Examining the Content, Frequency and Relationship to Case Characteristics: Jury Questions in Criminal Cases of Alleged Child Sexual Abuse

by

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ABSTRACT

When children allege sexual abuse, there is rarely medical evidence or eyewitnesses, making their testimony in trial a primary factor in assessing their credibility. However, little is known about what may be unclear to jury members making verdict decisions. In some districts, jury members are allowed to ask questions of the child witness at the end of their testimony. The current study utilizes a sample of trial transcripts from Maricopa County, Arizona where children ages 5-17 years old have alleged some form of sexual abuse; a jurisdiction where jury members are permitted to ask written questions. Cases were analyzed to assess: 1) if jury questions were asked and how often these questions occurred, 2) what content they asked about, and 3) whether occurrence or frequency of jury questions related to case characteristics (i.e. child age, child-perpetrator relationship, severity of abuse, frequency of abuse). It was hypothesized that 1) juries would ask questions mostly about the dynamics of abuse and disclosure, 2) these questions would primarily clarify information previously discussed by attorneys during direct- and cross-examination (instead of asking new inquiries that went undiscussed during testimony), 3) there would be more jury questions as child age increases and 4) more serious cases (based on case characteristics) would have more jury questions. Results were mixed. Jury members often asked about the dynamics of abuse and disclosure (abuse details, statements regarding abuse, the child's subjective reactions), but case characteristics of child age, child-perpetrator relationship, and severity of abuse did not have a relationship with the presence of jury questions. However, cases where children alleged multiple instances of abuse were more likely to receive jury questions, which may allude to the misconception that children would

disclose abuse right away and not let multiple instances occur. Although the sample size is small for generalization, it is an important first step for future research to further examine jury questions, improve attorney questioning techniques, and better educate the general public about the dynamics of child sexual abuse cases.

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CHAPTER 1

INTRODUCTION

In cases of alleged child sexual abuse, children's testimony is important. This is because child sexual abuse cases often lack medical evidence (Berliner & Barbieri, 1984; Coolbear, 1992; Stolzenberg & Lyon, 2014a), have few witnesses (Berliner & Barbieri, 1984; Coolbear, 1992; Stolzenberg & Lyon, 2014a), and there are commonly lengthy delays in reporting (Goodman, Taub, Jones, England, Port, Rudy, & Prado, 1992; Klemfuss, Cleveland, Quas, & Lyon, 2017; Zajac, Westera, & Kaladelfos, 2017). However, assessing the credibility of children's reports can be difficult due to developmental factors, such as linguistic capacity (Zajac, Gross, & Hayne, 2003), psychological confidence (Andrews & Lamb, 2017) and susceptibility to suggestion (Schmidt & Brigham, 1996). Children, more than adults, may struggle as witnesses due to their lack of familiarity with court processes, the stressful nature of the experience often involving perpetration by a close and trusted adult, and heightened emotional distress (Goodman et al., 1992). Such aggravating factors may have a significant impact on how children effectively retell their story in court (Jaffe, Wilson, & Sas, 1987), making it very important for attorneys to be intentional when they question children. As case outcomes (e.g. a guilty verdict) rely on juror opinions of children's statements (Klemfuss, Quas, & Lyon, 2014), it is important to assess how and what jurors perceive as credible. Yet, little is known, because it is challenging to collect data on jurors in active cases. The present study begins to address this gap in research by assessing the questions jury members ask of children after testifying in cases of alleged child sexual abuse.

CHAPTER 2

LITERATURE REVIEW

What Jurors May Expect - The Dynamics of Abuse and Disclosure

Cases of alleged child sexual abuse can be challenging to prosecute because of some common misconceptions among the public. Since any citizen can be selected to sit on a jury for these cases, they may be confused and expect cases to look differently than they do because CSA factors are not commonly discussed. It is important to examine the plausibility of abuse and the factors surrounding disclosure, which are considered along with the child's testimony. For example, it is well documented in prior literature that perpetrators are rarely strangers to children in CSA cases, as parents or guardians make up a large portion of perpetrators in these cases (Berliner & Barbieri, 1984; Paine & Hansen, 2002; Smith, Letourneau, Saunders, Kilpatrick, Resnick, & Best, 2000; Stolzenberg & Lyon, 2014b). One substantial issue with this fact is that an average person may not be able to fathom how someone close to a child would sexually abuse a child within their family. To a jury member, cases where children are abused by strangers may seem more plausible, because adults close to children usually have their best interest in mind (Berliner & Barieri, 1984). As such, jurors believe this common misconception and find it difficult to comprehend how a parent could commit child sexual abuse.

Relatedly, jurors may expect abuse to be violent or painful, with children resisting abuse. In a study examining attorney's closing arguments, researchers created categories to assess all evidence presented in closing arguments to assess what would be predictive of case outcomes (e.g. a conviction), or most compelling to jury members. This research found that jury members were nine times more likely to convict in cases that involved

charges of forceful abuse (Stolzenberg & Lyon, 2014a). Such findings indicate that jurors may expect abuse to be forceful and threatening. However, these expectations are inconsistent with what is known about how child sexual abuse occurs, as the same researchers also found that 77% of prosecuted cases in criminal court included no charges of force – suggesting that abuse was instead seductive and non-forceful (Stolzenberg & Lyon, 2014a). This is consistent with what is known about sexual abuse: Children nearly always know their perpetrators (Hershkowitz, Lanes, & Lamb, 2007) and love them as trusted adults. Abuse usually begins incrementally over a long seduction and grooming process (Stolzenberg & Lyon, 2014b), whereby the perpetrator slowly lulls the child from appropriate to inappropriate forms of affection. Since abuse usually progresses slowly in severity, children often find abuse to be non-painful and perpetrators rarely need to use force during these instances (Summit, 1983). As such, there are rarely physical signs of abuse on the child (Bruck, Ceci, & Hembrooke, 1998; Hershkowitz et al., 2007; Stolzenberg & Lyon, 2014a). In a simulated trial where mock jurors assessed the truthfulness, intelligence, and degree of suffering of the child taking the witness stand, Schmidt & Brigham (1996) suggested that future research could include other characteristics (e.g. gender of the defendant, gender of the attorneys) in the case because jurors may find these dynamics of abuse confusing and challenging to understand. Jurors may expect that if sexual abuse occurred, there should be medical evidence.

Jurors may also be skeptical by the fact that majority of children often delay their disclosures of abuse, sometimes for very lengthy periods of time (Long, Wilkinson, & Kays, 2011), and could perceive this as a false allegation (Stolzenberg & Lyon, 2014b). One study with mock jury members noted that it is very important for expert witnesses to

help a jury understand that delayed disclosure is common (Yoziwak, Golding, & Marsil, 2004). In fact, children often wait to disclose until something precipitates the disclosure (e.g. someone asks about abuse, the abuse ends, the child begins to feel afraid or ashamed etc.) (Hershkowitz et al., 2007). Researchers have shown that many reports of abuse occur once an adult has suspicion that something has happened to the child, in which the child may initially deny it, and other repeated questioning follows where the child eventually discloses abuse (Bruck et al., 1998). The nature of these allegations and the vulnerability of children make delayed disclosure more common. In a study in Colorado using a sample of 218 children, Goodman-Brown and colleagues (2003) found that those that had alleged sexual abuse by a family member took longer to disclose than those who did not, and children who felt fear of negative consequences of their disclosure also took longer. Fearing the outcome of disclosure, while also fearing possible threats from the perpetrator are common reasons for delayed disclosure (Long et al., 2011). Additionally, the parents' anticipated reactions (Hershkowitz et al., 2007) has also been a strong factor in how long children take to disclose, such that children whose parents were willing to believe the child were more likely to disclose sooner. The severity of abuse characteristic influences the disclosure process in that more extreme forms of abuse make it more difficult for children to disclose (Paine & Hansen, 2002). In addition, Smith and colleagues' (2000) research on disclosure patterns in a national sample of women who were sexually assaulted as children showed that almost two-thirds of the sample did not disclose alleged abuse in the first year-and-a-half. This result supports the findings that reports of sexual crimes in childhood rarely result in quick and immediate reporting. Such

findings also validate prior research in that delayed disclosure is common, and that these trends are important for jury members to recognize and consider when making decisions.

The difficulty in disclosure is coupled with the child-perpetrator relationship, which often involves a trusted adult close to the child – often someone in a caregiving role. Research on delayed disclosure suggests that children are more likely to delay disclosing when the perpetrator is known (Hershkowitz et al., 2007). Furthermore, Sas & Cunningham (1995) observed that the closer the relationship, the longer the delay in disclosing. As was stated before – abuse is often progressive in nature (Stolzenberg & Lyon, 2014b), leading to few physical indications of abuse (Stolzenberg & Lyon, 2014a); when coupled with the fact that most children delay disclosing (Hershkowitz et al., 2007; Long et al., 2011; Smith et al., 2000; Yoziwak et al., 2004), it is not surprising that medical evidence is uncommon in these cases. Yet, jurors may struggle to understand how and why a child would wait to disclose, possibly having concerns about fabricated or suggested allegations (Coolbear, 1992). It is also often the case that perpetrators will bribe or threaten the child not to disclose, in which abuse may continue through frequent contact with the perpetrator (Paine & Hansen, 2002). Such factors make it crucial that juries understand that delays in disclosure do not automatically associate with false reports.

Jurors may also ask questions not specifically related to abuse details in order to get a better depiction of the situation and background of the child. In a study of criminal trials of CSA, researchers evaluated how prosecutors build rapport with the child and found that more than half of the sample were asked at least one question about the child's demographics (e.g. birthday, hobbies, interests) before asking questions specifically

related to abuse (Ahern, Stolzenberg, & Lyon, 2015). In an attempt to increase productivity of the child, these preliminary questions were common. Jury members may also question the emotions and reactions of the child to perceive them as more credible. Research examining the emotional language of children alleging abuse found that the use of emotional language was scarce for all ages, but concluded that this does not diminish the quality of the child's narrative (Katz, Paddon, & Barnetz, 2016). This study also showed that these emotions and reactions were mostly negative language, but were more common and elaborate in older children. Furthermore, many children are unsure about their feelings of the perpetrator or the abuse (Paine & Hansen, 2002), which may give reason to why children have difficulty discussing their emotions and feelings. However, little is known about how juries assess children's credibility in such cases and much more work is needed to assess how the dynamics of abuse may be interpreted by juries. Do juries hold these concerns? Do they have questions about how abuse occurred and how children came to tell about the abuse?

The Legal Role of Jury Questioning

To date, there are only a handful of jurisdictions in the United States that allow jurors to question witnesses (orally or written) in the presence of the defendant. These questions are asked at the end of the direct- and cross-examinations for each witness testifying. Advocates of jury questions argue that these questions give the jury a chance to ask about something that has not been mentioned in the line of questioning by both counsels, or allows them to clarify any legal jargon. In child sexual abuse cases, it is also a good way to improve attorney questioning by giving them a reminder to ask better and clearer questions of the child (Wolff, 1990). Critics of jury questions, legally, propose that if

jurors ask questions, it assumes that they are prematurely evaluating evidence before all the facts are laid out in the trial (i.e. other witnesses and/or experts testifying) (State v. Greer, 1997). Jury training and education is limited, and therefore has potential for a jury to seek an improper testimony from the child, asking about something not legally admissible. There are also debates about whether to allow oral or written jury questions. Proponents of jury questions say oral questions are efficient, as they allow the jury to phrase their question exactly how they need, allowing the question to reveal any underlying bias of sexual abuse that the court might be able to address (Wolff, 1990). In contrast, written questions allow the court to screen out any improper or inadmissible questions (as determined by the judge and both attorneys), allow the juror to remain anonymous, and provide attorneys with topics that were not made clear in their original questioning (Wolff, 1990).

Despite these concerns, the State of Arizona permits juries to ask written questions in child sexual abuse cases (State v. Greer, 1997). The process of jury questions is as follows: jurors are able to write down their questions, if any, give them to the judge to ask at the end of the child's testimony (direct- and cross examinations), the attorneys and judge will decide which questions are admissible, and the judge will read the questions aloud to the child. This follow-up questioning is still in the presence of the judge, attorneys, defendant, and audience of the courtroom. The evidence in CSA cases is often ambiguous (with lack of medical evidence, little-to-no eyewitnesses, and delayed disclosure), and by the time a case makes it to trial, it is the in-court testimony of the child that is also an important factor that the jury has to consider in making their decision. Often, this is the main piece of evidence that juries will take into account. The perception

of a child as a credible witness providing an accurate report is of the utmost importance to a jury deciding the outcome of a case (Andrews, Lamb, & Lyon, 2015b; Schmidt & Brigham, 1996).

Beyond the dynamics of abuse (i.e. delayed disclosure, relationship with perpetrator, lacking force or medical evidence), it is very likely that juries have particular concerns about young children's credibility. Understanding the differences between younger and older witnesses is important for jury members. It is expected that older children will do a better job of answering attorney questions about abuse than younger children (Andrews & Lamb, 2016; Goodman et al. 1992; Paine & Hansen, 2002). In the only other sample of trial transcripts collected in the United States, researchers found that prosecutors asked younger children about disclosure more so than older children, and in contrast, defense attorneys asked older children about disclosure more (Stolzenberg & Lyon, 2014b). To assess credibility, there are different ways attorneys question children based on age. In a pilot study done in New Zealand, researchers found that older children did significantly better than younger children during the direct and cross examination interviews, which they noted could be based on more developed language skills, a higher processing speed, and a more expansive theory of mind (connections between language competence and understanding) (Antonietti, Liverta-Sempio, Marchetti, & Astington, 2006; Righarts, O'Neill, & Zajac, 2013). It can be difficult for juries to determine the credibility of a child if they are not providing enough details or if they waiver in their testimony. Some research has studied the role of attorneys in eliciting these details that jurors may need in order to perceive the child as credible (Andrews, Ahern, Stolzenberg, & Lyon, 2016; Andrews & Lamb, 2017; Andrews, Lamb, & Lyon, 2015b). This may be the case for

younger witnesses, because the older a child is, the better they are at answering the attorneys' questions, providing elaborations in their narratives, and sequencing events. A study of forensic interviews with children 4-10 years old alleging sexual abuse found that overall temporal references (sequencing, dating, and number of occurrences) increased with age (Orbach & Lamb, 2007). The ability for children to recognize events and recall details is difficult and develops with age (Zajac et al, 2017), which is important for juries to be educated on and consider in assessing the credibility of younger children. For the purpose of the present study, analyzing written jury questions is significant in figuring out what is unclear from children's reports from attorney questioning in court.

Attorney Differences in Questioning Children

Prosecutors and defense attorneys have different objectives in mind when questioning children. Prosecutors have the goal of establishing a child's credibility, whereas defense attorneys attempt to challenge children's credibility. This means that they will often present competing views of the same narrative. The different strategies that attorneys have in questioning children in CSA cases not only make it difficult for the children testifying (DeVoe & Faller, 2002; Stolzenberg & Lyon, 2014b), but also create unclear and often confusing reports for the jury to use in their final decision (Berliner & Barbieri, 1984).

Prosecutors generally aim to increase perceptions of plausibility; they want jurors to believe that the events reported actually happened as alleged, showing the consistency of the child's narrative across time (Klemfuss et al., 2017). Prosecutors have previously heard the child's allegation so their goal is for the child to maintain their original report. In most cases this means ensuring that the jury understands that delayed disclosure is

common and does not necessarily mean the child is giving a false report (Klemfuss et al., 2017; Stolzenberg & Lyon, 2014). As a result, prosecutors will spend time clarifying how children came to tell about abuse, and why. Plausibility and consistency of the child's narrative strengthens a prosecutors' argument, which in turn, shows the jury that the child can be trusted and is providing true events.

In contrast, defense attorneys hope to prove to a jury that the child is inconsistent with their narrative, and therefore not believable. Defense attorneys typically aim to discredit the child and provide the jury with discrepancies in their testimony (Andrews & Lamb, 2016; Klemfuss et al., 2017; Zajac et al, 2003; Zajac et al, 2017). Most often defense attorneys will attempt to do this by showing the child's developmental limitations and asking questions that are difficult for the child to answer (Andrews & Lamb, 2016). Additionally, they will often ask questions about the child's inconsistencies in their report. It is common that children are interviewed multiple times even before testifying in court (Malloy, Lyon, & Quas, 2007), making it even more difficult for children to answer questions about their previous reports. During cross-examination children are often questioned about interactions with the perpetrator, abuse details (clothing and body placement, date, time, frequency), and abuse context (location, environment) (Stolzenberg & Lyon, 2014b). The questions in cross-examinations from defense attorneys can also be more difficult for younger children (5-12 year olds) to answer as compared to older children (13-17 year olds) (Zajac et al., 2003; Zajac et al., 2017). Research shows that younger children often change their testimony or the details of their report when being questioned by defense attorneys (Zajac & Hayne, 2003). This is

clearly an issue when it comes to accurately reporting information that the jury will deem credible enough to use in their verdict.

While prosecuting attorneys and defense attorneys may present different interpretations of the child's narrative, choosing to highlight different aspects of the child's report may often leave parts of the child's narrative unclear. This may make it more difficult for jury members to make a coherent decision. As a result, jurors may have questions about what was previously discussed during the child's testimony. It is likely that there are clarifications and misunderstandings that a jury may need to clarify after testimony.

CHAPTER 3

THE CURRENT STUDY

The purpose of the present investigation is to examine what questions juries ask of children alleging sexual abuse, allowing insight into concerns about children's credibility, the coherence of their narratives in court, and what was made confusing during testimony in the direct- and cross-examination. This study has three main research questions with several subsequent hypotheses for each question.

First, of interest was how often do juries have questions for children testifying and what content do jury questions focus on? This was of interest because it could clarify what is unclear to juries across cases, providing insight for attorneys who hope to better establish future cases of CSA. I expected that jury questions would be common, occurring in most cases. Regarding the content of jury questions, I expected that jurors may have more questions about factors that map onto the dynamics of abuse -- e.g. the plausibility of abuse and the factors surrounding disclosure. This was predicted because researchers have demonstrated that there are many parts of a child's narrative that can be unclear or against public perception (Bruck et al., 1998; Stolzenberg, 2012; Zajac & Hayne, 2003), and analyzing the frequency and content of these questions could provide insight on how to improve questioning techniques made by attorneys.

The second research question asks: how do jury questions relate to previous questions asked by attorneys during direct- and cross-examination? I hypothesized that jury questions would focus on clarification questions – as opposed to new questions. Essentially, jury members would focus on elucidating areas of children's narratives that were discussed throughout direct- and cross-examination, instead of asking about details

that went unmentioned by both attorneys. Furthermore, jury questions would be clarifying the questions more often from cross-examinations than from direct-examinations because defense attorneys' goal is to discredit children and create inconsistencies from the child's report (Andrews et al., 2015a; Zajac et al., 2003; Zajac & Hayne, 2003). The dialogue between the child and the defense attorney might be confusing for a jury; in which they would have questions to clarify something the child stated during the cross-examination.

The final research question of interest was what is the relationship between jury questions and case characteristics such as child age, severity of abuse, frequency of abuse, and child relationship to perpetrator? To assess this, I looked at both the presence of jury questions (comparing cases with and without jury questions), as well as the frequency of jury questions (whether there were differences based on cases that had more or less jury questions). I predicted that the frequency of jury questions would increase as child age increases in these cases because narratives may be more elaborative and consistent in older children (Andrews & Lamb, 2017; Andrews et al., 2015b; Goodman et al., 1992) and developmental levels will have increased. Furthermore, I expected that more serious cases (those where children alleged repeated abuse, severe abuse, and closer relationships with perpetrators) would be more likely to have jury questions, and also result in more questions, because juries may be confused about these dynamics which are not commonly understood by the public (Berliner & Barbieri, 1984; Long et al., 2011; Stolzenberg & Lyon, 2014a).

CHAPTER 4

METHOD

Sample

In collaboration with the county attorney's office in Phoenix, Arizona, Dr. Stacia Stolzenberg and research assistants acquired information on all cases (N = 398 victims across 252 cases) where children alleged child sexual abuse in Maricopa County, Arizona between 2005 and 2015. Cases were eligible for data collection if perpetrators had at least one charge of Sexual Conduct with a Minor (A.R.S. 13-1405), Child Molestation (A. R. S. 13-1410), or Sex Abuse (A. R. S. 13-1404). After contacting and paying court reporters to share the transcripts, we received 214 complete transcripts of testimonies across 142 cases. The lab only received about half of the original amount of cases during the time frame due to low response rates from some court reporters. Some of these interactions included vague responses or no response at all to receive complete testimonies. Data collection began in 2016 and intended to assess CSA cases from the last decade (2005-2015). In some cases, there were multiple child victims with the same defendant, in which there were multiple transcripts for one case.

Of the 214 cases collected there were 134 minors at the time they testified and the remaining testimonies were young adults that testified about alleged child sexual abuse when they were minors. Of these 134 testimonies, 79 have jury questions at or near the end of the transcript. In the State of Arizona, it is standard practice for jurors to write down their questions and provide them to the judge to read aloud once attorneys are done questioning the child. Jurors are permitted to ask as many questions as they have, as long

as the judge and both attorneys approve that they are permissible questions for legal proceedings.

In this sample of cases with jury questions (n = 79) child age ranged from 5-17-years old (M = 13 years old, SD = 3 years) and 88% of the sample were female victims. The child's relationship to the perpetrator ranged from stranger, to familiar adults (i.e. babysitters, coaches, neighbors), to family members (aunts, uncles, cousins, siblings) to parent figures (father, mother, stepfather, stepmother, mom's partner or live-in boyfriend). For ease of analyzing, relationship was dichotomized: 48% (n = 38) of children alleged abuse by a parent or caregiver and 52% (n = 41) did not. Severity of abuse ranged on a scale from less severe to more severe acts of abuse: exposure to porn, kissing, fondling under/over clothing, simulated intercourse, penetration with a foreign object, intercourse, sodomy. For ease of analyzing, severity of abuse was dichotomized into non-penetrative (with 62% (n = 49) of the sample experiencing non-penetrative acts) and penetrative acts (38% (n = 30) experiencing penetrative acts). Finally, in this sample, children differed in the number of instances of abuse alleged. The variable was dichotomized as 66% (n = 52) of children alleged multiple instances of abuse and 34% (n = 27) did not; this was useful because children who alleged multiple instances were abused repeatedly, and thus, delayed their disclosure.

Coding

In this mixed-method approach, I coded for quantitative and qualitative analyses. For quantitative analyses, I coded child age (in years at the time of trial), and created dichotomous variables for severity of abuse (0 - non-penetrative, 1 - penetrative), the child-perpetrator relationship (0 - non parent figure, 1 - parent figure), and frequency of

abuse (0 - once or unknown, 1 - more than once). I created a systematic coding guide for all question and answer pairs in the jury line of questioning at the end of the transcripts. I coded for jury question eligibility, clarification or new questions, and jury content (the full coding guide is present in Appendix A and summaries of variables and frequencies are presented in Table 1).

For qualitative analyses variables were coded based on a coding guide found to be reliable and valid (see Appendix A). A jury question was eligible if it came directly from a juror that asked about relevant information having to do with the child's testimony. For instance, questions from the judge asking the child to repeat their answer or speak louder would not be an eligible jury question. It was important to code for whether jury questions were requests for new information (not previously mentioned) or clarifications about what attorneys previously discussed; such coding allowed for an assessment of whether juries were primarily concerned with what attorneys debated between themselves, or whether they were concerned about information entirely omitted by both attorneys. As such, jury questions were coded as clarifications if it was asking about a topic that was previously discussed (i.e. "You said the door was locked from the outside. What did you mean by that?") or coded as a new question if it was asking about new information or something not previously discussed (i.e. "Why did you do anything or go anywhere with Carlos after he did the bad things the first time?"). In this instance, neither attorney established why the child had continued contact with the perpetrator. Further, to explore qualitative analyses the content of jury questions was coded as the following categories: abuse details, demographics, child's subjective reactions, statements, child's

other actions, date/time, abuse context, veracity, differentiating events, and other. See Table 1 for coding definitions and examples.

In addition, because multiple jury questions could continue along the same line of questioning (or clarify something the child just said in response to a previous jury question), I coded for whether each jury question represented a "new line of questioning." This allowed for an assessment of how often lines of questioning were new or clarifying from previous testimony.

Reliability

In order to reach reliability, two independent coders used the coding guide to separately code 20% of the entire sample. Their codes were compared and all variables had a minimum reliability of $\kappa = 0.80$ or higher.

CHAPTER 5

RESULTS

Analyses were driven by stated research questions, and thus, are organized as such. Descriptive statistics comparing cases with jury questions to the rest of the sample are presented in Table 2.

Frequency and Content of Jury Questioning

First, I was interested in assessing the frequency and content of jury questioning. I predicted that jury questions would be common and occur in most of the cases in this sample. Consistent with expectations, slightly over half of children in the entire sample (N = 134) received jury questions (59% of cases). As 41% of children received no jury questions, most analyses focused on the 79 children that did receive jury questions (however, analyses assessing the relationship between case characteristics, the presence and frequency of jury questions is presented below in the section *How Jury Questions Relate to Case Characteristics*). When children received jury questions, they often received many, with an average of 8 per child (M = 8.10, SD = 8.26). All jury questions are categorized descriptively with examples by content, with associated frequencies and percentages, in Table 1. In general, children were most commonly asked about abuse details (20%), demographics (18%), child's subjective reactions (15%), previous statement (including disclosures; 11%) and children's other actions (11%). To help illustrate what the 641 jury questions "looked like," qualitative examples are presented based on the most frequently coded content categories (those categories that occurred at least 10% of the time or more).

Abuse Details

Abuse details were the most common source of jury questions (20%). As described in Table 1, they ranged from concerns about how the child was seduced into abuse, to the exact whereabouts of bodies and body parts of victims and alleged perpetrators. However, these questions often demonstrated underlying misunderstandings about the dynamics of abuse. In the case of a 10-year-old female who alleged repeated, penetrative abuse by her grandfather who lived in the house, she was asked four consecutive questions about whether she resisted abuse or attempted to get the attention of her mother, who was elsewhere in the house when some alleged incidents took place. The conversational exchange signifies how the jury might have had concerns about the plausibility of the child's report, considering how the abuse occurred without others in the house knowing, or without the child being more verbally resistant. The sequence of questions and answers looked as follows:

JQ: You said your mom was home when some of these things happened, okay. Did anything stop you from yelling to her to come help?

Child: I don't get that.

JQ: Was there anything that would stop you from trying to yell? Or ask your mom for help?

Child: No

JQ: Did you ever call out, or scream for help when you were in the kitchen?

Child: No.

JQ: And did anybody ever put anything over your mouth to stop you from yelling?

Child: No.

In this case, the child's resistance, as well as whether the child tried to get her mother's attention, had not been previously addressed in direct- or cross-examination beyond establishing that the child's mother had sometimes been home. Furthermore, in the case of a 9-year-old female who alleged multiple instances of fondling under her clothes by a neighbor, jurors had specific questions about the child's clothing and her clothing removal by the perpetrator. This line of questioning is as follows:

JQ: Okay. The next question is, who took the swim shorts off?

Child: Jon.

JQ: Jon. Did he ask to do that?

Child: No.

JQ: All right. Now these swim shorts we are talking about, were those shorts tight, or were they loose?

Child: I don't know.

JQ: You don't know?

Child: No.

These question and answer pairs reveal that jurors often have specific questions regarding the abuse. The details of this incident and the child's clothing removal were not previously mentioned in the child's testimony, which explains why jurors may ask about minor details in order to perceive the child as more credible.

Demographics

Demographics of the child and the suspect were the next common content of questions asked by juries (18%). This category ranged from questions about where the

child lived, to questions about who the perpetrator was to the child. Often jury members were seeking clarity on the child's timeline for alleged incidents by asking demographic questions, such as by asking about who was taking care of them and when others might have known about abuse. A primary example comes from a case where a 14-year-old female alleged multiple instances of naked attempted intercourse by a man that she and her family were living with at one point when her parents were separated. There were three consecutive questions asking about the child's living situation and at what age the child moved from one parent to another. In this case, the child had been primarily staying with her father in another state, but came back to visit her mother during the summers for several years. After the child's mother and stepfather had physically separated, there were instances when the child would stay with her mother and another man. These details are important in this case because there were several time periods where the child was living with different parents and occasions when she was living with her mother's male friend, where the alleged abuse eventually occurred. These questions were not previously asked in the child's testimony. The question and answer pairs are as follows:

> JQ: Now you're living with your mom now, but from what you said before, you didn't live with her a whole lot when you were younger. Did you live with your father when you were younger?
>
> Child: Yes, sir.
>
> JQ: What age were you when you started to live with your father and not your mother?
>
> Child: I started to live with my father when I was about two-years-old, and I stayed with him until I was 12.

JQ: So you would visit your mom, but you were -- your primary care-taking parent was with your father?

Child: Yes, sir.

In this case, questioning offers important clarification because the jury may have been confused about the child's living situation prior to when the abuse began and may have had concerns about the timeline of her narrative. Details about the age of the child, where the child lived, the child's favorite hobbies, how the child knew the suspect, and what the perpetrator looked like were common because these questions provided the jury with additional details to help contextualize the child's allegations. Another example comes from a 12-year-old female who alleged several incidences of her uncle touching and inserting his fingers into her vagina. Jurors asked questions about the child-perpetrator relationship and if she knew where he was in the courtroom. This line of questioning is as follows:

JQ: I'll mark this as question A on 12/7/09. Ladies and gentlemen, i do that for the record because the actual paper hard copy will be recorded with the clerk of the court whether the question is asked or not asked. Counsel, review that and see if you have any objection. Here's the question. The name [defendant], [spelling defendant's name], who is [the defendant]?

Child: My uncle.

JQ: And who is that? Is that person in the courtroom?

Child: Yes.

JQ: Would you point him out?

Child: (Witness indicates.)

Although these questions were previously asked in the child's testimony during the direct-examination, jurors may clarify details about child-perpetrator relationships in order to assess consistency or seek clarification on such details.

Child's Subjective Reactions

The child's internal states category represented 15% of the questions and these questions often focused on how the child felt about abuse, what abuse felt like, or what the child thought about the abuse or disclosing it. However, there were a wide range of questions contained in this category, including questions about the child's source of knowledge (e.g. how the child knew something that they said they knew). In the case of a 15-year-old female who was allegedly kidnapped before school, tied up, and then forced to perform sexual acts with a stranger, jury members asked three questions about how the child reacted during the abuse and why, and how she felt while it was happening. The sequence of this questioning is as follows:

> JQ: During the crime, the crime in this case being the sexual conduct, emotionally, how were you acting? And the suggestions are for example, crying, screaming, calm, peaceful. What, if you recall, was your reaction?
>
> Child: I was crying the whole time.
>
> JQ: The follow up -- I don't mean to the state the obvious -- is why?
>
> Child: Because I -- it like hurt and because I didn't know how to handle it.
>
> JQ: What were you feeling inside emotionally?
>
> Child: I just wanted to go home.

Since the child in this example alleged abuse of a stranger, the details of how the child felt might strengthen her narrative for jury members, especially since it is more

common for perpetrators to be close to the child, if not parents or guardians (Berliner & Barbieri, 1984; Paine & Hansen, 2002; Smith, Letourneau, Saunders, Kilpatrick, Resnick, & Best, 2000; Stolzenberg & Lyon, 2014b). The report may seem to be more credible for a jury because the child is able to describe exactly how she felt and reacted during the alleged abuse (Lyon, Scurich, Choi, Handmaker, & Blank, 2012). Although it is difficult for children to discuss, it is important that children provide subjective information regarding how they felt about abuse (Stolzenberg, Williams, McWilliams, Liang, & Lyon, 2019). In this case, the child was able to describe the emotional reaction and feelings she had during the abuse, which most likely assisted the jury in their decision making of this case especially since these questions were not asked in the direct- or cross-examinations. Prior research has shown that accurately categorizing emotions develops with age (Katz et al., 2016) and is important for the jury to understand the scope of the situation, and understand how such abuse can be felt by a child. It is often common that the child had various emotions and thoughts during and after the abuse.

This category also includes the child's sensory perceptions of how they felt or what the environment was like during the abuse. Such questions may help the jurors assess what the child remembers and any other details of the perpetrator, the environment, and how the child physically felt. An additional example comes from an 11-year-old female who alleged multiple instances of fondling under her clothes by a friend who was living with her aunt. Jurors asked the child specifically how the room felt when the abuse occurred. The question and answer pairs are as follows:

> JQ: Do you remember anything about the room temperature that night? Was it cold or hot or somewhere in between? Do you recall that at all?

Child: Cold.

JQ: You think it was cold in the room?

Child: Yeah, a little bit colder than hot.

JQ: A little bit cold. Compared to how it is today in the courtroom, how would you say?

Child: Cold.

JQ: It was colder than it is in here today?

Child: Yes.

In this case, the child alleged abuse by someone who lived in a different place than she did. Asking about the details of the child's surroundings during the abuse could be helpful in evaluating what the child felt and if she were able to describe the specific environment where these occurrences took place. These questions were not asked in previous testimony, which also may give reason for jurors to ask specifics about how the child physically felt or what her surroundings were.

Statements

This category included disclosure and abuse relevant conversations. Children were often questioned about their prior conversations, including, how abuse was disclosed to family members, forensic interviewers, medical examiners, and/or social workers, and what perpetrators said to children during abuse or about keeping abuse a secret (11%). The importance of statements made by the child, the perpetrator, or other people speaking of the alleged abuse shows that jury members also consider these prior conversations in their decision. These particularly relate to children's disclosure process and those that may have suggestively influenced their reports. In the case of a 9-year-old

male who alleged multiple instances of naked fondling by his grandfather, the jury asked him several questions regarding his disclosure to his mother of the abuse. In this instance, the child's mother previously questioned him about it, but the child only disclosed after his cousin also reported abuse by the same perpetrator. The question sequence is as follows:

JQ: You said that your mom asked you a number of times that morning if these things were happening. Do you remember that?

Child: Yes.

JQ: And, why was it that you finally were ultimately [sic] told your mom these things happened?

Child: Well, once my mom told me that [cousin] admitted it, then I knew that I wasn't the only one. So I told her.

JQ: All right. Did it make you more comfortable to think that you weren't the only one, and that you could talk about this?

Child: Yes.

JQ: Did you say that these things happened just because [cousin] said these things happened?

Child: No.

These statements were essential for the jury to clarify because the child did not specifically discuss his disclosure to his mother and why he finally did in his previous testimony. These questions also helped to clarify and get a better understanding of how children recall prior conversations (Lyon & Stolzenberg, 2014). In this case, while the child only felt motivated to disclose once another victim had disclosed, that he affirms his

disclosure was not the product of influence (i.e. by a co-disclosure encouraging him to make a false report as referenced in the above example). Statements regarding alleged abuse also contribute to the child's narrative and strengthen the child's credibility. An additional example regarding statements of disclosure comes from a 16-year-old female who alleged several instances of fondling underneath her clothing by her step-father at the time. Jurors asked questions regarding who the child spoke to about the abuse and other statements from the perpetrator. These lines of questioning are as follows:

> JQ: Did you talk to your sister about the incidents involving [defendant] and you before you disclosed to your mom?
>
> Child: Yes, once or twice.
>
> JQ: Did you talk about the incidents with your sister after the disclosure?
>
> Child: When we were in counseling, yes.

This example provides evidence that the jury was curious about who the child spoke to about the abuse. Neither of these questions were previously asked by attorneys so jurors may have been skeptical about who the child disclosed to and during what time period this happened.

Child's Other Actions

The juries commonly questioned children about other actions, not regarding abuse, to contextualize abuse (11%). The topics often touched upon actions surrounding abuse such as what the child did just before and after the abuse occurred, continued contact with the perpetrator after abuse began, and other actions by the child (e.g. their technology savviness if the case involved technology). In the case of a 14-year-old male

who was repeatedly touched on his genitals by his grandfather, the jury questioned the child about why he continued to see the perpetrator after the alleged abuse began:

JQ: Did you ever ask your parents not to send you to [the defendant's] home after these alleged acts of abuse started?

Child: Yes.

JQ: When did you do that?

Child: About the third time that it happened I started getting worried about it, thinking that it wouldn't stop. So I tried to ask my mom if I could just stay home. She didn't think anything was going on, so she just said that my grandfather loved me so it would be nice if I could spend some time with him.

JQ: So you could have stayed home with your parents, but you were going to your grandfather's?

Child: Yes.

For this case, the inquiry about continuously visiting the perpetrator even after alleged abuse had occurred may be difficult to realize; jurors may expect that once abuse began, the child would have avoided his grandfather, however this is rare because the child often feels close to the perpetrator (Stolzenbrg & Lyon 2014a). These questions were not previously mentioned in prior testimony and remained subject to inquiry for jury members. Another example regarding the child's other actions not directly related to abuse comes from a 17-year-old female who alleged repeated instances of her step-father touching and inserting his fingers into her vagina. In this case, jurors asked the child about other activities, such as her drug use. These question and answer pairs are as follows:

JQ: When did you star [sic] using marijuana?

Child: When this first started occurring.

JQ: Do you still use marijuana?

Child: No.

JQ: Okay. Have you tried other drugs or alchol [sic]?

Child: No.

The first two questions were asked previously in the direct-examination; however, the third question was not previously asked. This provides evidence that jurors may have needed to clarify the child's previous testimony and seek more information regarding these other activities she was involved in. These questions typically help juries get a better description of the child and other actions he/she was involved in before and after the alleged abuse.

How Jury Questions Relate to Prior Questioning in Testimony

I was interested in assessing whether jury questions would be related to prior testimony or new inquiries that were not discussed during direct- and cross-examination. I hypothesized that jury questions would be mostly clarification questions – as opposed to new questions not previously asked – from information that was already mentioned in the child's testimony. On average, children received 3 clarifying questions about previous testimony (M = 2.86, SD = 3.32) and 5 questions that were new inquiries (M = 5.23, SD = 5.51). Counter to what was hypothesized, children received proportionally more new questions by juries (67%) than they did clarifications from their previous testimony (33%). Utilizing paired-samples t-tests, children received more new questions both in terms of the frequency of questions asked, t (78) = 5.57, p < .001, 95% CI [1.53, 3.23],

and proportionally in terms of the overall representation of jury questions they received, t (78) = 6.32, $p < .001$, 95% CI [.23, .44].

However, such descriptives do not account for "lines of questioning" asked by the jury. For example, a jury member may ask a clarifying question about previous testimony, but this may spark subsequent new requests for information that were technically not clarifying what was established in direct- or cross-examination. Essentially these *new* questions could result from clarifying questions. However, upon examination of the data, my hypothesis was not supported. Across the 79 children questioned by the jury, there were 289 (45% of all jury questions) new "lines of questioning" about varying topics. Only 19% of these topics were about clarifying what the child said (n = 56; 19% of new lines of questions); the remainder were about new inquiries not previously addressed by either attorney, which does not support my hypothesis.

In addition, I was interested in whether jury questioning might vary in content (i.e. abuse details, demographics, child's subjective reactions, statements, etc.), based on whether the question was clarifying what was previously stated, or whether it was new information. To assess this, I conducted a chi-square test on question content by whether the question was new or clarifying. There was no difference in the pattern of content by whether the question was new or clarifying, x (9, 640) = 12.75, p = .17, which does not support my hypothesis.

How Jury Questions Relate to Case Characteristics

To assess the relationship between jury questions and case characteristics presented in Table 2, two series of analyses were conducted: the first series of analyses

was to assess whether case characteristics related to the presence or absence of jury questions, and the second to assess whether the frequency of jury questions varied for cases with jury questions, by case characteristics.

Again, it was predicted that the frequency of jury questions would increase as child age increases in these cases. To assess whether cases with and without jury questions differed in terms of the age of the child, an independent samples t-test was conducted on age (continuous) with the presence of jury questions (present or absent) entered as a grouping variable t (132) = 4.01, $p < 0.001$, 95% CI [1.13, 3.33]; cases with jury questions had a higher average age (M = 13 years old, SD = 3 years) than did cases without jury questions (M = 11 years old, SD = 3 years).

It was also expected that more serious cases would be more likely to have jury questions, and also result in more questions. To assess whether other case characteristics varied by the presence of jury questions, a series of three chi-square tests were conducted on each characteristic separately (relationship between child and perpetrator, severity of abuse, and frequency of abuse). There was no relationship between the presence of jury questions and child-perpetrator relationship, χ^2 (1, 134) = .86, p = .35, or between the presence of jury questions and severity of abuse, χ^2 (1, 134) = 2.41, p = .12, however, cases involving allegations of repeated abuse were more likely (71%) to receive jury questions than those that alleged a single instance of abuse (44%), χ^2 (1, 134) = 9.99, p = .002.

Next, for those cases with jury questions, it was important to assess if case characteristics were related to the number of questions asked by jurors. Examining a bivariate correlation, there was no relationship between the age of the child and the

number of jury questions r (134) = .09, p = .43. Furthermore, examining a series of independent samples t-tests, there was no relationship between the relationship with the perpetrator, t (77) = -1.46, p = .15, 95% CI [-6.37, .98], the severity of the abuse, t (77) = .96, p = .34, 95% CI [-2.00, 5.64], or frequency of abuse, t (77) = -.28, p = .78, 95% CI [-4.47, 3.38]. Moreover, the third hypothesis was not supported by these findings.

CHAPTER 6

DISCUSSION

The verdict in child sexual abuse cases is heavily dependent upon the in-court testimony of the child, as there is often lacking physical evidence and other witnesses (Berliner & Barbieri, 1984; Coolbear, 1992; Goodman et al., 1992; Stolzenberg & Lyon, 2014a). Children's testimony is often the only available evidence at the time of trial (DeVoe & Faller, 2002), making it a significant factor in case outcome. The purpose of the present study was to analyze what types of questions juries ask and to examine what concerns they have regarding the children's credibility and what was made unclear in previous testimony. Of interest in the current study was how often jurors asked questions of children, and the content and nature of these questions. In addition, a goal of the present study was to examine how jury questions relate to previous questions asked during direct- and cross-examination. Finally, I examined whether there would be a relationship between jury questions and case characteristics (age, severity of abuse, frequency of abuse, and relationship to perpetrator). To date, there have been no prior examinations of how juries question children in active court cases. This research is a valuable addition to the research in this field because this child's in-court testimony is a crucial piece of evidence – especially when there is lack of physical evidence or eyewitnesses. Such an assessment is important because it can begin to clarify what is of concern to jurors who will make the ultimate decision in these cases.

Frequency and Content of Jury Questions

In the present examination, jurors often had questions for children. Over half of the cases (59%) involved jury questions, and when juries did ask questions, they asked

children an average of 8 questions per case. As previous literature notes, jury questions (written or oral) are an important way to better inform jury members and to clarify any legal jargon that was not understood or ask about topics that were not previously brought up by attorneys (Wolff, 1990). Even though there is a chance for revictimization (discussed in *Future Directions*), the findings of the present study indicate that this is still a common practice in cases of alleged child sexual abuse where jury questions are permitted.

Regarding content, jurors most often asked children about the following topics: abuse details, demographics, the child's subjective reactions, previous statements, and other actions of the child. This finding can help clarify for prosecutors what is unclear to jury members in these cases. It is also beneficial for attorneys because the details that the child discloses in court are the main factors for jury members deciding the outcome of these cases (Andrews et al., 2016; Stolzenberg & Lyon, 2014a). Contrary to what is expected, jury members were still clarifying information or asked additional questions about the most important evidence in the child's narrative. When examining the qualitative examples of jury questions, the examples further supported the expectation that jurors would have questions regarding the dynamics of abuse and disclosure process for children. These included how children were seduced and groomed into abuse, how abuse occurred without others knowing, and why the child may have frequently delayed their disclosure. Prior research has established that dynamics of child sexual abuse and disclosure have misconceptions that the abuse is often forceful (Stolzenberg & Lyon, 2014a), the perpetrator is a stranger to the child (Berliner & Barieri, 1984; Hershkowitz et al., 2007; Smith et al., 2000), and multiple instances of abuse are not common

(Hershkowitz et al., 2007). However, even within this sample, more than half (62%) of children reported non-penetrative abuse and more than one instance of abuse (66%), and forty-eight percent reported abuse by a parent figure. These dynamics might be surprising to jury members, as they try to perceive the child as credible when testifying (Andrews et al., 2015b; Schmidt & Brigham, 1996).

Inconsistent with what was predicted, results also show that important content of the child's report (i.e. abuse details, demographics, child's subjective reactions, etc.) are not thoroughly discussed by attorneys in the child's prior testimony; the majority of jury questions were new inquiries, and not topics that had been discussed by either the prosecution or defense attorney during direct- or cross-examination. This suggests that there was a lot of missing information that would be necessary for jury members to make a complete and fair decision after hearing the child testify. These new inquiries are a reflection of the general public having misconceptions about child sexual abuse and disclosure (Long et al., 2011; Paine & Hansen, 2002; Stolzenberg & Lyon, 2014a). As research shows, advocates of jury questioning propose that asking these questions will help to clarify details of the child's narrative and assist the attorneys in questioning techniques (Wolff, 1990). This further illustrates that some topics were not brought up at all during the child's testimony, which shows that jurors have concerns over topics that may be neglected or not fully explored by attorneys.

Relationship of Case Characteristics to Jury Questioning

The results examining the presence and frequency of jury questions, in relation to case characteristics, looked very similar to prior research. In the sample of children that were asked jury questions (59%), 48% were abused by a parent figure, 38% experienced

penetrative severity of abuse, and 66% reported being abused on more than one occasion. In comparing the sample with jury questions to the sample without jury questions, children were older, on average, than those children who were not asked jury questions. This could be attributable to the fact that younger children are naturally not as linguistically developed as older children, and might find it more difficult to answer questions in general in these trials (Evans & Lyon, 2012). Furthermore, prior literature also shows that historically children receive many questions from attorneys in these cases during direct- and cross-examination (Zajac et al., 2017). This could also explain why age as a case characteristic did not have a relationship with how many questions a child was asked. It is possible that there is so much information to cover from these cases to establish credibility that the age of the child does not fully relate to the complexity of the case or establishing credibility. Furthermore, children who alleged multiple instances of abuse were more likely to receive jury questions. This may allude to the misconception that children would disclose abuse quickly and not let multiple instances occur; however, as prior literature shows, delayed disclosure is common and is often coupled with multiple instances of abuse (Hershkowitz et al., 2007; Long et al., 2011; Paine & Hansen, 2002; Smith et al., 2000).

There was no relationship between the child-perpetrator relationship or severity of abuse and the presence of jury questions. This could be due to the fact that many of the cases in the sample had parent-figure perpetrators and non-forceful severity of abuse levels. This aligns with prior literature (Goodman et al., 1992; Hershkowitz et al., 2007; Paine & Hansen, 2002; Stolzenberg & Lyon, 2014a) because these child-perpetrator relationships and severity of abuse levels were also quite common. These results suggest

that regardless of what these cases look like prior to the child's testimony, jury members will have questions regarding the content of their narrative. However, many of these analyses were exploratory. Findings of how case characteristics relate to jury questions, the content juries are asking about, and whether they have more clarifying or new questions for the child also suggest that there are future avenues to explore in cases where jury questions are permitted.

Limitations

This study has yielded some important insights regarding the occurrence of jury questioning in child sexual assault cases, but there are some limitations should be acknowledged. First, although this data came from a large county in Arizona, the sample size is small compared to the number of CSA cases that include jury questions throughout the year in the entire country. Further, the sample is not generalizable. This area of research should look at various regions in the U.S. that allow jury questions in order to get a better idea of what content jury members seek to clarify or ask about. Despite these concerns, the diversity of case characteristics (i.e. age, gender, severity of abuse, and frequency of abuse) in a large U.S. county provide an important first step in understanding what might motivate jury questions in cases of sexual abuse.

Furthermore, this study did not capture how previous questions from the direct- and cross-examinations were worded or phrased by attorneys and the relationship to the clarifying questions that jury members had. This would be important to examine because establishing the child's credibility and accuracy of their report is of utmost importance when questioning children since decision-makers heavily rely on their in-court testimony. Examining the linguistic form of attorneys' questions during direct- and cross-

examination has been a significant contributor to understanding how children's credibility is established in CSA cases (Andrews & Lamb, 2017; Andrews et al., 2016; Andrews et al., 2015b; Evans & Lyon, 2012; Stolzenberg & Lyon, 2014b) and could have been another element that explains why juries ask particular questions.

Lastly, there are other case characteristics, such as perpetrator gender, race of the victim (Smith et al., 2000), the time it took for a child to disclose abuse (Hershkowitz et al., 2007), and case outcome (Stolzenberg & Lyon, 2014a) that prior research has considered in their analysis. This study also did not account for whether cases had multiple victims and one perpetrator, which was sometimes the case. These elements could have also contributed to jury question content and frequency because they are of concern generally in CSA cases. For the purpose of the present study, I chose characteristics that Dr. Stolzenberg originally had access to from the Maricopa County Attorney's office, and that were originally coded in order to examine the entire sample of cases.

Future Directions

Given the findings of the current study, there are several potential avenues for future research to further explain the dynamics of jury questioning in districts that allow oral or written questions. One possible way to assess jury questions would be to continue to analyze trial transcripts in various regions and include previous testimony (child-attorney dialogue) to help understand where juries may have been confused or lacking knowledge about the case. For instance, research could look at jury questions and compare them to prior testimony of the child, breaking down the question and answer pairs of the attorney and child. This has been studied by assessing trial transcripts in prior

research (Ahern, Stolzenberg, & Lyon, 2015; Andrews & Lamb, 2016; Stolzenberg & Lyon, 2014b), but has yet to include jury questions. It is evident that these follow-up questions and responses are beneficial to analyze because the child's entire testimony is an essential factor in deciding a case.

Another direction would be to include qualitative notes by interviewing attorneys after a case has been completed and closed. This might allow researchers to get a better idea of what attorneys deem important enough to ask children about or if there is some content deemed irrelevant in a testimony. It is likely that they may be missing out on opportunities to ask children about specific abuse details or accounts of what happened (Lyon & Stolzenberg, 2014). On the other hand, they may have other strategies in mind to persuade jury members – as prior literature has shown (Andrews et al., 2016; Andrews et al., 2015a; Zajac et al., 2017;) – by not thoroughly going over some topics with the child.

Additionally, while it seems like jury questions may help clarify remaining questions, there is clear potential for revictimization. Prior research suggests that children answering questions from attorneys on the witness stand also have some detrimental effects (McAuliff, Nicholson, Armarilio, & Ravanshenas, 2013), which can also be the case in further answering jury questions. The emotional distress of a child facing their perpetrator can also create difficulty in answering these questions; they may suffer undue trauma by retelling their narrative in the court room (Goodman, Quas, Bulkley, & Shapiro, 1999). Other research also demonstrates the tendency of victim-blaming in cases of sexual abuse, in general. A study using vignettes with adult students revealed that victim-blaming was higher when cases of sexual abuse included close victim-perpetrator

relationships (Bieneck & Krahe, 2011). This has implications for how juries question children about such dynamics of abuse. One popular public perception is that these close relationships are not likely to result in abuse. This could also be a further avenue for future research – to see if additional questions from juries are problematic or worse than normal questioning since many jurisdictions allow jury questioning to seek clarity on facts and details of CSA cases.

There are other confounding factors (i.e. gender of perpetrator, the time it took the child to disclose abuse, child gender) that should be assessed in order to make this process easier and more understandable for jury members. Further educating juries on aspects of CSA dynamics and trial expectations may also allow them to make more sound decisions in these very difficult cases. Such education could include a brief overview for jurors of CSA cases by judges before trial. Further educating the public in general can incorporate more communication regarding CSA through educational videos, movies, and reports on online forums and social media. Awareness of the prevalence of CSA and common misconceptions are important, especially since any citizen in the general public can be called to sit on a jury for these trials.

Conclusion

The present study further illustrates the complexity of these cases by revealing other elements of abuse prior to the child testifying in court. In addition, it also shows that while jury members have much to consider in the child's testimony, there is still information they are missing in the child's dialogue with attorneys. The most frequent content (abuse details, demographics, and child's subjective reactions) that jurors asked about are essential in deciding these cases. The implications for prosecutors is to provide

evidence of what juries most frequently ask children about so that they may better question children in their examinations. Furthermore, this research is helpful to understand that characteristics of these cases are surprisingly common. These exploratory findings may be able to better educate the public on what these cases look like prior to trial (i.e. close relationships to perpetrators, non-penetrative severity, and frequent occurrences of abuse), and the details they should especially consider if they are called to be jurors and must listen to the child's report to make their decision of the case outcome. Such research can help improve processes for children testifying, as well as attorneys and judges handling these cases.

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APPENDIX A

JURY QUESTION CODING GUIDE

1.) Is this an eligible jury question for coding?

- 0 - No
- 1 - Yes

2.) Jury Question – Clarifying or new info?

- 0 - this question is clarifying something previously discussed
- 1 - this question is asking about something not mentioned previously

3). Direct Exam? Did this come up in direct previously (or re-direct exam)?

- 0 – No
- 1 – Yes

4). Cross-examination? Did this come up in cross-examination previously (or re-cross exam)?

- 0 – No
- 1 – Yes

5.) Child Answer – Clarifying or new info?

- 0 - this child clarifies something previously discussed
- 1 - this child provides details about something not mentioned previously
- 2 - this child says something else

5a.) If child says something else: _____ (i.e. what do you mean?, IDK, etc.)

6.) Child answer – Clarifying (only coding first 2 options if clarifying question (0) coded in variable #5)

- 1 - in clarifying, child says the same answer as before
- 2 - in clarifying, the child provides new information not previously said
- 99 – N/A

7.) Child's answer - contradict?

- 0 - the child's answer does not contradict anything previously stated by them
- 1 - the child's answer does contradict something they said previously

7a.) Child contradiction notes: _____ (write in here what the child contradicted themselves on)

8.) Content of jury question questions:

- 1 - Statements
    - Disclosure of abuse to others
    - Statements of what suspect said or told the child
    - Statements from others (parents, siblings, friends, etc.)
    - Statements of the child, related to abuse
- 2 - Suspect interactions and abuse details

    - Abuse with the child
    - Seduction, grooming, intercourse
    - Threats made to the child
    - What the child was wearing, clothing removal and placement and identification
- 3 – Suspect
    - Who is it? What is their relationship to the child?
    - What do they look like?
    - Age, height, hair color, etc.
- 4 – Location
    - Where the abuse happened
- 5 - Date
- 6 – Duration
    - How long the abuse went on for
- 7 - Time of day
    - Day/night
    - Morning/evening
- 8 - Frequency
    - How many times abuse happened
- 9 - Sensory perception
    - How it felt, how he/she smelled
    - What perpetrator's body looked like, what it felt like
- 10 - Child's feelings/thoughts/perceptions/emotions about suspect and/or abuse
    - How they felt when it was happening or afterwards
    - What they thought when it was happening or afterwards
    - Emotions they had
    - If they thought it was wrong or right
- 11 - Characteristics/preferences/demographics
    - Age of child
    - Favorite hobbies
    - Where the child lives
    - Who the child lives with
    - How long the child has lived where they live
    - Could also be adults
    - Who the child knows and how they know them
    - What the child likes to do, skills that the child has, etc.
- 12 - Child's actions
    - Other things the child did not about abuse - did you walk to school that day, did you learn about kissing from someone else, etc.
- 13 – Eyewitness
    - Was someone there during abuse, did someone see something
- 14 – Surroundings
    - More specific. Where was the chair in the room? Where was the window? Was the light on?
- 15 – Temporal distance

    - Estimating when something happened in relation to another event. How long ago it was in relation to something else. So was it three months before your birthday or four months?
- 16 – Sequencing
    - How events occurred in relation to one another. Was it before or after your birthday? Was it before or after Christmas?
- 17 – Differentiating Events
    - Kids often describe repeated abuse, and sometimes they want to get at what happened Time 1 versus Time 2, so questions might come up about whether a particular thing happened at Time 1 or Time 2. Did he pull your hair this time, or was that the time he took you to McDonalds?
- 18 – Veracity
    - Statements asking the child about truthfulness, the truth, the value of the truth, whether what they said was the truth, etc.
- 19 – Knowledge or Source of Knowledge
    - What the child knows, and/or How the child knows something they know, or how someone else knows something they know, but not a statement or disclosure – more like how the child knows their mom wasn't home, or what their sister's birthday is, etc.
- 99 – Other (specify)

Table 1

Jury Question Content and Frequency

Condensed Content	Coding definition	Coding example	Frequency	Percentage
Abuse details	Abuse with the child; seduction, grooming, intercourse; threats made to the child; what the child was wearing, clothing removal, placement, and identification.	*"All right. Now these swim shorts we are talking about, were they tight or were they loose?"*	127	20%
Demographics	Age of child; favorite hobbies; where the child lives; who the child lives with; how long the child has lived where they live; who the child knows and how they know them; what the child likes to do, skills the child has, etc.; who is the suspect; their relationship to the child; what they look like; age, height, hair color, etc.	*"What are some of your favorite books?" or "What does Elmore look like? Is he clean-shaven?"*	116	18%
Child's subjective reactions	How the child felt when abuse was happening or afterwards; what the child thought when abuse was happening or afterwards; emotions the child felt; if the child thought it was wrong or right; how it felt; how he/she smelled; what perpetrator's body looked/felt like; what the child knows/how the child knows something; how someone else knows something they know, but not a statement or disclosure.	*"Did you cry during oral sex?" or "Do you remember if anything came out of his penis?" or "Do you know that Dina has made accusations against your grandfather?"*	93	15%

Statements	Disclosure of abuse to others; statements of what suspect said or told child; statements from others (parents, siblings, friends, etc.); statements of the child related to abuse.	*"Okay. Thanks. When did you first tell your mother?"*	73	11%
Child's other actions	Other things the child did not relevant directly to abuse.	*"Did you ever see a wrestling match on TV at Juana and Luis' house?"*	67	11%
Date/time	Relevant dates of abuse; day/night; morning/evening; how many times abuse happened; estimating when something happened in relation to another event; how long ago in relation to another event; how events occurred in relation to one another.	*"When was the next time you went to the house after the November 2009 incident?" or "Was there just one incident of sexual contact?" or "Did you go to group counseling before or after you interviewed with the police or detective?"*	50	8%
Abuse context	Where the abuse happened; if someone was there during abuse; if someone saw something; what was in the room; where was the bedroom; other details about the environment; how long the abuse went on for.	*"The birthday party incident, which home was that at?" or "Where was grandma Lois when Pete was touching you or while watching videos?" or "Were there hallway lights on when Luis came into your bedroom?"*	51	8%
Veracity	Statements asking the child about truthfulness; the truth; the value of the truth; whether what they said was the truth.	*"Do you know the difference between the truth and a lie?"*	8	1%
Differentiating events	Time 1 versus time 2; particular things that happened at the first time versus the second time.	*"There were two instances you described. I just want to confirm, was it the same? Were there other men in the household at either time?"*	7	1%

Other	Other	*"And was this Facebook page a public or private page?"*	49	8%
Total			641	

Note. Due to rounding percentages to whole numbers, the sum adds to more than 100.

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Table 2

Characteristics of Cases With and Without Jury Questions

Characteristics	Cases with jury questions	Cases without jury questions	χ^2	*p* value
Age	*M* = 13 years old, *SD* = 3	*M* = 11 years old, *SD* = 3	-	-
Severity of abuse	38% penetrative	16% penetrative	2.41	0.12
Frequency of abuse	66% repeated abuse	38% repeated abuse	9.99	0.002*
Relationship to perpetrator	48% parent figure	40% parent figure	0.86	0.35

Note. *p < 0.05.

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