely to show signs of physical disengagement (e.g. looking/turning away, covering face) and this predicted whether they made a disclosure later in the interview.

### Concerns with False Positives

Traditionally there has been more focus on conducting research that scrutinises the phenomenon of what we refer to as "false positives" as distinct from "false negatives". Criticisms of a recent publication by Kuehnle and Connell<sup>38</sup> on child sexual abuse evaluations refer to the greater emphasis placed on *specificity* (assuring that children are not mistakenly identified as sexual abuse victims when they are not) than on *sensitivity* (assuring that true victims of sexual abuse are identified and not missed), or what we term "false negatives".<sup>39</sup> These authors note that there should be equal concern regarding false positives as false negatives in developing best practice in this area. The empirical evidence is clear that unidentified and mistakenly unsubstantiated cases of sexual abuse are likely much more frequent than false substantiations of untrue cases.<sup>40</sup> Lyon et al.<sup>41</sup> refer to the confusion between evaluating the

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<sup>37</sup> C. Katz, I. Hershkowitz, L. Malloy, M.E. Lamb, A. Atabakia & S. Spindle, "Non-Verbal Behavior of Children Who Disclose or do not Disclose Child Abuse in Investigative Interviews" (2012) 36 *Child Abuse & Neglect* 12.

<sup>38</sup> K. Kuehnle & M. Connell, *The Evaluation of Child Sexual Abuse Allegations: A Comprehensive Guide to Assessment* (Hoboken, N.J.: Wiley, 2009).

<sup>39</sup> K.C. Faller & M. Everson, "Contested Issues in the Evaluation of Child Sexual Abuse Allegations: Why Consensus on Best Practice Remains Elusive" (2012) 21 *Journal of Child Sexual Abuse* 3.

<sup>40</sup> A. Cederborg, M. Lamb & O. Laurell, "Delay of Disclosure, Minimization, and Denial of Abuse When the Evidence is Unambiguous: A Multivictim Case" in M. Pipe, M. Lamb, Y. Orbach, & A. Cederborg (eds), *Child Sexual Abuse: Disclosure, Delay and Denial* (London: Laurence Earlbaum Associates, 2007), p.159; I. Hershkowitz et al., fn.16 above; K. London, M. Bruck, S. Ceci & D. Shuman, "Disclosure of Child Sexual Abuse: What Does the Research Tell Us About How Children Tell?" (2005) 11 *Psychology, Public Policy, and the Law* 194; L. Sas & A. Cunningham, *Tipping the Balance to Tell the Secret: The Public Discovery of Child Sexual Abuse* (London, UK; Ontario, Canada: London Court Clinic, 1995).

probability of abuse given disclosure, and the probability of disclosure given abuse. Children are referred for assessment due to a concern that they have been abused. Most children do not disclose immediately. A disclosure of abuse is, therefore, significant in a child where there are concerns regarding abuse. Non-disclosure in such contexts should not, Lyon argues, be regarded as synonymous with “no sexual abuse”.

### **Involvement in Legal Processes**

Despite some attempts at co-operation between the child protection system and the police services in Ireland, “joint interviewing” continues to be an aspiration rather than a reality. The establishment of the specialist child sexual abuse units in 1987 was predicated on an assumption that joint interviewing would be the norm and that the assessments that would take place in these units could be used in evidence to spare children the experience of multiple interviews where a formal complaint is made. However, in the absence of a national agreement between the child protection and law enforcement agencies, practice throughout the years has varied, with some assessments being observed by Gardaí to assist in decision-making processes. However, these assessments have never been used as direct evidence. Where a formal complaint was made, the Gardaí conducted independent interviews with children as part of the criminal investigation. Since the implementation of s.16(1)(b) of the Criminal Evidence Act 1992, Garda specialist interviewers have been interviewing children under 14 years of age for the purposes of criminal investigation. However, not all families wish to make a formal complaint to the Gardaí. The interview protocol used by the Gardaí, based on structured interview protocols discussed above, is not well suited to younger children and children who are reluctant to disclose. The focus of such interviews is the gathering of evidence, not the assessment of credibility that could assist with child protection concerns or mental health concerns. The majority of children who are referred to the HSE due to concerns of a sexual abuse nature will, therefore, be unlikely to avail of the Garda specialist interviews. However, it is hoped that the provision of such a facility will encourage families to make formal complaints and engage with the criminal justice system. For those children who are interviewed under this legislation, multiple interviews continue to be a feature as concerns may still need to be investigated by the statutory child protection agency.

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<sup>41</sup> T.D. Lyon, E.C. Ahern & N. Scurich, “Diagnostic Utility of the Alleged Child Victim’s Disclosure Statement and Behavior Symptoms: Interviewing Children Versus Tossing Coins: Accurately Assessing the Diagnosticity of Children’s Disclosures of Abuse” (2012) 21 *Journal of Child Sexual Abuse* 19.

Reports from child sexual abuse assessments have been used to assist the DPP in the decision-making process as to whether to proceed with a prosecution. The assessments have also been used to inform a later assessment of psychological impact for the purpose of preparing a victim impact statement. Historically, the use of such assessments in court has been primarily confined to the family courts to facilitate decisions regarding HSE applications for supervision or care orders or custody/access disputes between separated parents. It is in this context that giving expert witness testimony arises for professionals who conduct such assessments.

Reporting rates of child sexual abuse to the Gardaí in Ireland is low. The Garda Síochána Annual Report for 2011 noted a decrease of 14 per cent, to 2,052, in reporting of sexual offences (statistics are not held separately for adults and children). This is despite the Dublin Rape Crisis Centre reporting its highest figures in nine years for clients attending who report childhood sexual abuse,<sup>42</sup> the publication in recent years of several enquiries into sexual abuse, and progressive increases in the numbers of referrals of sexual abuse concerns to the HSE child protection services. The One in Four organisation provides an advocacy service that includes court accompaniment. Unfortunately, the experiences of these clients does not encourage further reporting of such crimes—“clients whose cases went to court described that experience as humiliating, intimidating and traumatic”.<sup>43</sup> The establishment of Children’s Advocacy Centres (CACs) in the U.S. and in some European countries has gone some way to bringing together key professionals from child protection, mental health, law enforcement and state prosecution to enhance the experience of children telling their stories and, in so doing, to improve the efficiency and effectiveness of dealing with child sexual abuse as a crime.

Concerns that engagement with the legal system will lead to further psychological trauma need to be considered. A prospective longitudinal study conducted by Quas et al.<sup>44</sup> indicated that the consequences of legal involvement change over the course of development and as a function of the child’s reactions to, and experiences during, the legal case. The associations between legal involvement and outcomes varied with age. The authors suggest that although younger children may be at increased risk for some adverse outcomes such as mental health problems, older children may be at increased risk for other

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<sup>42</sup> Dublin Rape Crisis Centre, *Annual Report 2011* (Dublin: Dublin Rape Crisis Centre).

<sup>43</sup> One in Four, *Annual Report 2011* (Dublin: One in Four), p.3.

<sup>44</sup> A.J. Quas, A. Bauer & W.T. Boyce, “Physiological Reactivity, Social Support, and Memory in Early Childhood (2004) 75 *Child Development* 797.



undesirable sequelae such as the negative attitudes of others towards them. Quas and Goodman's recent review<sup>45</sup> notes that older children are more at risk in developing poor mental health outcomes.

## **Conclusion**

This article has outlined the challenges facing society in developing adequate and appropriate responses to relation to children when sexual abuse experiences are disclosed. Given the prevalence of child sexual abuse and the reluctance of children to disclose these experiences, the challenges of creating a society where children's voices are heard may appear insurmountable. Yet thousands of professionals are in a position to facilitate children's journeys to speak out and seek help. The first set of challenges is to enable children to seek help. The second set is to be able to respond to children when they do speak out. Children need encouragement to be able to talk about sexual abuse experiences when they occur. Effective responses do need to take account of sexual abuse as a crime. However, the criminal justice process is slow, the adversarial nature of it is arguably unsuited to dealing with such sensitive issues as sexual abuse and, for the most part, children and their families are reluctant to engage with law enforcement authorities in addressing the issue. Assessments of children, therefore, need to take a broader perspective than a forensic one, taking account of children's needs for protection and for therapeutic intervention, when required. We can strive to conduct such assessments with an eye to both specificity and sensitivity, thus ensuring that children's accounts are subject to appropriate scrutiny to avoid miscarriages of justice and, at the same time, finding ways to facilitate those children who struggle with giving an account of their experiences.

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<sup>45</sup> J.A. Quas & G.S. Goodman, "Consequences of Criminal Court Involvement for Child Victims" (2011) 18 *Psychology, Public Policy and Law* 392.