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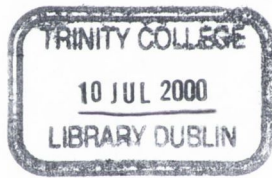
**The Child Witness:
An Investigation into Children's Understanding of the Legal
Process and the Perceived Competence of Children
to Act as Witnesses in Legal Proceedings**

by

Catherine Maunsell

**A thesis submitted for the degree of
Doctor of Philosophy**

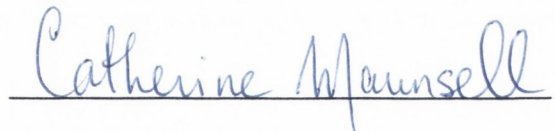
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DECLARATION

The material in this thesis has not been submitted as an exercise at this, or at any other, university. Apart from due acknowledgements, it is entirely my own work.

A handwritten signature in blue ink that reads "Catherine Maunsell". The signature is written in a cursive style and is positioned above a horizontal line.

Catherine Maunsell

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To my family; my parents, sisters, brothers and their families for their love and support always.

DEDICATION

I dedicate this thesis to my parents, Helen and Thomas Maunsell.

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Abstract

Given recent public and professional concern in relation to the levels of child victimisation and recent reforms of the evidentiary rules and legal procedures pertaining to children's evidence, there is an increasing likelihood that children will appear as witnesses in Irish legal proceedings. No previous empirical research has been conducted on child witnesses in Ireland. A consideration of the child witness within the Irish legal system raises a number of important issues which were addressed in this thesis, firstly, how do potential jurors view the competence of children to act as witnesses, secondly, how do professional groups who work directly with child witnesses view children's competence to act as witnesses and thirdly what do Irish children know about the legal process and how might they feel about going to court.

Chapter Two of this thesis presents the findings of a survey of 527 Irish adults eligible for jury duty. The survey was conducted using a specially-designed "Child Witness Attitude Survey" to elicit potential jurors' attitudes towards child witnesses. Respondent-jurors were presented with one of sixteen scenarios and were asked to rate their perception of a child's credibility and the likelihood that they would find a defendant guilty on the basis of the child's evidence. The scenarios varied on three factors: the age of the child, the gender of the child and the type of crime alleged, that is whether the child was the victim of the alleged crime or had been a bystander witness to the alleged crime. Results indicate that female respondent-jurors possessed a significantly more positive attitude towards child witnesses than that of male-respondent-jurors. In addition, a main effect for age of child witness was found on the measures of perceived credibility and likelihood of finding the defendant. The findings are discussed in terms of the implications for actual criminal proceedings involving child witnesses.

Chapter Three of the thesis presents a survey of the perceptions and practices of professionals ($N=32$) drawn from five professional groups, all of whom worked directly with child witnesses. In the main, professionals rated the repeated interviewing of children as potentially the most stressful aspect of the legal process for child witnesses. The pretrial preparation of children for their role as witnesses was perceived by all professional groups,

with the exception of lawyers, as an important technique in the alleviation of any system-induced stress that the child might be likely to experience. Only a minority of professionals reported having had any specialist training to work with child witnesses. Discussion centres on the reforms, both legal and procedural, which might reasonably be introduced to ease the plight of the child witness in Irish criminal courts.

Chapter Four of the present thesis reports on an examination of Irish children and adult's understanding of the criminal justice system. A total sample of three hundred and sixty ($N=360$) Irish children and adults, drawn from nine age-groups, were interviewed using the Legal Knowledge and Perception of Court Interview Schedule, an instrument designed for the purpose of the study. Analyses of variance of the data revealed a main effect for age of participant on understanding of the legal system. Child participants demonstrated increasing knowledge of legal terminology and concepts associated with the court process with increasing age. Overall the results of the present study parallel the findings of earlier empirical research in that Irish children, under the age of 9, were found not to possess a sufficient understanding of the criminal justice system to enable them to participate as effectively as they might as witnesses. The implications of these findings are discussed with emphasis placed on the role of preparation of child witnesses for their involvement in the legal process.

Alongside the introduction of legislative reform to accommodate child witnesses in Irish courtroom, the contention is put forward in the final chapter of this thesis that children would be "empowered" to give their evidence if prepared adequately for this experience. Such preparation would have the effects of maximising the accuracy and completeness of a child's testimony while minimising the unnecessary trauma or re-victimisation by the criminal justice system that the child might experience.

CHAPTER ONE: INTRODUCTION

1.1. Introduction

Child victimisation is a universal phenomenon found in one form or another in almost every culture in the world (Cohn, 1998; Ruback & Weiner, 1995). The victimisation of children is also not a rare event: the annual Progress of Nations Report (U.N.I.C.E.F., 1998) catalogues the violence committed against children throughout the world. Findings from the report in relation to the commission of crimes against children reveals that anywhere from 12-38% of women and from 3-16% of men were subjected to some form of victimisation in their childhood. In addition to the experience of victimisation, children all too often have to endure insensitive treatment at the hands of the criminal justice system. The very institutions which exist in part to aid and protect, in reality often further victimise children (Schetky, 1997). As a consequence, the last decade or so has seen unprecedented concern worldwide for the plight of children who have become embroiled in criminal proceedings. Indeed, the participation of a child in the criminal justice process can raise questions not only about the nature of the legal system but also “about how society, in general, views children at a given point in time” (Ring & Davis, 1997).

Many child advocates have contended that the traditional criminal justice system wholly ignores the special vulnerabilities of children in the courtroom (Dent & Flin, 1992; Goodman, Taub, Jones, England, Port, Rudy & Prado, 1992; McGough, 1994; Spencer & Flin, 1993). Concern stems largely from the fact that the accusatorial nature of the criminal trial process means that a child witness often has “to face a complex, adult-oriented and at times incomprehensible criminal justice system” (Dezwirek-Sas, 1992). Indeed, Terr has fittingly described the child who has to testify in court as “a solitary traveler wandering through a strange maze of institutions, people and customs” (1986: 471).

In various countries (including the Republic of Ireland) these concerns have been instrumental in the legislatures responding to demands that the laws of evidence and legal procedures become more sensitive to the needs of child witnesses. The result of this is that some commentators have come to assert that the experience of testifying can be empowering for a child, particularly for the child who has received adequate support and preparation for the task of testifying (Dezwirek-Sas, Hurley, Austin & Wolfe, 1991; Sisterman-Keeney, Amacher & Kastanakis, 1992; Whitcomb, 1992). There is now empirical evidence which indicates that if a child is traumatised by their court appearance, then such traumatisation can affect what they say in court, how they say it and consequently their credibility in the eyes of the judge or jury (Stafford & Asquith, 1992).

The review that follows will examine the level of children's involvement in the Irish criminal justice system, and will present in historical context both legal and psychological views on children's competence to provide accurate testimony in legal proceedings. This will be followed by an overview of the relevant empirical research on child witnesses that has been conducted in the past two decades, and will include a discussion of those factors that have been identified as stressful for child witnesses. Recent legislative changes are then discussed in relation to the treatment and reception of children's testimony. Finally, data is presented on the techniques which have been designed and are currently employed to protect child witnesses from unnecessary emotional distress and which empower them to provide the optimal testimony within their capability.

1.2. Children's Involvement in the Irish Criminal Justice System

Since the turn of the 20th century, thousands of children¹ across the world have taken the witness stand in criminal proceedings (Bottoms & Goodman, 1996). Though the general perception of a child witness is that of a child who has been the victim of a crime, children can find themselves in the witness box at a criminal trial for any number of reasons (Spencer & Flin, 1993). A child may have been the victim of a road traffic accident or

¹ In keeping with the Age of Majority Act, 1985 a "child" for the purpose of this thesis is defined as any person under the age of 18 years. In the most recent census of the population of the Republic of Ireland, there were 1,198,960 children residing in this jurisdiction, accounting for one-third of the total population (Central Statistics Office, 1996).

may have witnessed an incident, such as an incidence of domestic violence, which gave rise to criminal proceedings. Alternatively, they may find themselves as defendants in juvenile justice proceedings (McLoughlin, Maunsell & O'Connell, 1999; Morgan & Zedner, 1992; Trickett & Schellenbach, 1998).

Before presenting the available data in respect of children's involvement in the Irish criminal justice system, a caveat must be entered. Official crime statistics in the Republic of Ireland² do not lend themselves to an easy assessment of the extent of children's actual involvement in the Irish criminal justice system. This is because criminal statistics are categorised solely by offender characteristics and by type of offence; no details in relation to the victim of the crime are recorded. There are, however, a number of indicators from which estimates may be garnered of the numbers of children appearing before the criminal courts in this jurisdiction.

1.2.(i). Children As Defendants in Criminal Proceedings

One of the instances, as outlined, where children's testimony is of importance is when the child elects³ to give evidence in criminal proceedings where they themselves are accused of committing a crime. Under the Children's Act of 1908, where it can be shown that the child understood the nature and consequences of their act, it is possible for any child between the age of 7 and 10 years to be brought before a court for the alleged commission of a criminal offence. An age of criminal responsibility of 7 years is quite low by comparison with other jurisdictions. In Northern Ireland it is 10 years, as it is in England and Wales, while in Germany the age of criminal responsibility is 14 years. Thus, in the Republic of Ireland, at the time of writing, younger children may be brought before the courts as defendants than is the case in many other jurisdictions worldwide.

Statistics are collated annually as to the numbers of children appearing before the criminal court on allegations of having committed a criminal offence. The most recent available

² A similar paucity of statistics has been reported on in other jurisdictions (Flin, Davies & Tarrant, 1988; Goodman, 1984).

³ Under Irish law, no defendant in a criminal trial, either child or adult, is compelled to give testimony at trial.

figures on juvenile offending show that, 8,583 children under 17 years of age were referred to the Garda National Juvenile Office in 1997; 25% of those children so referred were aged between 10 and 13 years of age. A total of 489 children under the age of 10 were reported as having been charged with criminal offences in that same year (Garda Commissioner, 1998). A recent investigation of the numbers and characteristics of Irish children appearing as defendants in criminal proceedings revealed that the proportion of children before the court at age 14 or younger was approximately one in every four of the cases analysed (McLoughlin et al., 1999).

In the vast majority of instances these young defendants will have their cases tried at the Children's Court.⁴ This Court, as its name would suggest, is better adapted to deal with children: it sits in private and tends to follow more relaxed court procedures than those which are followed in the adult criminal courts. Thus, although young children do appear in court as defendants, the trial process is not as formal as in cases where a child has to give evidence in adult criminal courts (McLoughlin et al., 1999).

1.2.(ii). Children as Bystander Witnesses in Criminal Proceedings

Children may be called on to testify in adult criminal proceedings where they have witnessed the commission of a criminal offence. No official statistics are available as to the numbers of children who testify as bystander witnesses in criminal proceedings though a number of indicators would suggest that the number of children who may potentially provide such testimony is substantial. Legal proceedings in respect of domestic violence are those where it is most likely that a child may be called on to provide evidence as a bystander witness in criminal proceedings. A national survey of the extent, type and impact of violence against women, found that almost two-thirds of the sample of women who had experienced violence ($n=104$) reported that their children had witnessed the violence committed against them (Women's Aid, 1995). In 1997, the most recent year for which figures are available, there were 4,184 recorded incidents of domestic

⁴ Save for an instance where the offence in question is deemed serious then, with leave of the court, the case may be sent forward for trial to the adult criminal circuit court.

violence out of which a total of 947 persons were subsequently prosecuted. Thus, in close to 1,000 criminal cases appearing before the courts in 1997, a sizeable number of children may have witnessed or indeed may have been the victim of a criminal offence(s) and potentially may have been called on to testify in criminal proceedings relating to such offences.

A recent Scottish study found that more children were called on to give evidence about crimes to which they themselves were bystanders than to provide evidence in relation to crimes committed against themselves (Flin, Bull, Boon & Knox, 1993). The laws of evidence in Scotland, however, require that the evidence provided by all witnesses, child or adult, be corroborated, thus the evidence of a bystander witness who happens to be a child may be required more often than is the case in this jurisdiction.

1.2.(iii). Children as Victim Witnesses in Criminal Proceedings

Although children may be called on to testify as a bystander witness, a number of researchers have noted that children's voices are rarely heard in criminal proceedings except when they themselves are the victim of a criminal offence (McGough, 1994; Whitcomb, 1993). Davies and Noon (1991) provide some empirical evidence to support this assertion. In their study of Crown Court cases where video-link technology was employed almost 90% of the children who were required to testify were the victims of child abuse. Whitcomb (1993) points out that the most likely reason for this is that allegations of child abuse are more often contested, thereby increasing the likelihood that such cases will go to trial and at trial that the child will be required to testify. Indeed, much of the concern of both psychologists and lawyers has centered on children's experiences of giving evidence against adults in cases of alleged child abuse.

While there is no single data source in Ireland which comprises statistics on crimes committed against children, a number of different institutions gather data on the level of criminal offences perpetrated against children. The official Garda Crime Statistics provide the most comprehensive snapshot of reported crime in Ireland but the Crime Statistics

provide little information on the incidence of child victimisation. In the list of offences on which data is reported in the annual Garda Crime Statistics, there are only four criminal offences which are committed specifically against children, these include; cruelty to or neglect of children, defilement of girls under 15, defilement of girls aged 15-17 and incest. The most recent Crime Statistics published in 1997 indicate that a total of 52 cases under those 4 headings were reported in that year (Garda Commissioner, 1998). In fact, no case of cruelty to or neglect of children was recorded for 1997, indicating that all recorded cases fell under the categories: defilement of girls under 15, defilement of girls aged 15-17 and incest.

From a second source of data on the level of child victimisation in this jurisdiction (*viz.* those cases reported to the child protection agencies) it would appear that the official Garda Crime Statistics grossly underestimate the level of child victimisation in Ireland. Nationally, in 1984, the number of reports of child abuse received by the eight regional Health Boards was just under 500, of which less than 200 cases were confirmed, with 33 of these being confirmed cases of child sexual abuse. By 1997, the latest year for which statistics were available, the number of reports was over 7,300, with over 2,650 cases confirmed including over 570 cases of child sexual abuse (Department of Health & Children, 1999). Thus, the number of confirmed child abuse cases in the fourteen-year period had grown from 184 to 2659, an almost fifteen-fold increase. The numbers of confirmed cases involving sexual abuse had grown in the same period from 33 to 579 which represents an increase by a factor of 18 (Department of Health & Children, 1999).⁵

Although cases of physical abuse and neglect are reported more frequently to the relevant authorities, these cases are less likely than child sexual abuse to be prosecuted (Whitcomb, 1993). Unless the child suffers serious physical injuries (or death) as a result of the alleged abuse, it is generally felt that the resources of the child protection system are likely to be more effective in preventing future incidents of abuse than are outcomes available through the criminal justice system. The net effect is that there is a greater likelihood that reports

⁵ See Appendix I (a) for a tabulation of the Department of Health and Children Statistics on the incidence of child abuse in the Republic of Ireland in the fourteen year period from 1984-1997.

of child sexual abuse rather than child physical abuse will result in intervention by the criminal justice system.

Again, it should be noted that the child abuse statistics compiled annually by the Department of Health and Children reflect only those cases of child abuse which have become known to the regional Health Boards. Many child abuse experts would hold that relying on reported incidents leads to a gross underestimation of the actual prevalence of child abuse and represents only the tip of the iceberg (Finkelhor & Dziuba-Leatherman, 1994). A more realistic estimate of crimes committed against children arises from the records of voluntary/non-Governmental child protection organisations (Kilpatrick & Saunders, 1997).

In 1998, on the tenth anniversary of the establishment of the national “Childline” telephone helpline, the I.S.P.C.C. reported that in the ten year period over three-quarters of a million calls were made to the helpline. Just under half of the total number of calls were in relation to child abuse, and over 15%, (representing the largest single category of calls) were concerned with child sexual abuse (I.S.P.C.C., 1998). Childline thus received, on average, 11,000 calls per year which related to child sexual abuse. Over half, or 53%, of a total of 6,270 calls to the 24-hour crisis line of the Dublin Rape Crisis Centre from June 1998 - May 1999 were concerned with child sexual abuse (Dublin Rape Crisis Centre, 1999). Furthermore, seven out of every eight cases of child sexual abuse dealt with by the Dublin Rape Crisis Centre in this one-year period had not been reported to the Gardai or to any other statutory authority. It is thus well documented that a far greater number of children experience abuse and never report such victimisation to the relevant authorities than ever have their voices heard in criminal proceedings (Finkelhor & Dziuba-Leatherman, 1994; Dublin Rape Crisis Centre, 1999).

Given the recorded increase in the number of confirmed cases of child abuse it could reasonably be expected that children are now more likely to have their voices heard in Irish criminal courts (McKeown & Gilligan, 1990). Nonetheless, it is clear from the Garda statistics on the level of prosecution of cases of crimes committed against children that

currently only a very small percentage of cases involving child victims result in criminal proceedings.⁶ The only available data which presents explanations for such low prosecution rates comes from the Law Reform Commission Consultation Paper on Child Sexual Abuse (1989). This paper provides very useful statistics on cases registered in the office of the Director of Public Prosecutions in 1986 relating to sexual offences committed against children under 16 years of age. In 19 of the 90 cases where no prosecution was taken, the reason given was that the statements taken were either vague or unreliable by normal prosecution standards: the average age of the children in those cases was 12.3 years. In 7 of the 90 cases, the child's age and the lack of corroboration were given as the reasons for not prosecuting: the average age of the child in those cases was given as 8.5 years. Another reason why children may not ultimately be called on to testify is that the accused pleads guilty in the majority of cases thereby obviating the necessity for a full trial (Ring & Davis, 1997). Nonetheless, from the point of reporting there is an assumption that, at the very least, the child will have a reasonable expectation of being involved in a criminal investigation even if they are not ultimately required to testify in any legal proceedings which may or may not ensue.

In summary, there has, in the past fifteen years been a dramatic increase in the reporting of child abuse in the Republic of Ireland, as elsewhere. The available data relating to the extent of confirmed cases of child victimisation nationally would suggest that, despite heretofore poor rates of prosecution, increasing numbers of children are being involved, or have the reasonable expectation of becoming involved in criminal investigations and subsequent legal proceedings in this jurisdiction.

The following section will place the field of research on child witnesses in historical context and describe legal and psychological views of child witnesses held by scholars since the turn of the 20th century.

⁶ Indeed in their analysis of child sexual abuse cases reported to the Eastern Health Board in 1988, McKeown and Gilligan (1990) reported that the prosecution rate of confirmed child sexual abuse cases in Ireland is less than 1 in 10.

1.3. Children and the Law: A Historical Background

For the last two centuries, at least, children have not been barred from participating in criminal proceedings, nonetheless, as one current writer highlights “ . . . it would not be an exaggeration to say that until very recently children were treated as second-class citizens in the eyes of the law” (Kapardis, 1997: 95). Historically, children had been viewed as chattels under the law, as merely the personal property of their parents with no legal status or entitlements of their own (deMause, 1975).

Any discussion of the law pertaining to children in the criminal courtroom must include reference to the important differences which exist between the two main legal systems which dominate Western society; the common law system and the civil law system.⁷ In accommodating child witnesses the seminal difference between the legal systems of the two traditions is concerned not with substantive law but rather with the procedures adhered to in the trial process. Common law countries historically follow the adversarial or accusatorial system of justice; civil law countries, on the other hand, adhere to an inquisitorial trial procedure.⁸

Unlike in the inquisitorial system, a “complex web of rules” pertaining to children’s evidence have traditionally been employed in the adversarial system of justice (Sanders & Young, 1994: 9). In common law jurisdictions, such as the Republic of Ireland, it was a requirement that evidence be given under oath and in person. The common law position was outlined in 1779 in *Rex v. Brasier*,⁹ one of the earliest cases concerning children’s evidence:

⁷ “The common law is the law of England and the law of those countries in which the law of England has been received or implanted” (Myers, 1993: 917). Ireland along with countries such as Australia, New Zealand, South Africa, Canada and the United States follow the common law tradition. The majority of countries in continental Europe, by contrast, follow the civil law system (Sanders & Young, 1994).

⁸ Spencer and Flin outline the difference as follows: “In an accusatorial system each side presents a case before a court the function of which is limited to deciding who has won. The judge has nothing to do with the preliminary investigations, gives no help to either side in presenting its case, and takes no active steps to discover the truth, which emerges – or so the theory goes – from the clash of conflicting accounts. In an inquisitorial system, on the other hand, the court is viewed as a public agency appointed to get to the bottom of the disputed matter. The court takes the initiative in gathering information as soon as it has notice of the dispute, builds up a file on the matter by questioning all those it thinks may have useful information to offer – including, in a criminal case, the defendant – and then applies its reasoning powers to the material it has collected in order to determine where the truth lies” (1993: 75).

⁹ (1779) 1 Leach 199

“No testimony whatever can be legally received except upon oath and an infant though under 7 years of age, may be sworn in a criminal prosecution provided such infant appears, on strict examination by the court to possess sufficient knowledge of the nature and consequences of an oath. For there is no precise or fixed rule as to the time within which infants are excluded from giving evidence, but their admissibility depends upon the sense and reason they entertain of the danger and impiety of falsehood which is to be collected from their answers to questions propounded to them by the court; but if they are found incompetent to take an oath their evidence cannot be received.”

The decision delivered in *Rex v. Brasier* thus provided, in theory at least, that there was no age below which children were automatically deemed incompetent to testify. In reality though, it was unlikely that young children would be deemed capable of understanding the nature and consequences of the oath and would therefore not be deemed competent to testify.

In the Children’s Act of 1908, provisions were made for children to give testimony other than under oath. Section 30 of the Act provided that a witness of “tender years” who did not understand the nature and consequences of the oath could provide unsworn evidence at a criminal trial. The court, however, had to be satisfied that the child possessed “sufficient intelligence to justify the reception of the evidence” and that the child “understands the duty to speak the truth.” Some two decades later, in the case of *Attorney General v. O’Sullivan*,¹⁰ the law on the competence of children to act as witnesses in this jurisdiction was stated by Chief Justice Kennedy in his judgment in the case:

“This section, [Section 30, 1908 Act] does not, in our opinion, alter the previous law as to the reception of the evidence of children given on oath,

that is to say, it was and is a question, not of age, for there is no precise limit of age fixed by any rule within which the evidence of children on oath is to be excluded, but it is a question of the intelligence and mental capacity of the child witness, its' sense and reason of the danger and impiety of falsehood.'

Chief Justice Kennedy, thus, reiterated that the basis for establishing the competence of a child witness was not one of age, but of the intelligence and actual mental capacity of the child. However, a number of additional evidentiary barriers to the hearing of a child's testimony were still in force.

Where the evidence tendered was that of a child who was deemed too young to take the oath then such "unsworn" evidence was not afforded full weight and was required to be corroborated by the testimony of an adult. Judges were also required to give explicit warnings to jurors about the dangers of convicting on the sole evidence of a child (Bulkley, 1985; Ring & Davis, 1997; Spencer & Flin, 1993). These barriers were, in the main, because of a legal assumption that the evidence of a child was inherently too unreliable to be taken as the sole basis for conviction of the accused. Traditionally, therefore, while children were not prohibited from testifying because of their age alone, when young children were called on to testify the established legal position was to treat their evidence with a great degree of skepticism.

In 1989, the U.K. Home Office Report of the Advisory Group on Video Evidence (more commonly referred to as the Pigot Report) examined the issue of children's competence to act as witnesses. The report highlights the judgment of the Court of Criminal Appeal in England in the case of *R v. Wallwork*,¹¹ a case which involved a witness of five years of age. Lord Goddard in his judgement in the case pronounced that it was "ridiculous" to hold that the evidence of such a young witness could have any legal value. The Pigot Report went on to state that the judgment in the Wallwork case had the effect whereby:

¹⁰ [1930] 1.R. 552.

¹¹ (1958) 42 Cr. App. R. 153.

“ . . . prosecutors will not generally adduce, or courts receive evidence from young children unless they seem to have the understanding normally to be expected of a child of about 8” (Pigot Report, 1989: 47).

A more recent decision of the Court of Criminal Appeal in England upheld the line of argument in *Wallwork*. In the case of *R v. Wright and Ormerod*,¹² Mr. Justice Ognall stated that the decision in *Wallwork* remained “untrammelled” and that only in exceptional circumstances would the evidence of young children be deemed admissible. The interpretation of statutory legislation *via* case law in England, therefore, had the effect of setting an age threshold of competence in place of a test as set out in the 1908 Act of assessing each child’s intelligence and understanding of the duty to speak the truth.

The Irish Law Reform Commission Report on Child Sexual Abuse (1990), which also examined the issue of children’s competence to act as witnesses, reported that there was no Irish decision, as far as the Commission were aware, which could have given rise to the rule of practice as set out in *Wallwork*, wherein the evidence of young children, whether sworn or unsworn, could never be heard. Nevertheless, the Law Reform Commission Report makes the point that many Irish professionals expressed the belief that there was an “informal age threshold” in operation which made it “extremely unlikely that a child of eight years or younger would appear as a witness.”¹³

“The members of various professional groups who have experience in working with child victims of abuse repeatedly expressed bewilderment as to why child victims, with whom they were familiar and who in their opinion seemed able to give perfectly clear accounts of offences which were committed against them, were not permitted to do so in court” (Law Reform Commission, 1990: 67).

¹² (1987) Unreported, Court of Appeal Criminal Division.

¹³ Thus, leading to the ironic situation whereby a child at the age of 7 may be deemed to be criminally responsible for their actions and as a consequence may be called as the defendant in criminal proceedings but a same-aged child who had been a victim of crime may not be considered by the criminal court to be a competent witness.

In summary, it would appear that traditionally the law in Ireland, as in other jurisdictions following the common-law tradition, treated child witnesses with a substantial degree of distrust. While there was no set age at or above which children were deemed to be competent witnesses in statutory terms, in legal practice, however, it would appear that young children were rarely deemed competent to testify with the consequence that children's evidence was rarely heard in Irish criminal courtrooms.

1.4. Review of Empirical Literature Pertaining to Children's Competence to Act as Witnesses in Legal Proceedings

Members of the legal profession would have found ample empirical evidence to support these views of child witnesses in the findings of psychological research in the early decades of the 20th century. The idea of prohibiting children from acting as witnesses in criminal proceedings was reportedly based on fears that the testimony of a child was at best, "unreliable" and at worst, "dangerous" (Birch, 1992). Goodman in the first review of psychological literature on children's testimony pointed out that: "Early studies tended to support some of the legal profession's stereotypes of children by claiming to show that children are 'the most dangerous of all witnesses' " (1984: 9). Spencer and Flin (1993) catalogue some of the attitudes or beliefs which have underpinned the law's traditional treatment of children as "dangerous" witnesses. Firstly, these authors highlight that children were not regarded as being as good as adults in terms of the observing and reporting of events; secondly, that children were prone to fantasise, particularly about sexual matters (Freud, 1940), thirdly, that they had difficulty distinguishing fact from fantasy (Piaget, 1972). Finally children were viewed as being highly suggestible and prone to lying (Binet, 1900).

While developmental psychology in the first half of the 20th century " . . . appears to have been curiously preoccupied with young children's incapacities", more recently, psychologists have come to challenge the scientific validity of these assumptions (Donaldson, Grieve & Pratt, 1983). By the late 1970's, there was a systematic shift in

research on children's development to investigate the developmental strengths rather than the limitations of children's competence (Flavell, Miller & Miller, 1993). The former approach according to many theorists resulted in an underestimation of the true extent of children's capabilities (Donaldson, 1992). With empirical research presenting a much more positive view of the competence of children, developmental psychologists in the 1980's began to empirically examine issues relating to children's participation as witnesses in the legal process. By the mid 1990's, Flin could make the claim that recent psychological research "... argues with one voice that the competence of the child witness had been underestimated and that even young children have the right to be heard in the criminal justice system" (1995: 244).

An extensive body of empirical research now exists in relation to children and their involvement as witnesses in the legal process. Psychologists and legal researchers are gaining greater insights into the potential strengths and weaknesses that children possess as witnesses. In general, children are not expected to understand or perform on a par with adults. When children become witnesses, however, they are thrust into an adult system that traditionally does not differentiate between children and adults. Consideration of children's ability to participate in legal proceedings raises a number of issues. These relate to:

- (i) children's credibility as witnesses,
- (ii) children's cognitive competence,
- (iii) their communicative competence to testify in legal proceedings,
- (iv) their emotional response to a criminal investigation and trial and
- (v) their understanding of the legal process.

The following review of the literature will draw upon some of the latest empirical research in respect of each of these areas.

1.4.(i). Research on Children's Credibility as Witnesses in Legal Proceedings

Although there has been consistent interest in children's credibility as witnesses over the past century, the past 15 years have been the most active in terms of the number of published studies and novel theorising about the causal mechanisms that underpin the observed findings. It is concluded that there are reliable age differences in the credibility of children's accounts of events but that even very young children are capable of recalling much that is forensically relevant (Ceci & Bruck, 1993). Nonetheless, there is increasing skepticism regarding children's credibility. Three sources of this skepticism have been highlighted by Myers (1995). First the popular media is increasingly skeptical of child witnesses: whereas press coverage of child victims during the 1980's was largely positive, coverage during the 1990's indicates increasing doubt about children's credibility. Secondly, some writers in the psychological literature portray children in an unnecessarily negative light, again contributing to unwarranted skepticism. Thirdly, the 1994 decision in *State of New Jersey v. Michaels* is likely to exaggerate doubts about children's memory and suggestibility.

Empirical studies have shown, however, that children under certain conditions may be no more suggestible than adults (Ceci & Bruck, 1993) and that few of their allegations prove to be false (McIntosh & Prinz, 1993). While children might be more prone to suggestion than adults, "... suggestibility is not a stable feature of childhood, rather it is a characteristic that varies as a function of a variety of factors, including memory strength, feelings of power and powerlessness, the extent of social pressure and comprehension of what is being asked and why it is being asked" (Goodman & Schwartz-Kenney, 1992: 19). Empirical studies have repeatedly shown that the manner in which the child is interviewed has direct consequences on how credible they are subsequently perceived to be (Home Office, 1992; Sternberg, Lamb & Hershkowitz 1996, Warren & McGough, 1996). The finding of Marxsen, Yuille and Nisbet's (1995) that young children are more suggestible than adults is well established. According to these authors, this does not mean that the investigative interviewing of children is impossible, only that it requires skill and care. It also does not preclude the possibility that effective training procedures can be developed

to bolster resistance to suggestion, thus enhancing children's perceived credibility (Saywitz, Snyder & Nathanson, 1999).

1.4. (ii). Research on a Children's Cognitive Competence to Act as a Witnesses in Legal Proceedings

When the performance of very young children is compared to that of older children and adults, it is common to find age differences in both the completeness and the accuracy of reports. It is now widely acknowledged, however, that there are many age-by-task-by-context interactions involved in the task of providing an accurate account of a witnessed event (Memon, Vrij & Bull, 1998).

The most consistent finding in relation to children's cognitive capabilities is that young children (*viz.* under 8 years of age) typically freely recall less information than older children and adults. In a courtroom setting, therefore, young children are not as proficient as older children or adults at recalling their experiences in response to open-ended, non-leading questions. There is evidence that children's ability to store information is adequate but their ability to retrieve the information is deficient because children lack efficient strategies of organisation of information in memory (Cowan, 1997; Qin, Quas, Redlich & Goodman, 1997). The ability to organise memory increases with age and experience of the child and is the result of the development of meta-cognitive frameworks that help facilitate the retrieval of information (Sincoff & Sternberg, 1989) Thus, young children do not necessarily remember less, rather they are less proficient at the task of "free recall" or retrieval of stored memory (Saywitz et al., 1991).

Of more forensic significance is the finding that the information that children do recall freely is generally as accurate as that recalled by older children and adults (Dent & Flin, 1992; Zaragoza, Graham, Hall, Hirschman & Ben-Porath, 1995; Peters, 1996). Goodman and Aman (1990) found that even a 3-year-old could sometimes provide a surprising amount of accurate information about meaningful life events. Like adults, children very often remember more information than they are likely to spontaneously provide in an

interview. While free-recall of an event generates the most accurate information, more specific information is usually required during the investigation process thereby necessitating the use of more specific questions or cues. The disadvantage of this is that the use of such specific questioning may lead to a concomitant decrease in the accuracy of the child's report (Memon, Vrij & Bull, 1998).

A number of studies of children's memory for personally experienced events, demonstrate that when children make errors, they more frequently make errors of omission (not reporting something that did happen) than errors of commission (reporting events that did not occur) (Saywitz, Goodman, Nicholas & Moan, 1991; Leippe, Romanczyk & Manion, 1991; Ornstein, Gordon & Larus, 1992). Thus, it would appear that children's accounts of events err on the side of caution, an important finding in relation to criminal proceedings that are brought pursuant to allegations of child abuse. Another finding of particular forensic significance is that young children's memories seem to be more sensitive to the passage of time than those of older children or adults (Flin, Boon, Knox & Bull, 1992).

The effects of stress on child witness accuracy and performance have also been investigated. Goodman, Bottoms Schwartz-Kenney and Rudy (1991) examined age differences in children's ability to recount a stressful event. These authors also examined a number of ways of improving children's reports. 23 children aged between 3 and 5 years and 47 children aged 5-7 years were videotaped receiving inoculations at a medical clinic. It was predicted that social support would ease intimidation and thus lessen children's suggestibility. Subjects were interviewed about the clinic event either once after a four week delay or twice, following two-week and four week delays, and under either "reinforcing" or "non-reinforcing" conditions. Age differences in answers to specific and misleading questions and in performance on a photo identification task were prevalent. However, the "reinforcing" condition, which involved the presence of a social support for the child was found to support more accurate reports. This finding tallies with the findings of Moston and Engleberg (1992) who in their study reported that child witnesses

often only give short accounts of witnessed events partly because of the stress of being separated from their family and peers during the interview.

Saywitz and Nathanson (1993) examined the premise that the courtroom environment affects the quality of children's evidence and children's perceptions of their own stress. 34 children (aged 8-10 years) participated in an activity and two weeks later their memory for the activity was tested. Half of the children were tested in a mock courtroom and half in a room in their school; the same interviewer tested all children. Children questioned at court showed impaired memory performance when compared with same-aged children questioned in their school. They also rated certain court-related experiences as more stressful than peers interviewed at their school. Children's perceptions of courtroom stress were negatively correlated with completeness of accurate free recall, suggesting a relation between court-related stress and eyewitness memory. This further supports the earlier findings that the more stressful the experience for the child, the less cognitively competent they are to provide as accurate an account of events as may be possible for them.

Many current theories of cognitive development (Chi, 1983; Fischer, 1980; Vygotsky, 1978) would lead us to expect that age differences will not necessarily appear on eyewitness tasks. According to the views of these authors (and as indicated in the empirical studies presented above) children's cognitive abilities are not strictly bound by developmental stages; instead, they would argue that children's abilities are typically uneven, with children having more sophisticated skills when events are familiar, tasks are simplified and surroundings are supportive (Price & Goodman, 1990). Thus, depending on the given circumstances of a case, a broad range of cognitive abilities can be found at any one age.

1.4.(iii). Research on Children's Communicative Competence to Act as a Witness

In addition to possessing the cognitive skills necessary to be deemed a competent witness, children must also have sufficient language skills to testify. Some children have difficulty

meeting the standard of communicative skills required in a legal context. This is often due to either “witness box” fright or the use of developmentally inappropriate language or questioning techniques rather than due to deficits in the child’s communicative capacity *per se*.

The appropriateness of the language used is especially important when prosecuting sexual abuse cases where the child’s vocabulary of and understanding in respect of body parts, sex and sexual behaviour can be very different from that of an adult. Examples of its importance are provided by Dezwirek-Sas et al. (1991) who refer to a 10 year old girl who defined a subpoena as “a male private part” and by Goodman and Aman (1990) who found that preschool children sometimes pointed to their ears and arms when asked to indicate their private parts. In a recent Irish case the account of an 8-year-old girl, whose mother’s boyfriend was accused of raping her, was found not to possess the adult terminology of sexual assault or consequent rape. Rather her description to the jury was that the defendant had done “dirty things to her” and that the “dirty things had happened a few times” (Irish Times, 25.2.98).

Saywitz and Nathanson (1993) provide an illustrative example of the inappropriate questioning which may be used in trial proceedings. These authors outlined a case where a four-year-old witness was asked:

“On the evening of January the third, you did, didn’t you, visit the house of your grandmother’s sister and didn’t you see the defendant leave the house at 7.30. after which you stayed the night?”

The child’s inability to respond to this question was deemed to signify the child’s inability to provide competent testimony. The developmental inappropriateness of the question was not even raised in the case.

Another study examined the language used to cross-examine child victims in Australian courts. This study revealed that lawyers, particularly defence lawyers, use a catalogue of

language constructions in order to confuse a young witness. The following is an example of the type of questioning used by a prosecuting barrister during an actual trial:

"Now he is suggesting some other things to you that might I suppose remind you that might have happened, now I suppose it is hard to understand why he says these things to you when you say it didn't happen, that's hard to understand isn't it, but he is allowed to do these things and if you say it didn't happen, all you have to do is say no, or if it did say yes, now do you follow that?" (Brennan & Brennan, 1988)

When one notes that such a question was asked by a prosecuting barrister - who is ostensibly representing the child witness - then it is unsurprising that the issue of the age-appropriateness of the language used by certain members of the legal profession has been raised by a number of researchers.

In a recent study, Park and Renner (1998) examined the court records of 58 child sexual abuse trials for the sensitivity of the court in acknowledging the differing developmental capabilities between child and adult witnesses. These researchers noted that children were frequently asked developmentally inappropriate questions. The questions asked either exceeded the children's cognitive threshold of comprehension or failed to respect the fact that children are not responsible for their sexuality by definition of being a child. These authors went on to state that:

“ . . . the legal system fails justice to the extent that it holds the child responsible for providing accurate testimony, but fails to ensure that procedures are used which recognise the developmental capabilities and the non-sexual status of the child witness” (Park & Renner, 1998: 18).

Goodman et al. (1992) found that while most of the questioning they observed during the course of their study was reasonably age-appropriate, defence lawyers during cross-examination used more age-inappropriate language and questioning methods than did

prosecuting lawyers. Of course the aim of cross-examination is not to have an opposing witness give a clear, complete and convincing account of the alleged incident, nonetheless, Spencer and Flin (1993) contend that the tactics of cross-examination are not the optimal means of testing the evidence of a child.

In an Irish context, the Irish Law Reform Commission (1990) addressed *inter alia* the issue of the age-appropriateness of language in legal fora. The Commission's recommendation was as follows:

“The lawyer needs to be able to understand the language of children and to be able to communicate with children, not in the esoteric language of the law but in language appropriate to the particular stage of the child's development” (1990: 126).

Even when the choice of vocabulary and grammar would appear to be age-appropriate, there may still be misunderstandings between the child and the examining lawyer. Garbarino and Stott (1992), for example, found that children being interviewed by a stranger in a formal and highly unusual situation may be reluctant either to say that they have not understood a question or to contradict the interviewer.

The child's difficulty in communicating it would seem, is often as much the fault of the adult as it is the fault of the child. As stated by Saywitz, Nathanson and Snyder “. . . children are not responsible for witness competence alone. Methodologies and theories need to address the relationships between the child as respondent, the adult as questioner and the physical-psychological environment in which the questioning occurs” (1993: 61).

The adult questioners' communicative competence depends in part on an ability to communicate in a nonbiased manner with the child, at their level of understanding, accounting for the child's age and linguistic ability (Graffam-Walker, 1999). Children's communicative competence depends on a host of skills required of witnesses, including the ability to translate memories into language and communicate their experiences. Also

germane is their ability to cope with the stress of testifying and their understanding of their role within the legal process. Psychologists have, thus, come to acknowledge that the reliability of a child's account of a witnessed event is mediated by a host of cognitive, affective, social and contextual factors. Thus, age is only one of a number of factors to be taken into consideration when evaluating a witness's competence (Goodman & Schwartz-Kenney, 1992). As Spencer and Flin (1993) point out, in any given task one would expect to find a broad range of performance, even within age categories.

This review of the psychological research on the competence of children as witnesses would suggest that, in the main, children possess the cognitive and communicative skills which are required for the task of testifying and that even young children can act as competent witnesses once their testimony is elicited in a developmentally appropriate and sensitive manner (Flin & Spencer, 1995).

1.4.(iv). Research on Children's Emotional Response to Involvement in a Criminal Investigation and Trial

Much of the research to date has concentrated on children's competence to act as witnesses rather than on their perceptions of and reactions to court procedures. It has been suggested by some, albeit a minority of, professionals that the experience of participating in the legal system is not inherently traumatic and may in fact be therapeutic for the child victim (Lipovsky & Stern, 1997). More often, however, those experts who work with child witnesses believe that being involved in a criminal investigation and subsequent criminal proceedings is a significant source of stress for children (Goodman et al., 1992; Tedesco & Schnell, 1987).

The deleterious levels of stress experienced by child witnesses were seen firstly, to contribute substantially to the emotional burden placed on the child and secondly, to effect the administration of justice; because children who may be so traumatised by the experience of giving evidence are incapable of providing an accurate and coherent testimony (Goodman et al., 1992). Lord McKay in his opening address to an International

Conference on Children's Evidence, highlighted the trauma and "unnecessary stress" that child witnesses may suffer as a result of having to provide testimony at a criminal trial, and concluded that it does nothing to further the interests of justice (McKay, 1990: 1).

Some professionals have gone so far as to claim that involvement in the legal process constituted a "revictimisation" for the child victim (Whitcomb, 1993: 2). Esselman, Tomz and McGillis (1997) delineate some of the ways in which child victims may experience secondary distress as a consequence of their involvement in the legal process:

- (i) attitudes of skepticism or disbelief demonstrated by the investigating or prosecuting authorities
- (ii) insensitive questioning by law enforcement officers, other legal personnel or by child-protection professionals
- (iii) fear of reprisal by the accused
- (iv) lack of information about the progress of the case
- (v) lack of preparation for the task of testifying
- (vi) frustration related to delays in court hearings
- (vii) anxiety about testifying
- (viii) hostile cross-examination.

Relatively few studies have been conducted where observations are made of child witnesses during the provision of their testimony in live trial proceedings. In a study of the emotional sequelae of testifying in juvenile justice proceedings, Runyan, Everson, Edelsohn, Hunter and Coulter (1988) reported that children who testified as victims in juvenile court showed short-term improvement in behavioural symptoms. However, these authors found that the level of emotional disturbance shown by children who testified was initially high: at a 5-month follow-up, their disturbance was about the same as that of a group of non-testifiers. Thus, the "beneficial effect" found might simply reflect a reversion to the mean. Overall, these authors contended that children who testified in juvenile court were not harmed by the experience of taking the stand in that type of court proceedings.

In what is perhaps the key study of children's emotional response to the task of testifying in criminal proceedings, Goodman et al. (1992) examined the immediate, short-term and longer-term effects of criminal court testimony on 218 child sexual assault victims (most of whom were under 10 years of age). From this sample, the behavioural disturbance of a group of children who had testified was compared to that of a matched control group of non-testifiers at three points following testimony: 3 months, 7 months, and after prosecution ended. At seven months, those children who had testified evinced significantly greater behavioural disturbance than did children who had not been required to testify, especially in those cases where the child was required to take the stand on multiple occasions, where the child was deprived of maternal support and where they lacked corroboration of their claims. The findings of this study suggests that child victims of sexual assault do find their involvement in legal proceedings to be stressful and that there may also be long-term effects for some of the child-victims resulting from their experience of testifying in legal proceedings.

Available research suggests that child victims may be especially vulnerable to distress during the court proceedings, particularly when they are forced to confront the defendant (Goodman, Levine, Melton & Ogden, 1991). While a minority of children prefer facing the accused in court (Cashmore, 1992; Davies, Wilson, Mitchell & Milson 1995) available evidence shows that what child witnesses testifying in court fear most is being watched by the accused (Dezwirek-Sas et al., 1991; Flin, Davies & Tarrant, 1988). Goodman et al. (1992) found in their interviews with child victim-witnesses, both before and after testifying, that the main fear expressed by children concerned having to face the defendant. Children who appeared more frightened of the defendant while testifying were less able to answer the prosecutor's questions. The most important contribution of this research is that it confirms that many children are anxious about testifying in front of the defendant. The anxiety and fear induced by face to face confrontation raises concerns about the psychological welfare of child witnesses. Testifying in the traditional manner interferes with the child's ability to answer questions and thus, undermines the purpose of the trial - the discovery of truth (Myers, 1992).

1.4.(v). Research on the Impact of Children’s Understanding of the Legal Process on Children’s Experience of Acting as Witnesses in Legal Proceedings

Many of the issues relating to the giving of evidence by children are also manifest in the experiences of other “vulnerable” witnesses, including adults with learning disabilities and adult victims of sexual offences (Scottish Law Commission, 1990). For the majority of victim-witnesses, be they child or adult, the courtroom is an alien setting, with its proscribed vernacular, mode of dress and rituals:

“ . . . to the court administration, to the judge or magistrate, to the professional lawyer, the court is a familiar place, . . . they share a common stock of experience which despite their different roles in the courtroom drama, pulls them together and enables them to communicate with each other in ways which are incomprehensible to an uninformed outsider.”
(Bottoms & McLean, 1978).

A number of studies of adult-victim witnesses have found that adult’s lack of understanding of the legal process hindered their participation therein (Adler & Millar, 1991; Bacik, Maunsell & Gogan, 1998; Frazier & Haney, 1996; Shapland, Wilmore & Duff, 1985; Stafford & Asquith, 1992). Adler and Millar (1991) commented that the majority of the witnesses interviewed found the court experience “nerve-racking” and two-thirds were badly informed or not informed at all as to the court personnel, or the witness’s role, so that some could not even distinguish between the prosecuting and the defence counsel. Stafford and Asquith (1992) in a study commissioned by the Scottish Office on the views and experiences of adult witnesses in the Scottish criminal justice system also found that lack of information was a contributory factor in relation to witnesses’ concern and anxiety about appearing in court. These authors revealed that for many adult witnesses appearing in court was an intimidating experience and one that resulted in the witness’s participation in the proceedings being adversely effected. For some of the witnesses interviewed in Stafford and Asquith’s study, the presence of the accused in the courtroom heightened their feelings of nervousness. One-third of the

witnesses reported that they were in some way influenced by the presence of the accused. For some witnesses, the experience left them feeling that it was they and not the accused that had been on trial. This feeling is reiterated in the findings of a study conducted by Frazier and Haney (1996). These authors assessed adult victims of sexual offences perceptions of their experiences of the legal system. The adult victims typically reported that they believed that the defendant had more rights than the victim, and that victims' rights were not sufficiently protected and as a consequence the legal process treated victims unfairly.

In a recent study for the European Commission (in fact, the only existing study of Irish victims' experience of the legal process) Bacik, Maunsell and Gogan (1998) conducted in-depth interviews with twenty-one adult victims of sexual violence, all of whom had been involved in the investigative and adjudicative processes in their respective jurisdiction. The majority of adult victim-witnesses interviewed for this study reported having very negative feelings in respect of their involvement in the legal process overall. Three-quarters of the sample reported feeling both intimidated by the experience of having to testify and feeling very much "on their own" during the course of the investigation and subsequent trial. The key factors which contributed to the intimidation and lack of participation felt by these adult victim-witnesses were the lack of information they received in relation to the progress of their case and a lack of understanding in terms of what was required of them as witnesses. The words of Bottoms and McLean, it would seem, still hold meaning for many adult witnesses appearing in criminal trials some twenty years later.

The adult victim-witnesses interviewed in the Bacik et al. (1998) study also reported that their lack of understanding of the legal process caused them undue stress. The majority of interviewees (82% of the sample) identified the need for some form of pretrial preparation for witnesses so as to enable them to participate effectively within the legal process without experiencing additional trauma. The recommendations made in respect of the provision of information and preparation of witnesses are encapsulated in the words of one participant in the study:

“You should know what each person in the courtroom does and what they can do, what they are allowed to do. You must remember that most people have never seen a courtroom from the inside. The legal personnel are very familiar with the process. They don’t know that you don’t know what is happening. They need to give you some information so that the situation is known to you and the only thing that is unknown to you is the questions that you will be asked. You should be able to go to court beforehand and make a role-play. You should be told about the role of being a witness. There should be someone who should or could tell you what is likely to happen” (Bacik, Maunsell & Gogan, 1998: 106).

The lack of knowledge about what to expect appears to be a vital variable in the level of anxiety and fear experienced by child witnesses also (Dezwirek-Sas et al., 1991; Saywitz & Nathanson, 1993). As Goodman (1992) points out children testify in the context of their understanding of the legal process. At a recent International Conference on Psychology and Law, Woolard (1999) asserted that “. . . assessment of a child’s competence to stand trial includes the child’s understanding of the process and the roles of the various legal professionals which they may encounter.” Indeed, Whitcomb, Shapiro and Stellwagen (1985) suggest that children may fear many aspects of the legal system simply because of their lack of knowledge about or experience with it. Furthermore, children’s misconceptions about the legal process have been found to adversely influence jurors’ perceptions of the credibility and judges’ perceptions of the competence of the child to act as a witness in legal proceedings (Cashmore & Bussey, 1990; Whitcomb, 1992). It has been suggested by a number of authors (Goodman et al., 1992; Saywitz & Nathanson, 1993) that such misunderstandings may result in:

“. . . heightened or unrealistic fears, failure to recognize the significance or consequences of their testimony, and failure to use the ‘big picture’ to put their feelings in perspective and to cope with the stress of testifying” (Saywitz et al., 1993: 70).

The empirical evidence conducted to date would suggest that if children are to meaningfully participate in the criminal justice process then their understanding of this process must be elicited and enhanced.

Children's understanding of the court proceedings has implications for the trial of child defendants. A child defendant's lack of understanding of the court proceedings may also be said to mediate against their effective participation in the criminal process and may have implications for the fairness of the trial procedures adopted. This point has been highlighted by the highly publicised trial of the two ten-year-old children who were found guilty of the murder of two-year old Jamie Bulger. The lawyers on behalf of these child defendants pleaded their case before the European Commission on Human Rights claiming that, having been subjected to trial in the adult courts, they had not been treated fairly. The European Commission in March 1999, decided that the two defendants, now aged 15, had a *bona fide* case and allowed their appeal to be placed before the European Court of Human Rights. Though the decision of this Court may not be known for some years, the issue remains that children (in this instance children who were defendants in a criminal trial) were entitled to institute legal proceedings on the basis of their lack of understanding of the court process; a lack of understanding which they claim mediated against their effective participation in the trial.

In summary, many researchers have noted involvement in court proceedings has been found to have added to and prolonged the psychological stress which children (and adult) victim-witnesses have suffered as a result of their victimisation (Bacik et al., 1998; Dezwirek-Sas et al, 1993; Goodman et al., 1992; Saywitz & Nathanson, 1993). Studies which have investigated the impact of testifying on children have rated lack of understanding of and preparation for the role of witness, the accused's presence during the child's testimony and long cross-examinations as the most stressful aspects of the criminal justice process for children (Dezwirek-Sas et al., 1991; Goodman et al., 1992; Runyan, Hunter, Everson, Whitcomb & DeVos, 1994). Growing attention is now being given to the need to protect child witnesses from the potential trauma associated with

providing testimony in the courtroom as well as to the importance of maximising the validity and reliability of that testimony.

1.5. Introduction of Legal Reforms to Accommodate Child Witnesses

The body of psychological research accumulated during the past two decades has provided those who sought reform of the laws pertaining to children's evidence with the empirical weaponry to initiate and achieve legislative change in their respective jurisdictions. Thus, "... one by one, like towering oaks in a forest, centuries old doctrines were toppled to clear a path easing the receipt of children's testimony" (McGough, 1994: 6).

In the adversarial system of justice there is much emphasis placed on the cross-examination of the witness and the face to face confrontation of the witness and the defendant. In the inquisitorial system, however, less salience is attributed to face-to-face confrontation or the defendant's right to eyeball his/her accuser. Because of these fundamental points of difference between the two systems of justice the inquisitorial system is stated to be less hostile to children appearing as witnesses in criminal proceedings than is the case in respect of the adversarial system. Reform therefore has been seen as primarily the remit of the adversarial system. Wide-ranging procedures that are more in tune with the needs and abilities of child witnesses, have been formulated and implemented in almost every jurisdiction which adopts the adversarial approach to the trial of legal cases (Spencer & Flin, 1993). This section, will consider those legal reforms which have been instituted in the Republic of Ireland to facilitate children's testimony in criminal cases.

In its report on child sexual abuse, the Irish Law Reform Commission (1990) included *inter alia* a list of recommendations for the reform of laws and legal procedures pertaining to child victims of abuse. Following from the publication of the report a number of important legislative reforms have been instituted to facilitate the reception of the

testimony of a child in Irish courtrooms. The Criminal Evidence Act of 1992,¹⁴ in particular, made a number of innovative changes to the law of evidence pertaining to children. Two principal legal reforms are contained in 1992 Act which include:

- (i) Reform of evidentiary rules in respect of assessing the competence of children to act as witnesses in criminal proceedings.
- (ii) Alteration of the courtroom environment and court procedures to reduce the trauma of a child's giving evidence on the witness stand.

It is proposed to examine each of these reforms in turn.

(i) Reform of evidentiary rules in respect of assessing the competence of children to act as witnesses in criminal proceedings.

Section 27 of the Act provides that the "unsworn" testimony of a child under 14 may be received in criminal proceedings provided that the court is satisfied that the child is "capable of giving an intelligible account of the events they have observed". This provision reflects quite a dramatic departure from the legal assumption that a child's unsworn testimony was not to be trusted.¹⁵ Section 28 presents a further departure in that it abolished the requirement that a child's unsworn evidence be corroborated. While, this section also abolished the requirement that the jury be warned about convicting on a child's uncorroborated evidence, judicial discretion to give the said warning remains. In the main, however, these provisions reflect quite a dramatic departure from the legal assumption that a child's testimony (whether given under oath or not) was unreliable and therefore not to be trusted. The competence of the child witness is now to be assessed, not on the basis of the child's age, the child's ability to take the oath or on the presence of corroborating evidence but rather on the basis of the child's ability to provide an

¹⁴ See Appendix I (b) for a copy of Part III of the Act which contains those sections pertaining to the evidence of children in criminal proceedings.

¹⁵ Similar reforms to children's testimony requirements have been introduced in England and Wales with the 1988 and 1991 Criminal Justice Acts, in Canada where the Criminal Code of Canada Evidence Act allows children to provide unsworn testimony in criminal proceedings and in the United States, where Rule 601 of the Federal Rules of Evidence, effective since 1st July, 1975 states that: "[e]very person is competent to be a witness" thus providing that child witnesses be treated like witnesses generally in terms of the competency requirement.

intelligible account of relevant events. Given that the most vulnerable victims are usually younger children who are abused in secrecy with no material evidence, these amendments have had and will continue to have far-reaching implications and are likely to result in more children and younger children testifying in court.

(ii) Alteration of the courtroom environment to reduce the trauma of a child's giving evidence on the witness stand.

Perhaps the most fundamental change to be brought about by the Act is that relating to the elicitation of testimony from those under the age of 17 in physical and sexual abuse cases. In such cases “unless the court sees good reason to the contrary, a person other than the accused may give evidence, through a live television link if the person is under 17 years of age”.¹⁶ The “Video-Link”, as it is so called, enables a child (or other vulnerable witness) to give their evidence *via* closed-circuit television technology from a room other than the courtroom while generally in the presence of a court-approved supporter, usually a social worker or member of the Gardai with whom the child is familiar.¹⁷ The child is able to see the person who is speaking to them from the courtroom, usually either the prosecuting or defending counsel and the trial judge. All persons in the courtroom itself, including the accused, are able to observe the child when s/he is giving their evidence. The key objective of this system is to reduce the anxiety for the child witness of having to face the accused and the necessity of having to testify to a large audience. Thus, the introduction of the Videolink system constitutes a recognition of the difficulties children experience in a courtroom setting, in particular their fears of intimidation by the accused.

No empirical evaluation of the impact of these reforms have been conducted in the Republic of Ireland. Evaluations of such live-link technologies in other jurisdictions reveal that in general, the quality of children's testimony is enhanced by its use (Davies & Noon,

¹⁶ The live television link system has been operational in Ireland since the 1st January, 1994 and in the five and a half years since its installation, almost 200 applications in total have been made to use the system (Department of Justice, Equality & Law Reform, 1999).

¹⁷ A constitutional challenge was raised to the employment of the “Videolink” technology in the case of *A.W. v. Ireland*. The defendant's counsel in this case claimed a right for the accused to be confronted by his accuser. Judge Kinlan in his judgment in the case opined that the constitutional right to “eyeball-to-eyeball” confrontation in his view did not exist in Ireland [High Court, Unreported, 21st December, 1993].

1991, 1993; Tobey, Goodman, Batterman-Faunce, Orcutt & Sachensmaier, 1995). These studies have revealed that children who presented their evidence *via* the live-link provide more consistent answers, were more forthcoming with their answers, reported being less stressed, and were less susceptible to misleading questions, when compared to children who testified in open court.

Notwithstanding the overall benefits of the live-link system, lawyers cited a number of perceived drawbacks of using the protective technology. They reported the view that the child's evidence via live link seemed to have less impact on the jury than when a child gave evidence in open court (Davies & Noon, 1991). Two recent studies examined the effects of closed circuit technology on children's testimony and juror perceptions of child witnesses. Ross, Hopkins & Hanson (1994) showed 300 mock jurors a videotape simulation of a sexual abuse trial in which a 10 year old witness testified in one of three modalities (i) in open court, (ii) behind a protective shield, and (iii) through a video monitor from outside the courtroom. The trial was stopped immediately after the child testified (the child was the first witness) and subjects judged the guilt of the defendant. The modality of the child's testimony was found to have a significant impact on defendant conviction rates, with mock jurors in the open court condition being more likely to convict the defendant than were mock jurors in the shield or the video monitor conditions. In a second study, Goodman, Tobey, Batterman-Faunce, Orcutt, Thomas, Shapiro and Sachsenmaier (1998) had 1,201 mock jurors view videorecordings of enacted trials with the child's testimony presented either live in open court, or over closed circuit television. The use of closed circuit technology did not directly bias jurors against the defendant but was found to bias jurors against child witnesses.

Another problem with the "Videolink" system is that only one courtroom in the country (located in the Four Courts, Dublin) has been adapted for use of this technology. Thus, all cases countrywide which involve the testimony of children must go through this courtroom. At the time of writing, the waiting time for the hearing of cases in this courtroom is approximately 9 months, and if a case is adjourned for any reason, a further 9 month wait is not unusual for the case to be rescheduled for hearing in that courtroom.

Somewhat ironically, three cases involving child witnesses were recently struck out (without leave to be re-entered) because of administrative difficulties in the scheduling of the "Videolink" service. The trial judge deemed the delay involved in the hearing of these cases to be prejudicial to the rights of the defendants involved (Ni Rafteraigh, 1999). While theoretically the Videolink system is a very important innovation, in practice, the lack of available resources prohibits greatly its intended objective of reducing the trauma experienced by the child witness.

In summary, a number of legal reforms to the evidentiary rules to accommodate the child witness have been initiated in Ireland. Those reforms which have been instituted concentrate, in the main, on accommodating the child during the trial process.

Modifications have been made to the court environment and procedures and to the rules of evidence pertaining to children, all of which make it likely that increasing numbers of children will appear as witnesses in criminal trials in the Republic of Ireland. Despite the advances made by the introduction of these reforms, there are some issues in relation to the implementation of the reforms which have proved to be problematic. Furthermore, although the 1992 Act, in effect, recognises that the adversarial system as it existed in Irish criminal courts was openly hostile towards the child witness, a number of the more far-reaching provisions of the Act have yet to be given statutory recognition. These include the provisions for the videotaping of investigative interviews with children (Section 15) and for the presence in the court of an intermediary to in effect filter questions put by the lawyer to the child during the course of their testimony (Section 13). In addition, many prosecutors and members of the legal profession generally remain wary of using the testimony of children in a trial (Director of Public Prosecutions, 1995; Leippe, Brigham, Cousins & Romanczyk, 1989).

Little if any statutory reform has addressed issues relating to children's involvement with the criminal justice system during the investigative, pre-trial process. Furthermore, the legislative changes introduced apply only to criminal proceedings, a child witness in civil proceedings cannot avail of these innovative and necessary reforms. Thus, on paper provision for the hearing of children's testimony appear satisfactory, however, the reality

of the situation for children, their families and their legal representatives is altogether different. Few child advocates would argue that protective reforms are complete; further reforms are necessary to make the courtroom “ . . . a less alien, hostile and confusing environment” (McGough, 1994: 2).

1.6. Additional Measures Necessary to Reduce the Potential Trauma for Child Witnesses of their Involvement in the Criminal Justice System

The emphasis in empirical research on child witnesses is beginning to shift from a focus on reform of trial procedures to an examination of the investigative pre-trial experiences of the child. McGough (1997) points out that the pretrial investigative process is perhaps the critical determinant of the reliability of child’s evidence at trial. Whether or not there has been delays in the bringing of the case before the court, whether or not the child has been interviewed in a forensically acceptable manner by experienced and trained professionals and whether or not the child has received adequate support and preparation to sustain them through the task of testifying are all factors which are likely to mediate the child’s ability to provide as complete and reliable an account of events as is within their capability. Indeed, McGough claims that “ . . . the next frontier is the application of social science research to the shaping of legislative standards and administrative guidelines aimed at minimising the contamination and maximising the reliability of children’s testimony during the pretrial stage” (1997, 23). This section will provide an overview of some techniques which may be employed to “empower” child witnesses, and which can be implemented alongside the more “protective” innovations currently in operation (Davies & Westcott, 1995).

1.6.(i). Addressing Delays in the Hearing of Cases Involving Child Witnesses

Some of the issues, which emerge as difficult for victims in every legal system, include delays inherent in the court system. Delay is a particularly troubling factor for victims, as long delays, accompanied by adjournments have been found to cause stress to victims (Raine & Smith, 1991). It is generally accepted that prolonged involvement in the criminal

justice system is harmful to child witness (Lipovsky, 1994). Furthermore, it is not uncommon that psychological treatment is withheld from children pending the criminal trial. This is often the consequence of fear on the part of legal personnel that any discussion of the child's experience of abuse will in some fashion taint or distort the evidence. This serves to highlight the conflicting demands of the needs of the child on the one hand, and the requirements of the criminal justice system on the other. Another finding of particular significance, relating to the prevalence of delay in bringing cases to trial, is that young children's memories seem to be more sensitive to the passage of time than those of older children or adults (Flin, Boon, Knox & Bull, 1992).

These findings suggest the need for greater celerity in the scheduling of criminal proceedings which rely on the evidence of a child. Indeed, addressing delays in the hearing of cases involving child witnesses is one area where immediate progress can be made, as it does not involve changing the rules of evidence.

In order to minimise this stress for child victims a new policy of "fast – tracking" child abuse cases has been adopted by the Crown Prosecution Service in England and Wales by means of an agreed timetable between the prosecution, the police and the courts (New Law Journal, 1997). In this jurisdiction, a recent report from the National Women's Council of Ireland (1996) recommended that special consideration be given to the establishment of a special unit within the office of the Director of Public Prosecutions to deal with the prosecution of sexual offences. The purpose of such a special unit would be to advise the Gardai in investigation of the complaint; thus assisting in the reduction of delays in the investigation stage and ensuring that the results of such investigations are treated expeditiously. The result is that a decision, as to whether or not a prosecution will ensue, is made at the earliest possible stage.

Given the current delays in the hearing of cases which involve access to the "Videolink" technology, it is incumbent on those individuals and organisation responsible for these services to ensure that child witnesses, who are most vulnerable to the effects of delay,

are not penalised by those provisions which are currently in place to accommodate their very testimony.

1.6.(ii). Presence of a Support Person

Empirical research has found that when children received reassurance from supportive adults during their trial appearances, they appear not to experience a significant degree of distress, either short or long-term, in serving as a prosecution witness (Goodman, 1989). The most obvious means of reducing stress in children, the provision of social support, has typically been neglected in eyewitness research, presumably because of fears over children's excessive suggestibility. These fears stem more from general suspicions about children's competencies than from empirical findings. Studies show that child witnesses express a strong desire for social support. The minimal evidence available suggests that allowing support may have a facilitative effect on task performance, including free-recall memory (Moston & Engleberg, 1992). Moston (1992) reports on the effect of social support on children's testimony and states that social support can have considerable beneficial effects on children's free recall of information; though he does point out that many of the obvious sources of support, such as a child's parent, might be unacceptable. Moston contends that there may be a strong case for the appointment of court-appointed guardians to act as support persons for child witnesses.

1.6.(iii). Interview Techniques

Fortuitously, interview techniques which elicit the maximum amount of spontaneously recalled information are currently being developed and adapted for use with child witnesses. The forensic use of the "Cognitive Interview" (Fisher & Geiselman, 1992) and studies examining its efficacy would indicate that the Cognitive Interview technique is proving effective in reducing suggestibility and improving memory retrieval in children (Memon & Kohnken, 1993). The recent work of Saywitz and her colleagues has uncovered a number of innovative methods of interviewing children that maximise the completeness and minimise the error in child witness's accounts of events. Saywitz

(1995) has argued that the level of stress that the child is experiencing is one of the main factors that interviewers must take account of when developing strategies for questioning young children. These strategies, she suggests, should also take into account some of the communication failures common in young children. Young children very often are not skilled at self-monitoring and therefore rarely correct communication errors or inconsistencies. Furthermore, the egocentric nature of a child's thinking frequently leads them to assume that an adult has understood what they have said.

In one of the first steps towards developing methods of interviewing children which address these issues, Saywitz and Moan-Hardie (1994) conducted two studies involving 102 8-year-olds to test the efficacy of an innovative procedure designed to reduce distortion and enhance communication of accurate childhood memories. In both studies subjects participated in a staged activity and were randomly assigned to either an intervention or a controlled treatment condition. Two weeks later, 50% of subjects participated in an innovative procedure designed to increase resistance to misleading questions, while the other 50% of subjects participated in controlled sessions and were given motivating instructions. Memory for the staged activity was tested in an interview with an unfamiliar authority figure. Subjects who participated in the innovative procedure made significantly fewer errors in response to misleading questions than did subjects in the control groups, thus, showing diminished acquiescence. Importantly these results were accomplished without generating additional errors on the other question types.

In 1996, Saywitz and Snyder reported on their testing of the efficacy of "narrative elaboration", an innovative procedure designed to expand children's spontaneous reports of past events reducing the need for leading questions. 132 children from two age groups, 7-8 years and 10-11 years were assigned randomly to one of three preparation conditions (a) narrative elaboration intervention (b) instruction based intervention and (c) control group. After participating in a staged activity and subsequent preparation sessions, children were interviewed about the activity. Children in the narrative elaboration condition demonstrated a 53% improvement in spontaneous recall over the control group

without compromising accuracy. Younger children using the narrative elaboration procedure performed at the level of older children in the control group. Using such a technique thus enabled children perform at a level above what their developmental stage would suggest.

Most recently, Saywitz, Snyder and Nathanson (1999) examined how children cope when adults ask incomprehensible questions and whether interview performance can be enhanced by facilitating children's comprehension monitoring and response strategies. 180 children aged 6 and 8 years old were assigned randomly within age group to one of three treatment conditions (training, instructions, control) and one of two interviewer conditions (familiar and unfamiliar). Subjects' memories of a previously staged event were tested with interview questions varying in comprehensibility. When confronted with difficult to comprehend questions regarding easily recalled information, subjects in the control group tried to answer anyway, but were as likely to respond incorrectly as correctly. In contrast, when subjects were instructed to verbalise their lack of comprehension and were given a rationale for doing so, they performed significantly better than the control group. Moreover, when subjects received instructions and prepared for the interview with practice at detecting and coping with non-comprehension, the training group demonstrated marked improvements in interview performance compared with the other two groups. Overall the results of this study demonstrate that although children were found to possess limited communication skills which present a barrier to reliable testimony, this barrier might be minimised by instructions or preparation for the interview process.

With the development and use of such techniques, a child interviewee is expected to provide a more detailed free-narrative account of their experiences. The development of such techniques is of major significance: it maximises the accuracy of children's evidence, and furthermore (as research has shown) judges and jurors are more persuaded by a child's free-recall of events (Bull, 1995).

1.6.(iv). Specialised Training

In their review of recent attempts to safeguard child witnesses Westcott and Davies (1993) conclude that all professionals have a responsibility to promote children's welfare in the courtroom. Saywitz (1995) has similarly argued that there is a need for professionals (from all disciplines) who interview children for the purpose of obtaining testimony, to have specialised training. Indeed, one of the most important outcomes of research has been the concerted effort to train professionals responsible in the conduct of forensically sound interviews of children. Such specialised training is necessary to reduce the systemic revictimisation experienced by many children involved in the legal process (Butler-Sloss, 1988). However, Aldridge (1992) points out that "few police officers and lawyers have any specialised training on how to communicate with young, potentially traumatized children, just as few mental health professionals have been trained about the legal aspects of these cases" (1992: 231-232). She goes on to contend that, in the main, professionals have gained their training in a more or less trial and error manner while on the job and that this method is not restricted to the U.K. but is also present in other countries (Aldridge, 1992). In respect of the level of specialist training which professionals working with child witness in Ireland have received, no systematic study has been commissioned or conducted to date.

1.6.(v). Preparing Children for Court

The concerns in relation to children's testifying in criminal proceedings may be diminished by reforms that strengthen children's performance and minimize their stress. Testifying is acknowledged as being difficult for young witnesses and Flin (1995) would hold that professionals owe it to children to prepare them for the experience of testifying.

Adequate "pre-trial preparation" for children at each stage of the legal process is one of the most promising techniques to alleviate a child's anxiety about involvement in legal proceedings. Saywitz and Snyder (1993) draw our attention to the findings from another field, that of the preparation of children for painful medical procedures which has proven successful in lowering children's perceptions of pain and raising their level of cooperation

(Sturgis, 1999). Saywitz and Snyder advocate that “. . . children facing similarly stressful forensic procedures deserve no less” (1993: 119). The principles and techniques developed in the study of medical trauma can be applied to legal proceedings to mediate the negative effects of such proceedings.

Dezwirek-Sas (1992) highlights at least five critical competencies which can be improved by instituting a court preparation programme for potential child witnesses. These include enabling the child to:

- (i) Recall their experiences more completely and accurately
- (ii) Understand the lawyer’s questions better and if necessary to indicate when they do not understand what is being asked
- (iii) Resist complying with leading questions
- (iv) Cope better with feelings of anxiety
- (v) Understand better the trial process.

Dezwirek-Sas and her colleagues at the London Family Court Clinic, Ontario have conducted groundbreaking research on the preparation of children for legal proceedings which more than demonstrates the utility of such preparation (Dezwirek-Sas, Wolfe & Gowdey, 1996). Their findings were that court preparation benefitted the child witnesses in four distinct ways:

- (i) By educating them about court procedures
- (ii) By helping them deal with their stress and anxieties related to the victimisation and subsequent testifying
- (iii) By helping them tell their story competently on the stand in court
- (iv) By providing an advocacy role on their behalf with other mandated agencies in the criminal justice system (1991: 195-196).

Thus, there is growing empirical evidence that preparing children for court reduces the level of stress that they experience and consequently enables them to be more competent

witnesses. “A child or young person is likely to give better evidence if they have . . . been prepared specifically for the court appearance” (Smith, 1993: 21). Morgan and Williams (1993) state that pretrial preparation of the child witness or victim can make a crucial difference on the child’s ability to testify and level of stress during criminal proceedings. Empirical research has found that preparation can increase children’s memory, reduce suggestibility and lower the stress experienced by the child (Saywitz & Snyder, 1993). In summary, as more and younger children are called as witnesses, the issues of support and preparation become increasingly important. It is clear from the work of Dezwirek-Sas and colleagues at the London Family Court Clinic in Ontario, Canada, that appropriate child-centered preparation of the child witness can make a crucial difference to the child’s ability to testify (Dezwirek-Sas, 1992). Despite the apparent benefits of such preparation, systematic work in this area is not only scarce in Ireland but is virtually non-existent.

Indeed, the findings from a number of evaluation studies of the efficacy of “preparation” programmes have provided the impetus for moves in other jurisdictions to initiate and provide for the systematic preparation of child witnesses (Dezwirek-Sas et al., 1991, 1993; Sisterman-Keeney et al., 1992). Such preparation has taken many forms, from the establishment of specialist “court schools” to the publication of developmentally appropriate books and information packages on the subject of attending court. In England, each court which has installed the videolink technology has now appointed a Child Liaison Officer, one of whose functions is to arrange a “familiarisation” visit to the court. In Scotland, the importance of pre-trial preparation was acknowledged by the Scottish Law Commission (1990) in a report on the evidence of children and other potentially vulnerable witnesses. The function of pre-trial preparation in Scotland is undertaken by the prosecution. In England and Wales, the question of who is responsible for the preparation of the child witness is still under debate and has been found to vary from region to region. In Ireland, the situation in respect of preparation of child witnesses would appear to be equally informal. Within the more general approach of providing information booklets, there are also moves to design preparation programmes which are tailored to the needs of the individual child witness (Aldridge, 1992).

Calls are being made for the development of a more co-ordinated strategy and a general set of procedures to be adopted which would be less susceptible to challenge and within which preparation strategies would be tailored to the needs of the individual child (Plotnikoff, 1990; Aldridge, 1992: 240). In addition, the preparation of child witnesses can begin early in the process and can thus, help children who do testify along with the far greater number of children who do not. By strengthening the prospective testimony of children, the probability of a case being dismissed before a trial has taken place is minimised.

In summary, the careful design of procedures for investigation of criminal complaints and questioning of child victims can reduce trauma while enhancing the accuracy of accounts elicited from these witnesses. Properly crafted interview and preparation procedures implemented by specially-trained professionals may indeed promote the therapeutic effects of the legal process while simultaneously advancing the legal system's interest in discovering the "truth".

1.7. Conclusion: Aims and Objectives

Psycholegal researchers have sought to improve our understanding of the strengths and weaknesses of children's memory and children's communication skills with the goal of such research being the refinement of techniques used to interview children and the development of methods of evaluating the accuracy or reliability of a child's account of an event. Recent legal reforms would seem to imply an increased awareness and acceptance by both legislators and members of the legal profession of psychological research on children's testimony. This apparent change of attitude by the Irish legislature perhaps reflects an overall change of attitude by the public at large relating to the acceptability of children's evidence and the increasing campaign for the right of the child to have his or her voice heard in court. While wide-ranging reforms have been instituted in this jurisdiction to accommodate the evidence of children, many elements of our legal system remain which have made and still continue to make it "needlessly hard for children to be heard as

witnesses, or if they are heard, believed” (Spencer & Flin, 1993). Both lawyers and social scientists must move from a myopic focus on reform of trial procedures, to also examining the pretrial process. It would appear from the literature that progress needs to be made in the following areas:

- (i) in reducing delays in hearing of cases involving child witnesses
- (ii) in improving the quality of investigative interviews in which children are required to participate
- (iii) in the specialised training of professionals who work with child victims and
- (iv) in efforts made to prepare children for the courtroom experience.

Overall, it is necessary to identify and accommodate the child witness’s special needs rather than removing the child altogether from participation in the legal system. Focus must be on those legislative changes which are designed to make children’s court experiences less stressful and ultimately more productive for all involved. While children possess certain developmental limitations, they also possess wide-ranging competencies that may be maximised with informed techniques of interviewing children and preparing them psychologically for court. With the systematic addressing of these issues comes the recognition that, although courtroom reforms hold great potential for the small percentage of child victims who ultimately testify in court, much can also be done to support the growing numbers of children whose lives are touched by the criminal justice system. No empirical research on child witnesses, however, has been conducted to date in the Republic of Ireland. In the light of this lacuna and in the wake of legislative changes to accommodate child witnesses, this thesis aims to examine a number of issues relevant to children’s competence and effective participation as witnesses in the Irish criminal justice system. These issues include potential juror’s attitude toward children’s competence to act as witnesses (Chapter Two), the practices and perceptions of professionals who work with child witnesses (Chapter Three), Irish children’s understanding of the legal system and their perception of what it might be like to attend court as a witness (Chapter Four). The overall aim of this research is to examine how best to accommodate children’s voices in Irish courtrooms in the next century.

CHAPTER TWO: AN INVESTIGATION OF IRISH JURORS' ATTITUDES TOWARDS CHILDREN'S COMPETENCE TO ACT AS WITNESSES IN LEGAL PROCEEDINGS.

2.1. INTRODUCTION

Increased reporting of crimes committed against children, a growing emphasis on the criminal prosecution of such offences and reform of the law to accommodate child witnesses are bringing increasing numbers of child witnesses into courtrooms throughout the world (Bottoms & Goodman, 1996). How such cases involving children as witnesses are dealt with at the hands of the criminal justice system has been the subject of much empirical scrutiny in the past two decades. One critical question that has arisen, is concerned with how the triers-of-fact in these cases appraise children's testimony.

In the Republic of Ireland, many of the crimes committed against children are considered to be indictable offences, whereby the person accused has a constitutional right to be tried before a judge and jury (Bunreacht na hEireann, 1937; Byrne & McCutcheon, 1996). The jury will typically consist of twelve members of the community whose function it is to make a decision, as to the guilt or innocence of the accused, based on the evidence presented before them. The legal system makes the assumption that a juror is a blank slate or "*tabula rasa*" who will conscientiously apply the law and select verdicts in an evidence-driven fashion (Cammack, 1995). A number of critics of the jury system, however, have contended that jurors, in deciding on the verdict in a case, tend to rely more on extraneous considerations, such as the appearance and demeanour of the witness, rather than on the content of the witness's testimony *per se*. One renowned American jurist, in describing the system of trial by jury, remarked ". . . a better instrument could scarcely be imagined for achieving uncertainty, capriciousness, lack of uniformity, disregard of former decisions – utter unpredictability" (Judge Jerome Frank, 1949: 172).

The findings of empirical research would tend to support this model of juror decision-making. A body of social psychological research now exists which indicates that jurors' decisions may not be based on the actual evidence presented; rather, their decisions may be influenced more, or at least additionally, by extra-evidential factors (Cutler & Penrod, 1995; Hans & Vidmar, 1986; Hastie, Penrod & Pennington, 1983; Kassin & Wrightsman, 1988; Kerr, Hymes, Anderson & Weathers, 1995). Jurors, it would thus appear, make their decisions not solely based on the "quality" of the evidence but also on heuristic cues, such as the attractiveness of the witness or their attributions of responsibility with respect to the various parties involved in the case, including the victim.

While it is the case that juries decide only a fraction of trials and child witnesses are still a relative rarity in criminal trials in the Republic of Ireland (Garda Commissioner, 1998), nevertheless, jurors' perceptions of and reactions to children's testimony deserve empirical attention for a number of reasons. In the first instance, jurors probable reactions will, in part, influence decisions on whether to arrest the person accused of having committed the alleged offence (Stasser, Kerr & Bray, 1982). Secondly, the probability of successfully prosecuting a case is one of the main criteria Irish prosecuting authorities use deciding to take a case to court (Bacik, Maunsell & Gogan, 1998). Thirdly, a juror's perception of the child witness's credibility has been found to play a role in determinations of the defendant's guilt (Goodman, Bottoms, Herscovici & Shaver, 1989; Leippe, Manion & Romanczyk, 1992; Leippe & Romanczyk, 1989). Thus, beliefs about a juror's probable reactions to and a juror's own perceptions of a child's testimony are important determinants of key decisions made throughout the investigative and adjudicative process.

Until quite recently, few studies were concerned with juror's perceptions of child witnesses and although this area of empirical investigation has grown rapidly within the last decade, the findings from current studies are equivocal (Whitcomb, 1993: 26). The following section provides a review of the germane research in the field.

2.1.1. Review of Research on Juror's Perceptions of Child Witnesses.

To date, much of the empirical research conducted on juror's perceptions of child witnesses has been North American in origin. This research has revealed, *inter alia*, that jurors, hearing cases involving child witnesses, do not solely rely on their judgements as to the accuracy of the child witness's testimony (Goodman, et al., 1989; Leippe, et al., 1992; Leippe & Romanczyk, 1989). Rather, as Bottoms pointed out, there are a number of juror, child witness and case factors which, in part, determine judgements in criminal cases involving children as witnesses (Bottoms, 1993; Bottoms & Goodman, 1994). In the following sections it is proposed to present, in turn, the findings of empirical research conducted to date, relating to each of these factors.

(i) Juror Characteristics

The research literature on juror attributes indicates that jurors do hold differential pre-trial attitudes in respect of a child's competence to act as a witness and these attitudinal differences can influence their judgments about children's credibility and defendant guilt in criminal cases. In what was one of the first pieces of empirical research on people's perceptions of child witnesses, Yarmey and Jones (1983) surveyed potential jurors, law students, psycholegal researchers and legal professionals to examine their beliefs in respect of the capabilities of a hypothetical 8-year-old witness. The respondents in this study believed, in the main, that the child is an unreliable, inaccurate witness who is highly suggestible and thus whose account of events could be easily manipulated by any investigator. Leippe and Romanczyk (1989) also found that respondents, in general, held unfavourable beliefs about the capabilities of child witnesses, although participants did believe children to be more trustworthy and sincere than adults.

Recognising this paradox, Goodman, Golding and Haith (1984) put forward the argument that most individuals hold at least two main viewpoints in relation to children's cognitive and social abilities and these views influence their perceptions of children's credibility as

witnesses. The first view is that children are generally as truthful as adults are, if not more so, with the consequence that where honesty is the salient feature in a case then a child's testimony might be viewed more positively. The second view, in contrast, holds that young children's cognitive abilities are less developed than those of adults, and where a child's memory for events is the salient feature in the case this leads to a more negative attitude in respect of a child's testimony. Substantial empirical support for Goodman et al.'s argument is to be garnered from the results of surveys which have indicated that adults typically view children as less competent but more trustworthy than older children and adults (Goodman et al., 1989; Leippe, Brigham, Cousins & Romanczyk, 1989; Leippe & Romanczyk, 1987, 1989; Ross, Dunning, Tolia & Ceci, 1990; Yarmey & Jones, 1983).

There is strong empirical evidence that male and female jurors perceive child witnesses differently. Akin to research on juror decision-making in adult rape cases which indicates that men when compared to women attribute greater responsibility to the victim, gender differences have also been reported in jury studies of cases involving child victims (Borgida & Brekke, 1985; Bottoms and Goodman, 1994; Duggan, Aubrey, Doherty, Isquith, Levine & Scheiner, 1989; Schmidt & Brigham, 1996). Women have been found to react more negatively to child sexual abuse, and are less likely than men to view the child as responsible (Broussard & Wagner, 1988; Finlayson & Koocher, 1991). In addition, Gabora, Spanos and Joab (1993) found that compared to women, men made fewer pro-child victim judgements of victim credibility and defendant guilt. Swim, Borgida and McCoy (1993) found women are more likely to find the defendant guilty in the case of child sexual abuse. Additionally, Scheiner (1988) found that women are less hesitant than men to find a defendant guilty of child sexual abuse even where they perceived a child victim to be responsible. Victim empathy and attitudes relevant to child victimisation were found to partially account for gender differences in reactions to child victim-witnesses (Bottoms, 1993).

As yet there is a paucity of research on the effects of juror age on attitudes towards child witnesses. Only one study appears in the literature which investigated the relationship between juror age and its effect on child witness credibility and decisions on defendant guilt. This study, conducted by Brigham (1995), would indicate that age of the juror interacts with

age of the child in affecting perceptions of children's honesty and memory accuracy. The findings of this study have not been published and it is not possible to extrapolate the effects of whether a juror's age might influence their perceptions of children's competence, credibility and ultimately their likelihood of finding the defendant guilty.

(ii) Child Witness Characteristics

A growing number of research studies have investigated the impact of a child's age on the perceived credibility of the child as a witness. Empirical research has demonstrated that a child witness's credibility is sometimes directly, but other times inversely, related to the child witness's age. A number of studies have found that younger child witnesses are perceived as less credible than are older child witnesses (Goodman et al., 1984; Goodman, Golding, Helgeson, Haith & Michelli, 1987; Leippe, Manion & Romanczyk, 1992; Leippe & Romanczyk, 1987, 1989). Other studies have found that a child witness's age has no consistent relationship with juror's perceptions of the credibility of the child's account of events (Luus & Wells, 1992; Ross, Miller & Moran, 1987; Wells, Turtle & Luus, 1989), while still other studies found that younger children are perceived as more credible witnesses than are older children (Bottoms & Goodman, 1994, Gabora, Spanos & Joab, 1993, Nigro, Buckley, Hill & Nelson, 1989; Ross et al., 1987, 1990). These mixed results would suggest that a child's age alone does not consistently predict how credible that child will be perceived to be.

A witness's age may, however, influence how jurors weigh other evidence in a trial (Goodman, 1984; Leippe & Romanczyk, 1987). In their study, Leippe and Romanczyk (1989) as well as varying the age of the sole eyewitness, also varied the consistency of the witness's testimony and the degree of incriminating evidence which was available. Leippe and Romanczyk found that the adult eyewitness was viewed as being more credible than one who was presented as being six years of age. While jurors' perceptions of the credibility of a ten-year-old witness fell between that of the other two witnesses. The consistency of their testimony was not found to significantly affect the perceived credibility of either the ten-year-old or adult witness, but did have a significant affect on the perceived credibility of the

six-year-old witness. A six-year-old who presented consistent testimony over time was perceived as more credible than a same-aged child who presented inconsistent testimony.

Leippe and Romanczyk (1989), in examining the relationship between perceived credibility and guilty verdicts, found that age of the eyewitness did affect the number of guilty verdicts that participants rendered, particularly where other evidence in the case was strong. Where the incriminating evidence was weak or moderate, age differences were not found to affect the verdict - in such instances the majority of mock jurors voted "not guilty" based on the insufficiency of the evidence available. However, these authors reported that when the level of incriminating evidence was strong, age differences were found. When the key eyewitness was cited as being thirty years of age, all of the mock jurors in the sample rated the defendant as guilty. Whereas when testimony was heard from either a six year old or a ten year old eyewitness, only 58% of mock jurors, rated the defendant as guilty. Additional support is found for this in the study by Duggan et al. (1989), where mock jurors were reported to be unlikely to convict the accused unless the young children's testimony was accompanied by corroborating testimony. In contrast, studies by Goodman et al. (1987) and Ross et al. (1987, 1990) found no significant effects of eyewitness age on mock-jurors judgements of guilt of the accused. Goodman et al. (1987) concluded that participants did not disregard the child's testimony, merely they gave a child's testimony less weight when determining their verdict.

Researchers have also come to examine the impact of a child's behaviour on the witness stand on jurors' perceptions of the child's competence and credibility. A number of studies have found that juror's standards for the child witness's demeanour and their expectations as to how a child witness should behave on the stand may strongly influence assessments of the child witness's credibility (Leippe & Romanczyk, 1989; Nigro et al., 1989; Schmidt & Brigham, 1996). In one study in their series of studies on jurors' perceptions of child witnesses, Leippe and Romanczyk (1989) manipulated eyewitness age, the consistency of the testimony provided by the eyewitness and the eyewitness's speech style. In contrast with their earlier findings, Leippe and Romanczyk found that jurors in this particular study perceived the 6-year-old child witness to be more credible than an adult witness. In

attempting to explain the contradictory results, these authors contended that jurors may have underestimated the abilities of the child witness and therefore were impressed with the coherence and quality of the child's testimony relative to their stereotypes about a typical child's performance (Leippe & Romanczyk, 1989). In support of this contention, Nigro et al. (1989) varied both the age of key eyewitness and the witness's speech style and found that mock jurors rated the younger child witness who used a powerful speech style as the most credible witness. A child's behaviour may thus override jurors' preconceived biases in respect of children's communicative and cognitive competence (Luus & Wells, 1992).

Schmidt and Brigham (1996) found that young children who testify in an unexpectedly competent manner may contrast with adult's negative expectations and appear highly credible. Schmidt and Brigham (1996) investigated the effects of a child witness's age, communication style and the questioning style adopted by the prosecuting counsel, using videotaped trial presentations where the female victim-witness was presented as either 5, 10 or 15 years of age, presented her testimony in either a powerful or powerless manner and the prosecuting lawyer used either leading or non-leading questions. The ratings of the child's credibility were found to be most extreme when the child's communication style contrasted with adult age-related expectations. When the child presented her testimony in an unexpectedly competent manner she was viewed as highly credible (Schmidt & Brigham, 1996).

In explaining their findings, Schmidt and Brigham contended that a contrast effect may occur whereby a report that disconfirms a juror's negative expectations will appear particularly credible when compared to situations in which the report confirms these negative expectations. Thus, if a young child gives testimony in a powerful manner, then the testimony may be evaluated as discordant with the typically negative stereotype of a young child witness and the effectiveness of the message may be augmented. At the other extreme, if an older child disconfirms an adult's expectations in a negative direction, such as by testifying in a powerless manner, then we might expect adults' evaluations of this older child to be particularly negative.

While the age of the child witness and their behaviour on the witness stand has been the focus of empirical interest, the gender of a child witness has been largely ignored as a research issue. It has been put forward that the gender of the child witness might have discordant effects on how male and female jurors perceive the child's testimony (Schmidt & Brigham, 1996). In the vast majority of mock juror's studies of child witnesses, the gender of the child witness has been presented as female. This practice is reflective of the fact that victims of sexual violence are predominantly female, but the increase in reporting of sexual victimisation of male children raises the issue of how jurors might perceive the evidence of male child victim-witnesses (Department of Health and Children, 1999; UNICEF, 1997). In one of the few research studies which has investigated the influence of victim gender, no significant differences were found in relation to mock jurors' perceptions of the credibility and guilt judgements (Scheiner, 1988). More recently, Bottoms and Goodman (1994) reported that jurors were not differentially influenced by the gender of sexual assault victims. These authors point out that further research is needed in this area.

It has been reported in a number of empirical studies that where a child witness possesses an inadequate understanding of the legal process then this has an adverse impact on their performance on the witness stand (Goodman et al., 1992; Dezwirek-Sas et al., 1991, 1993). Furthermore, where a juror has the expectation that a child will perform in a more competent manner and the child does not fulfil this expectation, for whatever the reason, then this has been found to reduce the perceived credibility of that child witness (Schmidt & Brigham, 1996). Altogether, what a child knows about the legal process before engaging therein is one of the multiple factors which influences the manner in which that child presents their testimony on the witness stand and thus may ultimately affect their perceived credibility in the eyes of a juror. However, jurors' expectations as to what it is that children, of different ages, know about the legal process have not been empirically investigated to date.

(iii) Type of Involvement

The type of involvement in a case has also emerged in the literature as a potentially powerful contextual variable that influences mock jurors' perceptions of child witnesses. Ross, Miller

and Moran (1987) found, contrary to expectations, that there was no significant age effect on witness credibility. The key eyewitness, an 8, 21 or 74-year-old witness, testified to their knowledge that drugs had been in the possession of the defendant. The eight-year-old witness was perceived as being equally as credible as the two adult witnesses. In fact, the eight-year-old was perceived to be more accurate, intelligent, forceful, competent, consistent and truthful than the twenty-one year old. A number of researchers conducting subsequent research in the area of jurors' perceptions of child witnesses have suggested that perhaps the jurors in the Ross et al.'s study may have seen the twenty-one year old witness as somehow involved in the case, whereas this belief may not have been held by jurors in relation to either the eight-year-old or the seventy-four-year-old witness in this type of case (Isquith, Levine & Scheiner, 1993; Kovera & Borgida, 1996).

Some researchers would hold that there are disparate results in the literature on juror's reactions to children's testimony, in part, because studies have tended to deal with children either as bystander-witnesses or as victim witnesses (Bottoms & Goodman, 1994). In bystander-witness scenarios, the key issue typically relates to the child's competence to retain the event accurately. By contrast, in victim-witness scenarios the issue tends to center on jurors' attributions as to the child's truthfulness. Witness credibility is especially important in child sexual abuse legal proceedings, as the nature of child sexual abuse often precludes the presence of corroborating evidence. The child witness's credibility, as a result, is key in terms of the prosecution case (McCord, 1986).

A number of researchers have examined factors which affect the perception of a child witness's credibility in child sexual abuse cases and have found that child victim-witnesses in sexual abuse trials are perceived as more credible than adult witnesses, but this advantage appears to diminish as the child's age increases to 11 or 12 years of age (Duggan et al., 1989; Goodman et al., 1989; Nightingale, 1993).

Duggan et al. (1989) presented potential jurors with a videotaped simulation of a child sexual abuse trial. In the trial simulation, Duggan et al. manipulated both the age of the victim-witness and the strength of the adult's versus the child's corroborative testimony. Jurors

who viewed the 9-year-old victim-witness were more likely to convict the defendant than jurors who viewed either the 5 or the 13-year-old victim-witness. The jurors who viewed the 13-year-old victim-witness were the least likely to render a guilty verdict. Jurors' ratings of the credibility of the victim-witness followed the same pattern found in their verdicts.

These authors put forward the explanation that while jurors may have perceived the 9-year-old as being less cognitively-mature than the older child, both the 5-year-old and the 9-year-old were perceived as being more honest than the 13-year-old. Duggan et al., in accounting for the perception that the 13-year-old alleged victim was less honest, suggests that jurors may have attributed some measure of responsibility for the sexual abuse to this witness, thereby reducing her perceived honesty and credibility. The jurors attributed more responsibility for the abuse to the 13-year-old than to either the 5 or the 9-year-old.

In a follow-up study, Duggan et al. (1989) examined the jury deliberations from the study outlined above and found that the 13-year-old's lack of credibility stemmed from her perceived dishonesty and responsibility for the crime. Such attributions have been found to be made about adult victims of rape (Borgida & Brekke, 1985). Similarly Goodman et al. (1989) found no statements attributing responsibility to the alleged victims where the child was 6 years of age, but some statements to this effect were noted where the alleged victim was either 14 or 22 years of age. Gabora, Spanos and Joab (1993) also found that participants considered a sexual assault victim to be less credible when the victim was portrayed as 17 years old when compared to 13 years of age.

Interestingly, a survey of actual court records conducted in the United States in the early 1980s indicated that cases of sexual abuse involving victims over the age of 12 were significantly less likely to result in convictions than were those involving victims younger than 12 years of age (Williams, 1981). In accounting for such a finding, Williams suggested that jurors might view a child of 12 to be more like an adult and may as a consequence make certain attributions in respect of an older child's motivations and intentions.

Subsequent research confirms that participants attribute more responsibility for the sexual abuse to older victims than they do to younger victims (Isquith, Levine & Scheiner, 1993; Bottoms & Goodman, 1994). Bottoms and Goodman (1994) demonstrated that in child sexual abuse cases, a witness's credibility is likely to be an inverse function of witness age. Bottoms and Goodman had participants read a one-page description of an alleged sexual assault case in which the victim's age was varied (the witness was either 6, 14 or 22 years old). The victim alleged that her teacher called her into the classroom after school on the pretence of discussing grades but instead sexually assaulted her. Participants judged the 6 year-old victim to be slightly more credible than the 22-year-old victim. Participants' ratings of the 14-year-olds credibility fell between the ratings of the other two victim-witnesses but did not differ significantly from the credibility ratings of the other two witnesses. In a second study, participants who watched depositions from two alleged sexual abuse victims judge the younger child to be more credible than the older child. Although these effects of witness age on perceptions of child victim credibility are not always reliable, trial factors that heighten the salience of witness trustworthiness, as may be the case in sexual abuse allegations, may result in an inverse relationship between witness age and witness credibility.

Goodman et al. (1989) theorise that in trials where the witness's accuracy is more salient than the witness's honesty in determining the credibility of the witness (as may be the case where the child is a bystander witness of an event) then children may be judged to be less credible than adults. In contrast, if the trial is one that rests more on witness honesty rather than on accuracy, such as in a trial for sexual abuse, then a child witness may be judged to be as credible, if not more credible, than an adult witness. Goodman et al. (1989), in explaining the findings of their study, pointed out that jurors perceived the 6-year-old witness as more honest, and thus more credible, than either the 14 or the 22-year-old witnesses. Bottoms and Goodman (1994) contend that when sexual knowledge is a salient evaluative dimension in a case then perceived credibility may be inversely related to age. Increasing age is associated with increases in sexual knowledge "...fostering attributions of a child's responsibility for sexual abuse, suspicions regarding a child's capacity and propensity to lie about sex acts and lowered perceived credibility" (1994: 704).

Legally, responsibility should not be a factor if the victim is under 15 years of age, or if the accused was in a position of trust or authority. Nevertheless, jurors may tend to view older children more as they would an adult rape victim. Research suggests that misconceptions that adult women are responsible for their rape can influence juror's evaluations of rape trials (LaFree, 1980). In contrast to adult rape, Goyette and Rosenberg (1987) found that jurors held relatively few misconceptions regarding a 6-year-old child sexual abuse complainant. Nonetheless, the authors found that the degree to which jurors did hold such misconceptions influenced their evaluations of the evidence and verdicts in a child sexual abuse trial.

2.1.2. Some Explanations for the Equivocal Nature of the Findings of Studies on Jurors' Perceptions of Child Witnesses

Efforts to reconcile disparate results have begun to provide some theoretical understanding as to how jurors might perceive children's evidence under various circumstances (Goodman, Bottoms, Herscovici & Shaver, 1989; Leippe & Romanczyk, 1989; Ross, Dunning, Toglia & Ceci, 1990). Research has shown that the credibility of child witnesses is often a function of the attributions jurors make about children's cognitive capacities and motivations. Little is yet known about the kinds of attributional biases which may influence jurors in cases relating child sexual abuse. In contrast, there is substantial empirical evidence relating to cases of adult rape which indicates that the probability of convicting the accused decreases as a function of jurors tendency to perceive the victim as having provoked the rape (Edwards, 1996). Jurors have been found to be more likely to attribute responsibility to the rape victim when, for instance, she had been provocatively dressed (Stewart, Dobbin & Gatowski, 1996).

It may be that young children who testify in child sexual abuse cases may appear to be more credible than their older counterparts. Corder and Whiteside (1988) surveyed jurors in North Carolina to determine whether beliefs about children's abilities and about issues related to child sexual abuse differ as a function of witness age. These respondent-jurors believed that most children of 3 years of age and older are capable of providing accurate testimony about sexual abuse. The respondent-jurors viewed older children as more capable of lying about

being sexually abused than children under 5, although 55% of the respondent-jurors thought that children as young as 3 years of age were capable of fabricating allegations of abuse. Interestingly, virtually all of the jurors in this study (98%) believed that a mental health professional could determine whether child abuse allegations were false or not, a belief which finds only equivocal support in the research literature on professionals' ability to assess the veracity of a individual's account of events (Ekman & O'Sullivan, 1989).

Several authors (Bottoms & Goodman, 1994; Leippe & Romanczyk, 1987, 1989; Ross et al., 1989) have argued that a persuasion framework is useful for understanding the inconsistent findings in the child witness literature. Specifically, these authors have argued that the trial context influences juror's appraisals of child witnesses by influencing their judgements of children's cognitive abilities and general trustworthiness. Social psychologists have generally conceived of credibility as a multi-dimensional construct comprising of both expertise and trustworthiness dimensions (McGuire, 1985). Therefore, in the absence of indicators such as the consistency of the child's testimony (Leippe, Manion & Romanczyk, 1992; Leippe & Romanczyk, 1989) or the powerfulness of the child's speech (Nigro, Buckley, Hill & Nelson, 1989), jurors may judge a child's credibility to be a function of the child's age because the child's age provides information as to the likely cognitive capabilities or expertise of the child. Trial factors (such as the type of case) would also appear to direct jurors' attention to the trustworthiness of the witnesses. This possibility seems especially likely when the witness is the alleged victim of the crime at issue.

To summarise, it would appear from the literature that two constructs underlie witness credibility: cognitive competence and trustworthiness. The salience of these dimensions in a given case may determine a child's overall credibility. The empirical research conducted to date has shown that, as a rule, children are perceived as less credible bystander witnesses but as more credible victim-witnesses than are adult witnesses. Furthermore, research has indicated that jurors' perceptions of the credibility of child witnesses are influential in determining verdicts. The relationship between the age of witnesses and the degree of credibility assigned to witnesses appears to be complex and is most probably dependent upon

the extent to which jurors view children as capable and truthful witnesses in the given circumstances of the particular legal case.

2.2. RATIONALE FOR AND OBJECTIVES OF THE PRESENT STUDY

No previous empirical research had been conducted in the Republic of Ireland on attitudes toward child witnesses. In recognition of such lacuna, this study surveyed, for the first time, Irish jurors' perceptions of the competence of children to act as witnesses in legal proceedings. More specifically, the present study aimed to investigate the impact of potential juror attributes of age, gender, socio-economic status, educational attainment and level of prior experience with the legal system on jurors' attitude toward child witnesses, perceived credibility of a child witness and reported likelihood of finding the defendant guilty on the evidence of a child witness. In addition, the present study examined how three child witness factors; child witness age, child witness gender and child witness type might influence jurors' perceptions of the credibility of a child witness and their likelihood of finding a defendant guilty based on the evidence of a child witness. Finally, the study investigated the level of understanding of the legal process which jurors would expect child witnesses of different ages to possess and their perceptions as to which aspect of the legal process would be most stressful for a child witness.

2.3. THE HYPOTHESES EXAMINED IN THE PRESENT STUDY

The hypotheses examined in this study though well documented in international literature have not, to date, been specifically tested on a sample of potential Irish jurors. The specific hypotheses examined in the present study were as follows:

1. Respondent-jurors perceive children as generally truthful but not as sufficiently cognitively competent to act as witnesses in legal proceedings.

2. Female respondent-jurors possess a more positive child witness attitude than male respondent-jurors.
3. Female respondent-jurors are more likely than male respondent-jurors to rate the child witness as a credible witness.
4. Female respondent-jurors are more likely than male respondent-jurors to decide that the defendant is guilty based on the evidence of the child witness.
5. The younger the child bystander witness the less credible respondent-jurors perceive them to be.
6. The younger the child bystander witness the less likely that respondent-jurors are to find the defendant guilty based on the evidence of the child witness.
7. A younger child who is reported as a victim-witness is perceived as more credible than an older victim-witness.
8. Respondent-jurors are more likely to convict the defendant in cases where the victim-witness is reported as a younger child rather than an older child.
9. An older child who was a bystander witness is viewed by respondent-jurors as more credible than a younger bystander witness.
10. Respondent-jurors are more likely to convict the defendant on the evidence of an older rather than a younger bystander witness.
11. With increasing age of the child, there is a concomitant increase in respondent-jurors' expectations of the child witness's understanding of the legal process.
12. There is an association between the perceived credibility of the child witness and likelihood of finding the defendant guilty based on the evidence of the child witness.
13. There is an association between respondent-jurors' child witness attitude score, their ratings of perceived credibility of the child witness and their ratings of the likelihood of finding the defendant guilty on the basis of the child's evidence.

2.4. METHOD

2.4.1. Materials

A five-page questionnaire, entitled the “Child Witness Attitude Survey” was constructed specifically for the purpose of the present study.¹ The Attitude Survey was comprised of three main sections. The first section of the Attitude Survey sought socio-demographic details on respondent-jurors’ gender, age group,² socio-economic status,³ educational attainment,⁴ and prior experience of involvement with the legal process.⁵

The second section of the Attitude Survey was comprised of a 14-item scale measuring respondent-jurors’ attitude toward a child’s competence to act as a witness in legal proceedings. Respondents were instructed to consider the child witness referred to in the statements as a child of 8 years of age who possessed cognitive abilities which were considered average for this age. For each item respondent-jurors were requested to indicate, on a labeled five-point scale, their level of agreement with the item. The items pertained to a number of dimensions concerning children’s competence to act as witnesses in legal proceedings. Respondent-jurors’ ratings on the 14-items were summed to provide the measure of respondent-jurors’ attitude toward child witnesses.⁶ A higher score represented a more positive attitude to child witnesses. The maximum attitude score obtainable was 70.

In the third and final section of the Attitude Survey respondent-jurors were presented with a short vignette which outlined a child’s reporting of an alleged criminal offence, and the course of the subsequent investigation and trial. This method provides a useful means of tapping into respondents’ stereotypes about children at different ages by not

¹ See Appendix II for a copy of the Child Witness Attitude Survey.

² Pre-coded into 6 age groups, 18-20, 21-30, 31-40, 41-50, 51-60, and 60+ years.

³ Based on the stated occupation of the head of the household in which the respondent-juror was mainly resident which was then coded *a posteriori* as High, Middle or Low socio-economic status using the Census 96 categories of socio-economic status.

⁴ Based on the number of years of full-time education which respondent-jurors reported having completed.

⁵ Pre-coded into 6 categories of capacity: previously attended court as a witness, victim, spectator, defendant, juror, and a final write in “other” category.

⁶ Note that Items 2, 4, 6 and 12 were positively scored.

providing them with visual or auditory information about the particular child (Isquith, Levine & Scheiner, 1993). Respondents were instructed to imagine themselves as a juror in the legal proceedings relating to this case. The vignette was followed by two 5-point scales which sought respondent-jurors' perceptions of the credibility of the child witness and their likelihood of finding the defendant guilty on the evidence of the child witness. There were sixteen vignette conditions in total⁷ forming a 2 x 2 x 4 between-subjects design (witness gender: male or female) x (witness type: victim-witness or bystander eyewitness) x (witness age: 5, 8, 12 or 16 years). Two final items assessed firstly, respondent-jurors' perceptions as to the potential causes of stress for the child witness and secondly, respondent-jurors' expectations as to the child witness's understanding of 16 legal terms and concepts.

2.4.2. Procedure

One thousand, five hundred names and addresses of individuals were chosen at random from the 1997 electoral register for the Dublin Corporation and Council areas. All individuals listed on the electoral register are registered to vote and are therefore eligible to be called for jury service. The starting point for selection of names was chosen at random and then subsequently every 320th name on the register was selected. This method of systematically sampling individuals involves selecting a random starting point (name) and then choosing every name on the register that falls after a set interval. The interval employed is equal to the total number of electors on the electoral register for the given area (in the case of this study that figure was 478,167) divided by the size of the sample which is to be selected (which in this case was 1,500); when rounded off to the nearest ten this gave a set interval of 320. A database of these selected individuals' names and addresses was created.

A postal survey was conducted in the month of June 1997. Two pilot studies were conducted on earlier occasions. In each pilot study, 30 individuals completed the Child Witness Attitude Survey (C.W.A.S) and, as requested, commented on the question and

⁷ See Appendix II(a) for a list of all 16 vignettes used in the study.

response styles utilised. Where appropriate, responses for items were pre-coded. The format of the Child Witness Attitude Survey was finalised following this piloting stage.

A copy of the Child Witness Attitude Survey was sent to the 1,500 randomly selected individuals in early June. A covering letter accompanied the survey outlining the objectives of the survey and the method by which their name and address had been sourced. As individuals were not requested to record their name on the survey form, anonymity and confidentiality of responses were guaranteed. Individuals were requested to return their completed survey forms in the freepost-addressed envelope enclosed before the stated deadline. Two weeks later, a follow-up letter was sent to remind all individuals, if they had not already done so, to return their completed survey forms by the stated date. Survey forms received up to the 31st of July, 1997 were accepted and included for analysis.

A total of 527 completed survey forms were received in the eight-week period of the survey. A further 49 survey forms were returned not having been completed. These survey forms were returned, in the main, because the named individual was either deceased or was no longer residing at that address. This suggests an effective response rate of 576 / 1500, or 38.4%.

2.4.3. Respondent-Jurors

The respondent-jurors in the present study were 527 members of the general public, all of whom were eligible for jury service. The total sample was comprised of 256 males and 271 females. Approximately one quarter of respondents were aged between 21 and 30 years. The breakdown of the total sample by both age group and gender is presented in Table 2.4.1.

Table 2.4.1. Frequency breakdown of total sample of respondent-jurors by age group and gender.

Gender/Age Group	18-20	21-30	31-40	41-50	51-60	>60
Male	28	56	45	42	40	45
Female	19	70	57	44	36	45
Total	47	126	102	86	76	90

Based on the reported occupation of the head of the household in which the respondent-juror mainly resided, 29.6% of the total sample ($n= 156$) were categorised as high socio-economic background (professional, managerial). 34.5% of respondent-jurors ($n=182$) were categorised as of low socio-economic status (unskilled manual and unemployed). The remaining 35.9% of respondent-jurors ($n=189$) were categorised as of middle socio-economic status (non-manual and skilled manual).

Just over three-quarters of the sample (75.3%) reported having completed at least 14 years of education (the equivalent of having completed the Leaving Certificate or A-level examinations). Only 23 respondent-jurors, or 7%, reported having completed less than twelve years of full-time education, and the remaining 17.6% of the sample ($n=98$) reported having completed between 12 and 13 years of education (equivalent to completing Junior Certificate or O-level examinations). Just under one in ten of the total sample (8.9%) reported having completed at least 17 years of education, the equivalent of having completed a third-level degree.

Slightly over half of the total sample ($n=270$) reported having had some experience of involvement with the legal process. Table 2.4.2. presents frequencies and percentages for the nature of respondent-jurors' involvement in the legal process.

Table 2.4.2. Number of respondent-jurors' who had various kinds of prior experience with the legal process.

Nature of Prior Experience	n	Percentage of Total Sample (N=527)
	103	19.5%
Attended Court as a Witness	98	18.6%
Attended Court as a Juror	69	13.1%
Attended Court as a Defendant	49	9.3%
Attended Court as a Victim	43	8.2%
Attended Court in Other Capacity	19	3.6%

It should be noted that respondent-jurors were requested to indicate as many categories of experience as were applicable to them. A minority of respondent-jurors ($n=37$) are included in more than one category. Of the nineteen respondent-jurors who indicated that they had attended court in some other capacity, 11 reported that they attended court on work-related matters, 5 respondent-jurors reported attending court as a support person. The remaining three respondent-jurors did not specify the nature of their prior involvement.

The distribution of respondent-juror' attributes displayed a very close match to the 1996 census figures for the population of the Dublin Metropolitan Area from which respondent-jurors were drawn. The male to female ratio in the total sample was 48.6 : 51.4 and in the most recent census figures for the adult population (over 18 years of age) was 47.4 : 52.6 (Central Statistics Office, 1996). Thus, the survey respondent-jurors match quite well, in terms of gender distribution, the general population from which they were drawn. As may be seen in Table 2.4.3. the age profile of respondent-jurors compared with census figures for the population in similar age categories is relatively well matched.

Table 2.4.3. Comparison between the percentage of respondent-jurors and the percentage of the adult population in Dublin Metropolitan Area in each of six age groups.

Age Group	18-20	21-30	31-40	41-50	51-60	>60
Survey Respondents	8.9%	23.9%	19.4%	16.3%	14.4%	17.1%
1996 Census	7.9%	29.4%	19.5%	15.1%	13.0%	15.1%

It may be observed that respondent-jurors in the 21-30 year-old age group in the sample were somewhat under-represented, while those respondent-jurors aged over 60 years of age were slightly over-represented. The difference was most likely to have been a consequence of the differences between the electoral register and the census data; however, the possibility cannot be excluded that there may have been a somewhat greater propensity to respond in the over-represented group.

Finally, the socio-economic status profile of respondent-jurors was compared with the Census 96 data on socio-economic status breakdown of the adult population in the Dublin Metropolitan Area. Table 2.4.4. provides the percentages of both respondent-jurors and general population in each of the three socio-economic groups.

Table 2.4.4. Comparison between the percentage of respondent-jurors and the percentage of the adult population in Dublin Metropolitan Area in each of three socio-economic status groups.

Socio-Economic Status	High	Middle	Low
Survey Respondents	29.6%	36.9%	33.5%
1996 Census	29.1%	40.4%	30.5%

As may be seen there was a slight under-representation of respondent-jurors in the Middle socio-economic status group combined with a slight over-representation in the Low socio-economic group. The differences were in the magnitude of plus or minus 3.5% and thus the

socio-economic profile of respondent-jurors were considered to be sufficiently matched with the census data.

2.5. RESULTS

The findings of this study are presented in three main sections. Section One reports on the analyses of data collected in the survey of respondent-jurors' attitudes towards child witnesses. Section Two reports on the findings of the study where respondent-jurors were presented with one of 16 trial vignettes where the key witness was a child and wherein the child's age, gender and the type of offence were systematically manipulated. Respondent-jurors were requested to rate how credible they perceived the child to be and how likely they would be to find the defendant guilty based on the testimony of the child witness. Respondent-jurors were also asked to rank which of 8 potential stressors they considered would be the most stressful for a child witness and to indicate which, if any, of 16 legal terms and concepts they would expect the child witness to understand. The analyses of this data is presented in Section 2.5.3 below.

2.5.1. Respondent-Jurors' Attitudes toward the Competence of Children to Act as Witnesses in Legal Proceedings.

Respondent-jurors' scores on the 14-item Child Witness Attitude Scale ranged between 18 and 61 ($N=527$). The mean child witness attitude score for the total sample was 40.64 ($N=527$, $sd=5.47$) while the median attitude score was 41. A Kolmogorov-Smirnov Z test, performed to test the normality of the distribution of attitude scores, revealed that the distribution of attitude scores for the total sample did not differ significantly from the normal distribution ($K-S Z = 1.156$, $Z Prob. = .138$).

Mean ratings on each of the 14 items comprising the Child Witness Attitude Scale were computed. The mean ratings on each item of the total sample and of male and female respondent-jurors are presented in Table 2.5.1.

Table 2.5.1. Mean ratings of the total sample, and of male and female respondent-jurors on each of the 14 items comprising the Child Witness Attitude Scale.

Item	Males (n=256) Mean rating	Females (n= 271) Mean rating	Total Sample (N=527) Mean rating
1. Accuracy of Memory	3.08 (+)	3.30 (+)	3.20 (+)
2. Truthfulness	3.45 (+)	3.55 (+)	3.50 (+)
3. Suggestibility	2.31 (-)	2.34 (-)	2.33 (-)
4. False Allegations	3.48 (+)	3.63 (+)	3.56 (+)
5. Distinguish Fantasy-Reality	2.41 (-)	2.56 (-)	2.49 (-)
6. Memory/Traumatic Events	3.09 (+)	3.18 (+)	3.13 (+)
7. Allowed to Testify	3.48 (+)	3.36 (+)	3.42 (+)
8. Confident when Testifying	2.30 (-)	2.41 (-)	2.36 (-)
9. Consistent when Testifying	2.85 (-)	3.04 (+)	2.95 (-)
10. Impact of Leading Questions	2.11 (-)	2.28 (-)	2.20 (-)
11. Credibility	3.35 (+)	3.45 (+)	3.40 (+)
12. Experience of Stress	2.72 (-)	2.61 (-)	2.66 (-)
13. Info. on the Court Process	2.77 (-)	2.73 (-)	2.75 (-)
14. Likelihood of Conviction	2.73 (-)	2.69 (-)	2.71 (-)

Note: A score of 3 (=) indicates the average, a score of less than 3 (-) indicates a more negative attitude in respect of that child witness item, while a score of greater than 3 (+) indicates a more positive attitude on that item.

As may be observed from Table 2.5.1., taking the mean ratings for the total sample, respondent-jurors, generally, held a positive view in respect of both the truthfulness of children ($M=3.50$) and their perceived credibility as witnesses ($M=3.40$). In a similar vein, respondent-jurors held the view that children would not be any more likely than adults to make false allegations about a criminal offence ($M=3.56$). In addition, respondent-jurors held a positive attitude in respect of allowing children to testify in criminal proceedings ($M=3.42$).

In contrast, respondent-jurors, held more negative views in respect of the impact of the court process on the child, in that they viewed that a child witness would be less confident about ($M=2.36$) and more stressed by ($M=2.66$) the act of testifying than an adult witness.

Furthermore, respondent-jurors viewed that children would have greater difficulty

distinguishing fantasy from reality ($M= 2.49$), would be more suggestible ($M=2.33$), and more prone to being influenced by leading questions ($M=2.20$) when compared to adults. Respondent-jurors also did not hold a positive view as to the likelihood that a jury would convict a defendant on the basis of the evidence of a child witness ($M=2.71$). Thus, as predicted, respondent-jurors' generally viewed child witnesses as more truthful but less cognitively competent than adult witnesses (Hypothesis 1).

A factor analysis employing the principal component analysis method of extraction followed by varimax rotation was performed to assess the dimensionality of the 14 items of the Child Witness Attitude Scale. On examination of the scree plot and taking only those factors with eigenvalues greater than 1.00, four factors were yielded, which accounted for 44.3% of the total variance. The first factor had an eigenvalue of 2.198, accounted for 15.7% of the variance and was labelled "Impact of Testifying in Court". The five items which loaded onto this factor, related to aspects of the presentation of the child's testimony in court. These items and their factor loadings are presented in Table 2.5.2. All of the factor loadings may be regarded as statistically significant (Hair, Anderson, Tatham & Black, 1998).

Table 2.5.2. The items loading on Factor 1 "Impact of Testifying in Court" with their respective factor loadings.

Item No.	Dimension relating to	Factor Loading
8	Confidence when Testifying	.696
9	Ability to be Consistent when Testifying	.491
10	Influence of Lawyer's Leading Questions	.554
12	Stressfulness of Testifying	.499
13	Effect of Lack of Information on Testifying	.551

Note: All factor loadings are significant at $p = .001$

The second factor had an eigenvalue of 1.476, explained 10.55% of the total variance and was labelled as "General Credibility-Guilt". The three items which loaded on this factor pertained to attitudes in respect of whether children should be permitted to testify, children's

credibility as witnesses and the likelihood of conviction based on a child’s testimony. The items which loaded on Factor 2 and their factor loadings are presented in Table 2.5.3.

Table 2.5.3. The items loading on Factor 2 “General Credibility-Guilt” and their respective factor loadings.

Item No.	Dimension relating to	Factor Loading
7	Allowing Children to Testify	.585
11	Children’s Credibility as Witnesses	.551
14	Likelihood of Conviction on Child’s Evidence	.320

Note: All factor loadings are significant at $p = .001$

The third factor was assigned the label “Cognitive Competence”. This third factor had an eigenvalue of 1.315 and accounted for 9.40% of the total variance. As may be seen from Table 2.5.4., the four items which loaded onto this factor were concerned primarily with attitudes in respect of children’s general cognitive capabilities.

Table 2.5.4. The items loading on Factor 3 “Cognitive Competence” with their respective factor loadings.

Item No.	Dimension relating to	Factor Loading
1	Accuracy of a Child’s Memory for Events	.465
3	Suggestibility of Children	.673
5	Ability to Distinguish Fantasy from Reality	.616
6	Reliability of Memory for Traumatic Events	.534

Note: All factor loadings are significant at $p = .001$

Finally, the fourth factor, “Trustworthiness”, had an eigenvalue of 1.209 and explained 8.64% of the total variance. This factor contained two items relating to children’s truthfulness and their likelihood of making false allegations about a criminal offence. Table 2.5.5. presents these two items and their respective factor loadings.

Table 2.5.5. The items loading on Factor 4 “Trustworthiness” with their respective factor loadings.

Item No.	Dimension relating to	Factor Loading
2	Truthfulness of Children	.778
4	Likelihood of Making False Allegations	.773

Note: All factor loadings are significant at $p = .001$

Sub-scores were computed, representing each of the four factors, by summing the scores on the relevant items. Table 2.5.6. presents the mean sub-scores and the minimum and maximum possible scores for each of the four factors identified in the factor analysis of the 14-items comprising the Child Witness Attitude Scale.

Table 2.5.6. Mean score on each of the four subscales of the Attitude Scale and the minimum and maximum possible score for each subscale ($N=527$).

Factor No.	Factor Label	Mean Score	Minimum Score	Maximum Score
1	Impact of Testifying	12.66	5	25
2	General Credibility-Guilt	9.33	5	15
3	Cognitive Competence	10.94	5	20
4	Trustworthiness	6.92	5	10

Statistical analyses were conducted to examine for differences in child witness attitude scores, scores on each of the four subscales as delineated and scores on the 14 individual items comprising the Child Witness Attitude Scale between respondent-juror groups formed on the basis of the attributes of gender, age, socio-economic status, educational attainment and prior experience with the legal process.

(i) Respondent-Juror Gender

Significant gender differences were found in respect of mean child witness total attitude scores with male respondent-jurors obtaining a significantly lower mean total attitude score ($M= 40.10$) when compared to female respondent-jurors ($M=41.14$; $t=-2.192$, $df=525$, $p=.029$). Males therefore, as hypothesized, had a less positive attitude toward child witnesses than did female respondent-jurors in the present study (Hypothesis 2). To examine the sources of these gender differences more closely, a series of t-tests were conducted to compare male and female respondent-jurors' subscale scores. Gender differences emerged on Factor 3 "Cognitive Competence" with male respondents obtaining a significantly lower mean score ($M=10.89$) than female respondents ($M=11.38$; $t=-2.398$, $df=525$, $p=.017$). Female respondents, therefore, held a more positive view than male respondents in relation to a child possessing the cognitive skills required for the role of being a witness in legal proceedings.

In addition, significant gender differences emerged on two of the 14 items comprising the Child Witness Attitude Scale with female respondent-jurors having significantly higher ratings (i.e., more positive attitudes) than male respondent-jurors on Item 1, relating to the accuracy of a child's memory for events ($t= - 2.306$, $df=525$, $p=.002$) and on Item 9 concerning a child's ability to provide consistent testimony ($t= -2.201$, $df=525$, $p=.028$). The relevant means may be seen in Table 2.5.1. Female respondents, when compared to male respondents, held a more positive attitude in terms of how accurate a child's memory for events may be and also in relation to how capable a child witness may be in providing consistent testimony; a skill which would be based, in part, on the child's cognitive capabilities.

(ii) Respondent-Juror Age

As may be observed from Table 2.5.7., which presents the mean attitude scores obtained by respondent-jurors in each of the 6 age groups, respondent-jurors aged between 31 and 40 years (Age Group 3) attained the highest mean child witness attitude score ($M= 41.53$) and,

therefore, could be said to possess the most pro-child witness attitude. Respondent-jurors aged over 60 years (Age Group 6) attained the lowest mean child witness attitude score and as a consequence may be said to hold the least positive attitude in respect of children's competence to act as witnesses in legal proceedings. Analysis of variance revealed a significant effect for age group on child witness attitude scores ($F(5, 521) = 2.525, p = .028$). *Post hoc* comparisons using the conservative Scheffe test revealed significant differences in attitude scores between respondent-jurors in Age Group 6 and Age Group 3 ($p = .049$). Thus, respondent-jurors over 60 years of age were found to hold a significantly less positive attitude in respect of the competence of children to act as witnesses than respondent-jurors aged between 31 and 40 years of age.

Table 2.5.7. The mean and standard deviation of child witness attitude scores by respondent-juror age group.

Age Group	n	Mean Attitude Score	Standard Deviation
Age Group 1: Aged 18-20 Years	47	39.89	4.12
Age Group 2: Aged 21-30 Years	126	40.94	4.26
Age Group 3: Aged 31-40 Years	102	41.53	5.82
Age Group 4: Aged 41-50 Years	86	41.49	5.95
Age Group 5: Aged 51-60 Years	76	40.05	6.02
Age Group 6: Aged > 60 Years	90	39.28	6.00

Analyses of variance to examine for effects of respondent-juror age on subscale scores revealed a main effect of age on only one of the four factors, the "General Credibility-Guilt" factor ($F(5, 521) = 3.824, p = .002$). Follow-up *post hoc* comparisons using the Scheffe test revealed that respondent-jurors in Age Group 3 ($M = 10.16$) had a significantly higher score ($p = .007$) on this subscale than did respondents in Age Group 6 ($M = 8.83$).

Further analyses of variance were conducted to examine for effects of respondent-juror age on the individual items comprising the Child Witness Attitude Scale. A significant main effect for age was found on Item 1 which related to the accuracy of children's memory ($F(5, 521) = 2.719, p=.019$). *Post hoc* comparisons with the Scheffe test revealed that respondent-jurors in Age Group 6, aged over 60, had a significantly lower mean rating for the accuracy of children's memory ($M=2.87$) when compared to the mean rating of respondent-jurors in Age Group 4 ($M=3.41$) who were aged between 41 and 50 years ($p=.05$).

Similar age effects were found on Item 12 relating to the stressfulness of the act of testifying ($F(5, 521) = 3.386, p=.005$) and on Item 13 which related to how a lack of information about the court process might effect a child's testimony ($F(5, 521) = 2.558, p=.027$). The Scheffe test for *post hoc* comparisons revealed that respondent-jurors in Age Group 6 had a significantly lower rating on Item 12 ($M=2.96$) and were thus more likely to hold the view that children would be too stressed by the experience of testifying when compared to the mean rating of respondent-jurors in Age Group 3 ($M=3.43$) ($p=.027$). Likewise, *post hoc* comparisons using the Scheffe test indicated that respondent-jurors in Age Group 6 ($M=2.48$) had a significantly lower mean rating on Item 13, than the mean rating of respondent-jurors in Age Group 2 ($M=2.90; p=.003$). Respondent jurors aged over 60 years thus, held a less positive view than respondent-jurors aged between 21 and 30 years, in respect of how a child compared to an adult would be effected by a lack of information about the legal process.

Highly significant age effects were found on Item 7, which related to whether children should ever be allowed to testify ($F(5, 521) = 7.739, p<.001$). *Post hoc* comparisons with the Scheffe test revealed that respondent-jurors in Age Group 6 ($M=3.25$) held a significantly less positive attitude in respect of allowing children to testify when compared with respondent-jurors in Age Group 1 ($M= 3.70; p=.005$), Age Group 2 ($M= 3.58; p=.001$) and Age Group 3 ($M=3.76; p<.001$).

When taken together, these findings would suggest an important effect on child witness attitude scores of age of respondent-juror, with respondent-jurors aged 60 years and older

possessing a significantly more negative attitude generally and in respect of a number of the dimensions of children's competence to act as witnesses in legal proceedings.

(iii) Respondent-Juror Socio-Economic Status

As may be seen in Table 2.5.8. there were minimal differences between the mean attitude scores obtained by respondent-jurors in each of the three socio-economic status groups. Subsequent analysis of variance revealed no significant effects on child witness attitude scores of socio-economic status of respondent-jurors ($F(2,524) = .017, p = .983$).

Table 2.5.8. The mean and standard deviation of child witness attitude scores by respondent-juror socio-economic status.

Socio-Economic Status	n	Mean Attitude Score	Standard Deviation
High	156	40.68	5.52
Middle	189	40.66	5.59
Low	182	40.58	5.34

When respondent-jurors subscale scores were subjected to analyses of variance with socio-economic status as the independent variable, main effects for socio-economic status were found on two of the four factors: "General Credibility-Guilt" ($F(2, 525) = 4.092, p = .017$) and "Cognitive Competence" ($F(2, 525) = 4.305, p = .014$). *Post-hoc* tests revealed that scores on the "General Credibility-Guilt" factor of respondent jurors categorised as High socio-economic status ($M=9.94$) were significantly higher ($p=.02$) than those of respondents categorised as Low socio-economic status ($M=9.24$). Likewise on the "Cognitive Competence" factor, follow-up *post hoc* tests revealed that respondent-jurors in the High socio-economic status group ($M=11.48$) had a significantly higher score ($p=.014$) on this factor than did respondents in the Low socio-economic status group ($M=10.72$).

Analyses of variance were again performed to examine for effects of respondent-juror socio-economic status on mean ratings for the 14 items in the Attitude Survey. A number of

significant effects of respondent-jurors' socio-economic status emerged. On Item 3, which related to the suggestibility of children, analysis of variance revealed a significant effect for socio-economic status ($F(2, 523) = 4.047, p = .018$). *Post hoc* comparisons using the Scheffe test indicated that respondent-jurors categorised as High socio-economic status ($M = 3.84$) had a significantly higher ($p = .026$) mean rating in respect of children's suggestibility when compared to the mean rating of respondents categorised as Middle socio-economic status ($M = 3.58$). Thus, respondent-jurors in the High socio-economic status group viewed children as less suggestible than did respondents in the Middle socio-economic status group.

Analysis of variance also revealed significant effects of socio-economic status on Item 12 which related to the stressfulness of the act of testifying. *Post hoc* comparisons revealed that respondent-jurors in the High socio-economic status group had a significantly higher ($p = .048$) mean rating in relation to the stressfulness of testifying for a child witness ($M = 3.52$) than the mean ratings given by respondent-jurors categorised as Low socio-economic status ($M = 3.24$). Likewise, analysis of variance revealed a significant effect of socio-economic status on Item 13 which related to the lack of information about the court process having a negative effect on a child's testimony. In respect of this item, *post hoc* analysis revealed respondent-jurors categorised as Low socio-economic status ($M = 2.58$) were significantly more likely ($p = .026$) to rate children as being more negatively effected than adult witnesses by a lack of information about the legal process when compared to respondent-jurors categorised as High socio-economic status ($M = 2.87$). Thus, respondent-jurors in the High socio-economic status group viewed children's testimony as less affected by either the stressfulness of the experience or the lack of information about the legal process than did respondents in the Low socio-economic status group.

(iv) Respondent-Juror Level of Educational Attainment

The number of years of full-time education which respondent-jurors had completed (educational attainment) and respondent-jurors' child witness attitude scores were not found to be significantly correlated (Spearman $\rho = .065, p = .138$). However, a significant correlation was found between respondent-jurors' educational attainment and the scores on

the “General Credibility-Guilt” factor ($\rho=.111, p=.011$). The more years of full-time education which respondents had completed the higher their score, thus, the more pro-child witness their attitude on the “General Credibility-Guilt” factor. Spearman rank correlation coefficients were also calculated to examine whether respondent-jurors’ level of educational attainment was a determinant of ratings given on the individual items comprising the Child Witness Attitude Scale. Respondent-jurors ratings on Item 3, relating to the suggestibility of child witnesses, were found to be highly correlated with respondent-juror’s educational attainment. more years of education completed by respondent-jurors was associated with lower ratings of suggestibility of child witnesses ($\rho=-.121, p=.006$). Similarly, respondent-jurors’ educational attainment was found to be positively correlated with ratings on Item 7, relating to whether children should be allowed to testify ($\rho=.104, p=.017$), and on Item 12, relating to the stressfulness of the act of testifying ($\rho=-.118, p=.007$). Higher educational attainment was thus associated with a more positive attitude in respect of allowing children to testify and with the view that child witnesses were not always more stressed than adult witnesses by the act of testifying.

(v) Respondent-Juror Prior Involvement in the Legal Process

Those respondents who had some type of prior involvement in the legal process ($M=40.59$) did not differ significantly ($t=-.189, df=525, p=.851$) in their attitude to child witnesses from respondents who had no such experience ($M=40.68$). Likewise, no significant differences were found on subscale scores for each of the four factors. Further t-tests were conducted for each of the individual items comprising the child witness attitude scale to examine for differences between respondents who had some previous experience with the legal process and those who did not. A significant difference was found on only one of the 14 items. Respondents who had some prior experience with the legal process ($M=2.79$) were found to have a significantly ($t=-2.031, df=525, p=.043$). higher mean rating on Item 14 relating to the likelihood that a jury would convict the defendant in a trial where the key eyewitness was a child than those respondents who reported having no previous experience ($M=2.62$). Thus, respondents who had some previous involvement with the legal process were significantly more likely to hold the view that the jury would convict the defendant on the evidence of a

child witness than were respondent who reported that they had no prior contact with the legal system.

T-tests were also conducted to compare the child witness attitude scores of respondents who reported having attended court in each of five capacities (as a witness, victim, spectator, defendant or juror) with those who had not attended court for these reasons. No significant differences were found. When items were examined individually, Item 14 emerged as significant for those respondents who had previously attended court as a witness, with respondents who had attended court in this capacity ($M=2.89$) having a significantly higher ($t=-2.009$, $df=525$, $p=.045$) mean rating on Item 14 which concerned the likelihood that a jury would convict a defendant on the evidence of a child witness ($M=2.67$). No significant differences on mean ratings of the individual items emerged for respondents who had attended court either as a spectator or as a juror when compared to respondents who had not attended court in these capacities.

Respondents who reported having previously attended court as a victim of a criminal offence had significantly higher ($t=-2.665$, $df=66.2$, $p=.01$) ratings on Item 11, which was concerned with the issue of a child's credibility as a witness ($M=3.74$) and on Item 14 which related to the likelihood that a jury would to convict a defendant on the basis of a child's evidence ($M=3.02$; $t=-2.198$, $df=525$, $p=.028$) than respondents who had not attended court in this capacity (Item 11 $M=3.37$; Item 14 $M=2.68$). Finally respondents who had reported previously attending court as a defendant had significantly higher ratings on Item 1 which related to the accuracy of a child's memory for events ($M= 3.49$; $t=-1.968$, $df=525$, $p=.05$), on Item 2 which related to a child's truthfulness ($M=3.80$; $t=-2.656$, $df=64.7$, $p=.01$) and on Item 11 which related to the credibility of a child witness ($M=3.71$; $t=-2.534$, $df=78.6$, $p=.013$) than respondents who had not attended court as a defendant in criminal proceedings (Item 1 $M=3.17$; Item 2 $M=3.47$; Item 11 $M=3.37$). Thus, respondents who had previously attended court as a defendant viewed the child witness as more truthful, more credible and children's memories as more accurate than did respondents who had not attended court in this capacity.

A 2 (Respondent-Juror Gender) x 3 (Respondent-Juror SES) x 6 (Respondent-Juror Age) between-subjects analysis of variance was performed with child witness total attitude scores as the dependent variable. Table 2.5.9. presents the findings of this ANOVA.

Table 2.5.9. Results of the 2 x 3 x 6 ANOVA (F-ratios) with respondent-juror gender, socio-economic status (SES) and age group as independent variables and child witness attitude score as the dependent variable.

	Independent Variables	df	MS	F-ratio
A	Respondent Age Group (Resp.Age)	5	71.238	2.469*
B	Respondent Gender (Resp. Gender)	1	183.052	6.344*
C	Respondent SES Group (Resp. SES)	1	47.740	1.655
AB	Resp.Age x Resp. Gender	5	54.029	4.204*
AC	Resp.Age x Resp. SES	10	37.354	1.295
BC	Resp. Gender x Resp. SES	2	23.032	.798
ABC	Resp.Age x Resp. Gender x Resp. SES	10	45.144	1.565

* $p < .05$

Note that MS Error = 28.854, $df=491$.

Significant main effects for both age group ($F(5, 521) = 2.469, p = .032$) and gender ($F(2, 524) = 6.344, p = .012$) were found. These main effects, however, were qualified by a significant interaction effect between age group x gender ($F(5, 521) = 4.204, p = .026$). In relation to the interaction effect of age group x gender, subsequent t-tests were performed to determine the sources of these differences. The results of these t-tests, presented in Table 2.5.10, revealed that there was a significant difference between the child witness attitude scores of male and female respondent-jurors in Age Group 1 (18 – 20 years of age). Males in this age group had a significantly lower mean attitude score ($M=38.50$) when compared to the mean score ($M=41.95$) obtained by female respondent-jurors in this age range ($t = -3.057, df = 45, p = .004$). No significant differences were found between the mean attitude scores of male and female respondent-jurors in the remaining five age groups, though gender differences on mean attitude score approached

significance in Age Group 2 where respondent-jurors were aged between 21-30 years ($t=-1.891$, $df = 124$, $p=.061$).

Table 2.5.10. Mean child witness attitude scores by gender and age group and the results of t-tests (t-values) conducted to compare the attitude scores of male and female respondent-jurors within each age group.

Age Group	Male Respondents	Female Respondents	df	t-value
Aged 18-20 Years	38.50	41.95	45	-3.057*
Aged 21-30 Years	40.14	41.57	124	-1.891
Aged 31-40 Years	41.22	41.77	100	-.472
Aged 41-50 Years	42.02	40.98	84	-.814
Aged 51-60 Years	38.95	41.28	74	-1.704
Aged > 60 Years	39.16	39.40	88	-.192

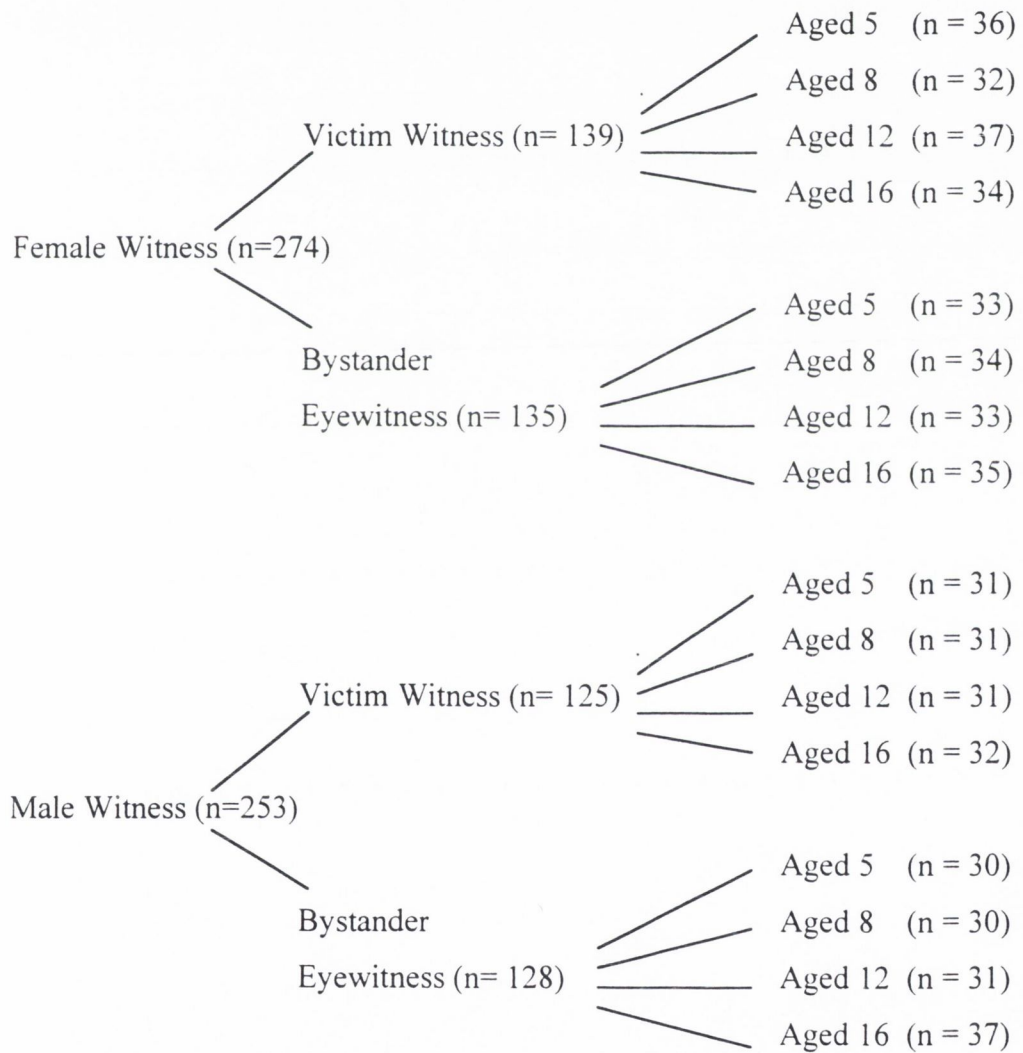
* $p < .01$

As may be seen from Table 2.5.10, females obtained higher mean child witness attitude scores than males in all 6 age groups.

2.5.2. Respondent-Jurors' Reactions to the Trial Vignettes

After having completed the 14-item Attitude Scale, respondent-jurors were presented with one of 16 trial vignettes, where the age of the child witness, the gender of the child witness and the witness type were manipulated. Figure 2.1. outlines the number of respondent-jurors who returned survey forms pertaining to each vignette condition.

Figure 2.1. Frequencies of respondent-jurors responding to each vignette condition.



A series of chi-square analyses were conducted to ascertain whether respondent-jurors to each of the 16 trial vignettes were equally matched in terms of the key attributes of

gender, age, socio-economic status, educational level and prior experience with the legal process. No significant differences were found between respondent-jurors to each of the 16 vignette conditions in terms of age group ($X^2=58.250$; $df=75$), socio-economic status ($X^2=42.283$; $df=30$) or level of educational attainment ($X^2=56.082$; $df=75$). Male and female respondent-jurors were also not found to be significantly differentially represented across the 16 vignette groups ($X^2=1.784$; $df=15$). Furthermore, the composition of the 16 vignette groups was not found to differ significantly in terms of the numbers of respondent-jurors who reported having had some prior involvement in the legal process ($X^2=17.127$; $df=15$). Altogether, respondent-jurors could, for the purpose of subsequent data analyses, be considered as sufficiently equally matched on these main attributes across the 16 vignette groups.

While the size of the total sample in the present study ($N=527$) might provide sufficient justification for employing parametric statistical methods in the analyses of data, nonetheless, the number of participants responding to each of the 16 vignette conditions was relatively small (Mean $n=33$). In addition, as 5-point scales were employed to measure the two dependent variables of perceived credibility of the child witness and likelihood of finding the defendant guilty on the evidence of the child witness, the assumption could not be made that either of these scales consisted of equal intervals. As a consequence of these factors, non-parametric statistical methods were, in the main, employed in the analyses of the data collated in this section of the study.

Appropriate statistical methods were employed to ascertain whether the respondent-jurors' socio-demographic attributes were determinants of ratings given on the dependent variables of perceived credibility of the child witness and likelihood of finding the defendant guilty. Kruskal-Wallis one-way analyses of variance were performed to ascertain whether there were differences on ratings of perceived credibility and likelihood of finding the defendant guilty for respondent-juror age or socio-economic status group. As may be seen from Table 2.5.11., no significant differences were found between these respondent-juror attributes and their ratings on the two dependent variables.

Table 2.5.11. Results of Kruskal-Wallis one-way analyses of variance (H-values) to compare mean ratings on perceived credibility of the child witness and likelihood of finding the defendant guilty across respondent-juror age and socio-economic status (SES) groups ($N=527$).

Dependent Variable	Age Group (H)	SES (H)
Perceived credibility of the child witness	2.871	2.140
Likelihood of finding the defendant guilty	6.241	.872

A series of Mann-Whitney U tests were conducted to examine for gender differences and differences between those respondent-jurors who had some prior involvement with the legal process with those who had no such experience in their mean ratings on the two dependent variables. Table 2.5.12. presents the findings of these Mann Whitney U tests.

Table 2.5.12. Results of Mann Whitney U Tests (z-values), to compare the ratings given by male and female respondent-jurors and by those respondents who had prior experience of the legal process with those who did not, on the dependent variables of perceived credibility of the child witness and likelihood of finding the defendant guilty based on the evidence of the child ($N=527$).

Dependent Variable	Gender (z)	Prior Experience (z)
Perceived credibility of the child witness	-.360	-.316
Likelihood of finding the defendant guilty	-.937	-.316

As may be seen from Table 2.5.12. no significant differences were found between the ratings given on each of the two dependent variables by either male and female respondent-jurors or by those respondent-jurors who had some prior experience of the legal process compared with those who had no such experience. That there were no

significant respondent gender differences on ratings of the two dependent variables does not support the hypotheses that female respondent-jurors have significantly higher ratings than males in terms of their perceived credibility of the child witness and their likelihood of finding the defendant guilty on the evidence presented by the child witness (Hypotheses 3 & 4).

Finally, to ascertain whether respondent-jurors' level of educational attainment was a determinant of ratings on the two dependent variables the appropriate Spearman rank correlation coefficients were calculated. No significant correlations were found between educational attainment and either perceived credibility ratings (Spearman $\rho=.020$, $p=.650$) or on ratings of likelihood of finding the defendant guilty (Spearman $\rho=-.006$, $p=.892$).

The results of this series of Kruskal-Wallis one-way analyses of variance, Mann-Whitney U tests and correlational analyses indicate that those respondent-juror attributes measured in the present study, that is, respondent-juror age, gender, socio-economic status, educational attainment and prior experience of the legal process were not significant determinants of ratings on either perceived credibility of the child witness or of the likelihood of finding the defendant guilty.

The following series of statistical analyses were conducted to test the remaining hypotheses as set out in Section 2.3 of this chapter. A 2 x 2 x 4 analysis of variance was performed with child witness gender (male, female), child witness type (victim-witness, bystander-eyewitness) and child witness age (Ages 5, 8, 12, or 16 years), as the independent variables. The dependent variables were the perceived credibility of the child witness and the likelihood of finding the defendant guilty on the evidence of the child witness. A parametric analysis was employed so that the independent variables of witness age, gender and type could be examined both separately and in interaction with one another. A summary of the results of the ANOVA can be seen in Table 2.5.13.

Table 2.5.13. Results of the 2 x 2 x 4 ANOVA (F-ratios) with child witness gender, child witness type and child witness age as independent variables and perceived credibility of the child witness and the likelihood of finding the defendant guilty on the evidence of the child witness as dependent variables.

		Perceived Credibility		Decision of Guilt	
		df	F-ratio	df	F-ratio
A	Witness Age (Wit.Age)	3, 510	8.146***	3, 511	5.675***
B	Witness Gender (Wit. Gen.)	1, 510	.0207	1, 511	.798
C	Witness Type (Wit. Type)	1, 510	3.680	1, 511	2.067
AB	Wit. Age x Wit. Gen.	3, 510	1.885	3, 511	.537
AC	Wit. Age x Wit. Type	3, 510	1.384	3, 511	1.448
BC	Wit. Gen. x Wit. Type	1, 510	.0364	1, 511	.042
ABC	Wit. Age x Wit. Gen. x Wit. Type	3, 510	1.267	3, 511	1.560

*** $p < .001$

Note. For perceived credibility ratings Error MS = 1.168, $df = 510$; for decision of guilt ratings Error MS = 1.186, $df = 511$.

The age of the child witness was found to be a significant main effect both on the measure of perceived credibility the child witness ($F(3, 510) = 8.146, p < .001$) and on the measure of likelihood of deciding that the defendant was guilty of the offence as charged ($F(3, 511) = 5.675, p = .001$). No significant interaction effects were found on either dependent variable, thus Hypotheses 7, 8, 9, and 10 were not supported by the findings of the present study, as interaction effects between witness age and witness gender and witness and witness type were not found to be statistically significant at the .05 level.

A series of Kruskal–Wallis one-way analyses of variance and Mann-Whitney U tests were performed to examine, in greater depth, the significant main effects which emerged. In the first instance, Kruskal-Wallis one-way analyses of variance were performed between child witness age and ratings on both perceived credibility and likelihood of convicting the defendant. As was expected, based on the findings of the ANOVA, significant differences were found between the child witness age conditions both on

ratings of perceived credibility ($H=14.261$, $df=3$, $p=.003$) and on the dependent variable of likelihood of finding the defendant guilty of the offence ($H=21.813$, $df=3$, $p<.001$). The mean perceived credibility ratings and mean ratings of the likelihood of finding the defendant guilty for each of the four child witness age conditions are presented in Table 2.5.14.

Table 2.5.14. Mean ratings on perceived credibility and likelihood of finding the defendant guilty by the four child witness age conditions.

Witness Age	Perceived Credibility Mean Rating	Likelihood of Finding Guilty Mean Rating
5 Years Old	2.77	2.80
8 Years Old	3.23	3.02
12 Years Old	3.31	3.06
16 Years Old	3.36	3.35

Follow-up Mann Whitney U tests were conducted to compare the mean ratings, by child witness age, on both dependent variables (i.e., perceived credibility and likelihood of finding the defendant guilty). The results of the Mann Whitney U tests between the four age conditions on the dependent variable of perceived credibility are presented in Table 2.5.15.

Table 2.5.15. Results of the Mann-Whitney U test (z-values) to compare the means on the dependent variable of perceived credibility across the four witness age conditions.

	Age 5	Age 8	Age 12	Age 16
Age 5	-----	-2.098*	-2.990**	-2.319*
Age 8	-----	-----	-.860	-.371
Age 12	-----	-----	-----	-.440
Age 16	-----	-----	-----	-----

As may be seen from Table 2.5.15. respondent-jurors rated the 5-year-old witness as significantly less credible than either the 8, 12, or 16 year old witness. The perceived credibility of the 8, 12, and 16 year old witnesses was not found to differ significantly across these three witness age conditions. These findings support the hypothesis made that the younger the witness the less credible respondent-jurors perceive them to be. (Hypothesis 5).

The results of the Mann Whitney U tests between the four age conditions on the dependent variable of likelihood of finding the defendant guilty are presented in Table 2.5.16.

Table 2.5.16. Results of the Mann-Whitney U test (z-values) to compare the means on the dependent variable of likelihood of finding the defendant guilty across the four witness age conditions.

	Age 5	Age 8	Age 12	Age 16
Age 5	-----	-1.821	-1.789	-4.474***
Age 8	-----	-----	-.201	-2.422*
Age 12	-----	-----	-----	-2.448*
Age 16	-----	-----	-----	-----

As may be observed from Table 2.5.16. respondent-jurors were significantly more likely to find the defendant guilty where witness was described as 16 years of age compared to when the witness was described as 5, 8 or 12 years of age. The mean ratings on the likelihood of finding the defendant guilty in the 5, 8, and 12 year old witness conditions did not differ significantly from one another. These findings support the hypothesis made that the younger the witness the less likely respondent-jurors report that they would find the defendant guilty on the basis of the child's evidence (Hypothesis 6).

2.5.3. Expectations as to Children's level of Understanding of the Legal Process

In this third and final section, respondent-jurors were requested to indicate which if any of 16 legal terms and concepts they would expect the child witness in the trial vignette to have an understanding of. The number and percentage of respondent-jurors indicating that the child witness at each witness age condition would have an understanding of the terms are presented in Table 2.5.17. As hypothesized, across all 16 terms and concepts, the older the child the more respondent-jurors indicated that they expected the child to have an understanding of each of the terms (Hypothesis 11).

Table 2.5.17. Respondent-jurors expectations as to the legal terms and concepts which a child aged 5 years ($n=130$) aged 8 Years ($n=127$), aged 12 years ($n=132$) and aged 16 years ($n=138$) is likely to understand.

	Police	Lawyer	Court	Judge
Child Aged 5	90.8%	20.0%	33.8%	46.2%
Child Aged 8	92.9%	29.9%	50.4%	61.4%
Child Aged 12	91.7%	54.5%	65.9%	78.8%
Child Aged 16	94.9%	77.5%	82.6%	85.5%
	Trial	Jury	Witness	Law
Child Aged 5	9.2%	11.5%	20.0%	40.0%
Child Aged 8	18.9%	18.1%	32.3%	65.4%
Child Aged 12	40.9%	40.2%	58.3%	69.7%
Child Aged 16	71.0%	71.7%	76.8%	84.8%
	Promise	Truth	Lie	Guilty
Child Aged 5	69.2%	85.4%	82.3%	40.8%
Child Aged 8	67.7%	85.8%	80.3%	47.2%
Child Aged 12	75.8%	89.4%	84.8%	65.9%
Child Aged 16	85.1%	92.8%	87.7%	89.1%
	Defendant	Oath	Evidence	Prosecution
Child Aged 5	30.8%	6.9%	11.5%	4.6%
Child Aged 8	40.9%	15.0%	15.0%	10.2%
Child Aged 12	63.6%	22.7%	31.1%	15.2%
Child Aged 16	81.9%	60.8%	67.4%	52.9%

As may be observed from Table 2.5.17., the only exception to the developmental trend was for the term “promise” where a lower percentage of respondent-jurors responding to vignette conditions where the child witness was reported as 8 years of age indicated that they expected the child witness to understand the term than did those respondent-jurors responding to the vignette conditions where the child witness was 5 years of age. However, the difference was slight, of the order of less than 2%, and expectations as to the 12 and 16 year old witness’s understanding of the term “promise” once again followed the general developmental trend.

In the final item of the Attitude Survey, respondent-jurors were presented with a series of eight previously identified causes of stress for child witnesses and were requested to indicate which of the eight stressors, in their opinion would be most stressful for a child witness. Table 2.5.18. presents in descending order the number and percentage of respondent-jurors indicating that the respective stressor was, in their opinion, the most stressful aspect of the legal process for a child witness.

Table 2.5.18. Respondent-jurors’ perceptions as to which one of eight potential stressors is the most stressful aspect of the legal process for child witnesses.

Stressor	n =	Percentage
Having to Confront the Defendant in Court	196	37.2 %
Fear that the Defendant Might Retaliate	101	19.2 %
Having to Speak in Public	67	12.7 %
Formality of the Courtroom Setting	50	9.5 %
Cross-Examination by the Defendant’s Lawyer	49	9.3 %
Repeated Interviewing by Various Professionals	31	5.9 %
Lack of Understanding about the Legal Process	22	4.1 %
Inordinate Delays in the Hearing of the Case	11	2.1 %

As may be seen in Table 2.5.18., over half of the respondent-jurors rated defendant-related stressors including the child witness's fear of retaliation on the part of the defendant and having to face the defendant in court as those aspects of the legal process which would cause the child to experience most stress. Court-related stressors including the experiences of speaking in public, being cross-examined and the formality of the court setting were viewed by almost one-third of respondent-jurors as the most serious cause of stress for a child witness. While the pre-trial related stressors of repeated interviewing, poor understanding of the legal process and delay in the case coming to trial were cited by approximately one in eight respondent-jurors as the most serious stressor for child witnesses.

2.5.4. The Relationship between Child Witness Attitude Score, Perceived Credibility and Likelihood of Finding the Defendant Guilty.

In a final series of statistical analyses, correlational analyses were conducted to measure associations between the variables of perceived credibility of the child witness, likelihood of finding the defendant guilty based on the evidence of the child witness and respondent-jurors' child witness attitude score. The correlational matrix which emerged is presented in Table 2.5.19.

Table 2.5.19. Spearman rank correlation coefficients for the variables of perceived credibility of the child witness, likelihood of finding the defendant guilty based on the evidence of the child witness and respondent-jurors' child witness attitude score.

	Perceived Credibility	Likelihood of Finding Guilty	Child Witness Attitude Score
Perceived Credibility	1.000	.385***	.146***
Likelihood of Finding Guilty	.385***	1.000	.050
Child Witness Attitude Score	.146***	.050	1.000

***p < .001 (two-tailed)

Respondent-jurors' ratings of the perceived credibility of child witness was found to be highly positively associated with their ratings of the likelihood of finding the defendant guilty (Hypothesis 12). Thus, higher ratings of perceived credibility of the child witness are associated with higher ratings of likelihood of finding the defendant guilty on the evidence of the child witness. Also, as was predicted, respondent-jurors' child witness attitude score was found to be highly positively correlated with their ratings of perceived credibility and likelihood of finding the defendant guilty (Hypothesis 13). A higher (i.e. more positive) child witness attitude score was associated with higher ratings of perceived credibility and higher ratings of likelihood of finding the defendant guilty on the basis of the evidence of the child witness.

2.6. DISCUSSION

Respondent-jurors in the present study were found, on average, to view children as truthful and credible, but also as prone to suggestion and susceptible to leading questions. These findings accord with the results of previous survey studies of adult's perceptions of children's competence to act as witnesses in legal proceedings (Brigham, 1995; Brigham & Spier, 1992; Goodman et al., 1989; Leippe, Brigham, Cousins & Romanczyk, 1989; Leippe & Romanczyk, 1987, 1989; Ross et al., 1990; Yarmey & Jones, 1983).

The present study, one of the first studies to examine the juror attribute of age in respect of attitudes towards child witnesses, found that respondent-juror's age was an important determinant of child witness attitude score. Respondent-jurors, aged 60 years and older, possessed the most negative attitudes in respect of a number of the dimensions of children's competence to act as witnesses.

Consistent with the gender differences found in studies by Bottoms and Goodman (1994), Duggan et al. (1989) and Schmidt and Brigham (1996), female respondent-jurors in the present study were found to hold a significantly more positive attitude to child witnesses than were male respondent-jurors. Female empathy and a more favourable attitude toward children generally were found in other studies to partially account for gender differences in reactions to child witnesses (Barnett & Sinisi, 1990; Bottoms, 1993). Research has also revealed that attitudes are more likely to be related to behaviours if the attitudes are the product of personal first-hand experience (Fazio, Zanna & Cooper, 1978) or are particularly important to the individual (Young, Borgida, Sullivan & Aldrich, 1987). Prevalence studies have consistently reported that females, as adults or children, are more likely than males to be sexually victimised (Finkelhor & Dziuba-Leatherman, 1994; U.N.I.C.E.F., 1998) and females as a consequence may be more aware of the threat of victimisation for others. Furthermore, the societal roles which women, in the main, adopt are likely to increase their level of direct involvement with children and this increased exposure to children may as a consequence lead female respondents to a more informed estimation of children's competences at different ages (McMahon, 1995).

The findings obtained in the present study in relation to the dependent variables of perceived credibility and likelihood of finding the defendant guilty follow the general pattern of findings of previous juror research on child witness credibility and defendant guilt.

Firstly, a significant main effect of child witness age was found in relation to the measure of perceived credibility; older child witnesses were perceived as more credible than younger child witnesses. And secondly, a main effect of child witness age was also found on the measure of likelihood of finding the defendant guilty, here again the pattern was that the older the child witness the higher the likelihood of finding the defendant guilty.

Gender differences on perceived credibility and likelihood of convicting the defendant were less evident in the present study than in previous research (Duggan et al, 1989; Gabora et al, 1993; Goodman et al, 1989); although females respondent-jurors in the present study held more pro-child witness attitudes than did male respondent-jurors.

Interestingly, respondent-jurors who had some previous involvement with the legal process were significantly more likely to rate the jury as likely to convict the defendant on the evidence of a child witness than were respondent-jurors who reported that they had no prior contact with the legal system. More indepth data on the actual experience of jurors within the legal process (*viz.* whether they themselves were convicted of an offence or were involved in proceedings where the defendant was convicted) is needed before an adequate explanation can be provided of why those jurors with previous experience of the legal process were significantly more likely to find the defendant guilty in the present study.

As was hypothesised, respondent-jurors ratings on perceived credibility were found to be highly correlated with their ratings of the likelihood of finding the defendant guilty; the more credible a child witness is perceived to be the higher the rating of likelihood of finding the defendant guilty. Additionally, the more positive respondent's child witness attitude, the more credible the child witness was perceived to be and concomitantly the more likely respondents rated they would be to find the defendant guilty on the basis of

the evidence of the child witness. While the findings indicate that a pro-child witness attitude is associated with more positive views of children's credibility and an increased likelihood of deciding that the defendant was guilty as charged, the data is correlational and thus causal inferences cannot be drawn.

The present study, in contrast to the findings of numerous other studies (Duggan, et al. 1989; Isquith et al., 1993) found that the child witness age by gender interaction did not significantly effect ratings of perceived credibility or defendant guilt.

The present study investigated respondent-jurors' expectations as to a child's level of understanding of the legal process. A strong developmental trend was observed in respondent-jurors' expectations with increasing expectations as to what children should know with increasing age of the child. Respondent-jurors, in the present study, had set expectations as to what children of different ages should know about the legal process. This has important implications for juror decision-making, as much as when a child surpasses jurors' expectations as when the individual child does not fulfil these expectations (Leippe & Romanczyk, 1989).⁸

A number of issues regarding the generalisability of the present findings require mention. The present study employed the "minimalist vignette" method which provided subjects with a minimum amount of information on which to base their judgements (Scheiner, 1988). This method provides a means of tapping into subject's stereotypes about children at different ages by not providing them with visual or auditory information about the particular child (Isquith, Levine & Scheiner, 1993). By concentrating the mock jurors' attention on the concept of "child witness", generalisability to other children of similar ages may thus be enhanced. It is acknowledged, however, that in the present study respondent-jurors were provided with minimal information about a case in contrast to the amount of information that they would have received if called on to act as a member of the jury in an actual trial. Employing mock-trial scenarios or video-recordings of segments of real or mock-trials would have provided a more ecologically valid context in which to elicit jurors' perceptions

⁸ and see above Section 2.1.1.(ii).

of the credibility of child witnesses of different ages. These methodologies allow potential jurors to base their judgments on a range of factors, including the physical appearance of the child, his or her demeanour on the witness stand, factors are well documented as potential influences on jurors' perceptions of witness credibility and judgements of defendant guilt (Cutler & Penrod, 1995; Hans & Vidmar, 1986; Hastie, Penrod & Pennington, 1983; Kassin & Wrightsman, 1988; Kerr, Hymes, Anderson & Weathers, 1995). Nonetheless, researchers in the field have long noted that experimental jury studies cannot fully duplicate the experience of serving on a real trial (Weiten & Diamond, 1980). The limited nature of the resources available to the author and the objective of maximising the response rate for the survey influenced the choice of the "minimalist vignette" methodology in the present study.

Much of the research reported previously relied on undergraduate jurors, and while Cutler Penrod and Dexter (1990) found little difference between the judgements of community members and student subjects, Isquith (1988) did find differences between the two subject populations on the important judgments of sentencing and attribution of responsibility to a child victim. The present study attempted to use a more ecological valid methodology by employing members of the community who appeared in the register of electors and were thus eligible for jury duty⁹ as a person who does not appear on the register will not be called as a juror in this jurisdiction

While the adults surveyed in this study were identified and selected on the basis of their eligibility to be called as jurors in criminal proceedings, Keogh and Whelan (1986) have pointed out that there are few, if any, sampling methods which select a sample which is perfectly representative of the population being studied. These authors claim that the register of electors is biased against the younger age-groups (especially those who have just reached the age of majority and may not have yet put forward their names for inclusion in the register of electors). The age breakdown of the present sample did not support Keogh and Whelan's criticism, as the 18-20 year olds in the present sample were slightly over-represented. Given its limitations, Keogh and Whelan nonetheless, acknowledged that the electoral register

⁹ It is legally prohibited, in the Republic of Ireland, to interview jurors about their opinions in respect of a case either during or after the criminal trial.

remains the most effective sampling frame from which to draw random samples of the adult population.

The response rate in the present study was 38.4%, which was in line with the response rates of surveys on similar issues conducted in other jurisdictions and was thus considered a satisfactory response rate for the present study (Patton, 1989). The advantage in the present study of employing postal survey methodology, in terms of being able to obtain the views of a larger sample of potential jurors than, given the author's resources, would have been the case if interview methodology had been employed, was deemed sufficient to outweigh the reported disadvantages of this methodology (Berdie, Anderson & Niebuhr, 1986). Although these authors have noted that the low response rates typical of postal surveys are a potential threat to the representativeness of the sample.

Those professionals who work with child witnesses know how difficult such an experience can be. Alongside the fears surrounding the examination and cross-examination of child witnesses (e.g., the fear of revictimising the child), there is much concern about judges' and jurors' reactions to the child's performance. Much knowledge is still required, before a complete understanding of the phenomenon is arrived at - nevertheless, studies such as the present one are beginning to map the attitudes and beliefs of adults towards child witnesses.

2.7. Conclusion

Altogether, the present study identifies a constellation of beliefs that generate insight into potential Irish jurors' perceptions of the credibility and competence of children to act as witnesses in criminal proceedings. With some exceptions, the results of the present study are generally consistent with the findings of other studies examining perceptions of child witness credibility and defendant guilt. A number of studies have indicated that jurors may enter the courtroom with a negative stereotype of a child's competence to act as a witness but then lay that stereotype to rest upon direct observation of a child giving testimony in a manner better than they had anticipated. Until additional research is conducted in the field of juror research in Ireland, the jury must remain out.

CHAPTER THREE: THE PERCEPTIONS OF PROFESSIONAL GROUPS WHO WORK WITH CHILD WITNESSES AS TO THE COMPETENCE OF CHILDREN TO ACT AS WITNESSES IN LEGAL PROCEEDINGS.

3.1. INTRODUCTION

The last decade has witnessed the increased participation within the legal process of professionals with expertise in working with child witnesses (Melton & Limber, 1989; Morison & Greene, 1992). In addition, individuals from a range of professional backgrounds (police, psychologists, social workers, child protection workers, medical personnel and lawyers) may come into contact with child witnesses during the investigative and adjudicative stages of the legal process. Professionals' beliefs about the competence and credibility of children as witnesses have been found to have an important influence on key decisions taken in the course of legal proceedings (Everson & Boat, 1989; Kendall-Tackett & Watson, 1991). Professionals' attitudes also play an important role in their treatment of child witnesses (Brigham & Spier, 1992). Brigham and Spier contend that "... a professional's opinion of the competence of child witnesses can affect the way in which the professional acts towards the child witness which, in turn, can affect the credibility of the child witness in the eyes of the jury" (1992, 108).

Given the important roles that professionals play in the investigation and prosecution of cases involving offences committed against children, there has, however, been a distinct absence of any research investigating Irish professional's perceptions of children who have become embroiled in legal proceedings. Empirical studies conducted elsewhere indicate that professional groups differ in their perceptions of a range of issues relating to child victimisation and children's competence to act as witnesses in legal proceedings. A number of studies indicate that professional groups differ in their perceptions of the indices of child sexual abuse (Boat & Everson, 1989; Kendall-Tackett & Watson, 1991; Trute, Adkins & McDonald, 1992) and in their beliefs about the truthfulness of children's allegations of victimisation (Faller, 1984; MacFarlane & Bulkley, 1982). In

general, these studies have found that legal personnel possess more negative attitudes and beliefs when compared to their mental health and child protection colleagues. Everson, Boat, Bourg and Robertson (1996) surveyed 244 judges, police officers, mental health practitioners and child protection workers about their beliefs as to the frequency with which children make false allegations about sexual abuse. These authors found, similar to the findings of previous studies, that judges and police officers were significantly more skeptical of children's reports of child sexual abuse than were mental health and child protection professionals. Across all four professional groups surveyed, reports of sexual abuse made by female adolescents were viewed as significantly less believable than those made by younger children. This finding accords with the findings from a number of mock juror studies reported in Chapter Two (Duggan et al., 1989; Gabora et al., 1993; Nightingale, 1993).

A number of empirical studies have investigated the opinions, knowledge and skills of professionals who work directly with child witnesses (Brigham & Spier, 1992; Davies, Wilson, Mitchell & Milson, 1995; Flin, Davies & Tarrant, 1988; Leippe et al., 1989; Melton et al., 1992; Quas, DeCicco, Bulkley & Goodman, 1996). In one of the first pieces of empirical research in the field, Flin, Davies and Tarrant (1988), as part of a study commissioned by the Scottish Home and Health Department, surveyed over one hundred ($N=104$) professionals from a range of occupations who worked with child witnesses. These authors investigated *inter alia*:

- (i) the attitudes held by the various professional groups in respect of the competence and credibility of children to act as witnesses,
- (ii) the strategies developed by professionals for interviewing child witnesses and
- (iii) how professionals felt about the legal procedures which children might encounter in their involvement in the legal process.

Flin et al. (1988) reported that, in general, the opinion of professionals in their survey was that young children were as competent to be a witness as were older children, if interviewed properly by skilled professionals. However, the authors reported that

professionals generally felt that a child's evidence should be heard only where it was essential or valuable to the trial.¹

Almost three-quarters of the professionals surveyed in the Flin et al. study reported that they did not interview children in the same way as they did an adult. Furthermore, the authors reported that professionals widely agreed that it was necessary in all cases to ascertain the child's cognitive and developmental level prior to interviewing the child and to communicate with the child in a manner which was appropriate to the child's age and level of understanding. Eight out of ten professionals surveyed reported that they explained their role in the legal process to the child. In addition, a large majority of professionals (76%) reported that they would explain the court process to a child if the child were called on to give testimony. The authors reported that according to the professionals in their sample, the most stressful aspects of the court process for children were being cross-examined, having to confront the accused in court and the formal nature of the court process. One quarter of the sample held the view that cross-examination was the most stressful factor; 23% reported that having to see the accused in court was the most stressful while 20% of the sample viewed the formality of the court setting as the most stressful aspect of the legal process for child witnesses. To alleviate these potential causes of stress, 43% of professionals suggested that there should be a less formal atmosphere in court. A further 13% suggested that video-recordings of earlier investigative interviews with the child should be employed as the evidence-in-chief in criminal proceedings, while 14% of professionals recommended the employment of the video-link system as the key method to alleviate stress for child witnesses.

While the sample of professionals surveyed in the Flin et al. study had direct experience of working with child witnesses, nevertheless, these authors point out that the majority of the sample (68%) reported having received no special training for interviewing child witnesses.

¹ Note that Flin et al.'s study was conducted prior to the coming into law of the 1988 Criminal Justice Act (U.K.) which permits *inter alia* the use of live television links thus enabling young witnesses to give their evidence from outside the courtroom and of the 1991 Criminal Justice Act (U.K.) which permits *inter alia* videotaped interviews with a child to be shown in a criminal trial in place of the child's evidence-in-chief.

Leippe et al., (1989), on the basis of the findings of their study of the attitudes and practices of a sample of U.S. lawyers, contended that prosecutors are hesitant to prosecute cases involving children as witnesses as they perceive that the average child will be traumatised by their experience of serving as a witness and that that the child witness will invariably be treated harshly in cross-examination. Thus, lawyer's perceptions regarding the accuracy of children's testimony and the credibility of children as assessed by juries may affect decisions about whether or not a case should be tried.

Also in the United States, Brigham and Spier (1992) conducted a survey of four professional groups (defence lawyers, prosecuting lawyers, child protection workers and law enforcement personnel). The total sample ($N=586$) was comprised of 74 defence lawyers, 47 prosecuting lawyers, 42 child protection workers, 60 health workers, and 363 law enforcement personnel. This study assessed four general issues relating to child witnesses:

- (i) beliefs about a child's memory and communication skills
- (ii) beliefs about the truthfulness of a child's memory
- (iii) beliefs about jurors perceptions of child witnesses and
- (iv) ways of eliciting and presenting child witness evidence.

These authors found that defense lawyers were significantly more pessimistic in respect of children's cognitive and communicative skills than were professionals in the other three groups. Again, in terms of the perceived truthfulness of children, defence lawyers were found to be more skeptical than the respondents from the other three professional groups. More than the three other professional groups, defence lawyers rated the influence of child witnesses on jurors higher than the three other professional groups rated it. Two-thirds of the defence lawyers in the sample reported that a child's credibility is less damaged by inconsistencies than an adult's would be, whereas less than 40% of respondents from the other three professional groups expressed this view. Close to 40% of the defence lawyers believed that a jury is more likely to convict if the eyewitness is a

child than if it is an adult, whereas fewer than 20% of respondents in the other three groups asserted this view.

No consistent differences emerged for professional's age, educational level or race but the gender of the respondent-professional did show some consistent effects. Across all four groups, males saw a significantly greater likelihood that a child witness's testimony would be distorted or exaggerated. Across the total sample, females saw a greater likelihood that children would retract allegations of sexual abuse. Furthermore, females significantly more so than males, recognised several reasons which would increase the likelihood that a child would retract: family pressure, fear of retaliation, embarrassment, feelings of responsibility or guilt and desire to protect other family members. The authors speculated in line with overall gender differences observed in western society (Eagly & Wood, 1991) that most female professionals may have warmer, more empathic styles of working with child witnesses than their male counterparts.

In their conclusion, Brigham and Spier contended that "professionals' views of child witnesses in the legal arena appear to be strongly related to professional role" (1992, 106). However, these authors noted that despite differences in level of education, gender representation and professional duties, respondents from three of the four professional groups surveyed viewed child witnesses in similar ways, and more positively than did the group of defence lawyers in the sample. In attempting to explain the differences in attitudes between defence lawyers and the other three professional groups Brigham and Spier maintained that they resulted from the different demands of the occupational roles of the various professional groups.

Again in the United States, Melton and his colleagues (Melton, Limber, Jacobs & Oberlander, 1992) conducted a survey of over 1,000 prosecutors on behalf of the National Center on Child Abuse and Neglect. Approximately one-fifth of those surveyed by Melton were specialists in the prosecution of child abuse. In comparison to findings of Flin et al.'s study, who reported little or no specialist training of professionals for their work with child witnesses, Melton et al. reported that almost half of their sample

(48.5%) had received some form of specialist training in working with child witnesses; the most frequent type of training being specialist short-term workshops.

Prosecutors were presented with a scenario where a female child aged 4, 7, 10 or 13 years of age reported that her stepfather had sexually assaulted her on several occasions. Melton et al. (1992) found no association between the age of the child witness and prosecutors' beliefs about the probability that the child witness was telling the truth. However, female prosecutors were found to judge the child to be more truthful than did male prosecutors in the sample. The authors also found that prosecutors rated a significantly lower likelihood that charges would be brought against the child's stepfather in those cases where the child was presented as 4 years of age than in cases where the child was presented as older. Prosecutors also rated it less likely that the four-year-old (compared to child witnesses at the other three ages) would be found competent to testify and would be perceived by the jury as being a credible witness.

In a second study in the series, Melton et al. (1992) surveyed 21 prosecutors who had handled a sequence of one hundred and fifty-two cases appearing before the courts in one district over an 18-month time-period. A moderate relationship was found between the age of the child witness and prosecutors reports as to the perceived credibility of the child witness, the child's competence to testify and the rate of conviction on the basis of the child's testimony. Melton et al. (1992) found that adolescent victim-witnesses, although found to be competent to testify, were judged by prosecutors to be less credible than younger-aged children.

The prosecutors in this second study by Melton et al. reported on the language which they employed in interviews with child witnesses. The prosecutors reported using an average of 5.2 of 17 legal terms in their interviews with child witnesses. Some of the terms most commonly used by the prosecutors in their interviews with child witnesses included for instance "prosecutor" and "attorney" both of which are conceptually difficult to grasp for younger children (Saywitz et al., 1989). Such terms were reported to have been infrequently explained even though the prosecutors noted that they were aware

that these terms were seldom understood by children. The terms which were reported to have been explained related to the act of testifying and included terms such as “oath” and “testimony”. The better the child’s level of knowledge about the legal system the more positively the prosecutors rated the likelihood that the jury would perceive the child witness as credible and the likelihood that the child’s testimony would be accompanied by a conviction. The child’s legal knowledge was most strongly related to the prosecutor’s perception of the likelihood that the child witness would be found competent to testify.

Professional groups have also been found to differ in their attitudes towards the interventions which should be employed in cases involving child witnesses.

Brigham and Spier (1992), in their study of the attitudes and practices of a range of professional groups, listed eight ways in which a child victim’s testimony might be elicited. The methods listed were those intended to protect the child from the trauma of giving testimony on the witness stand. The authors asked respondents to indicate how acceptable, in principle each method was to them. Group differences emerged with over 80% of defence lawyers disapproving of seven of the eight alternatives proposed with only a slight majority of 51% of the defence lawyers in the sample approving of testimony with the aid of anatomically correct dolls and other props. Respondents from the other three professional groups (prosecuting lawyers, child protection workers and law enforcement officers) in contrast, were found to indicate a strong approval of a range of methods alternative to providing testimony on the witness stand including: testimony with the aid of anatomically correct dolls and other props, hearsay testimony from a medical doctor, hearsay evidence of a psychologist and the presentation of videotaped testimony. Brigham and Spier maintained that the results of their study would indicate that most professionals involved with child witnesses in the legal system would welcome alternative procedures to the eliciting and hearing of children’s testimony.

As part of a study commissioned by the Home Office in the U.K., Davies, Wilson, Mitchell and Milsom (1995) surveyed the opinions of professionals including judges,

barristers, law enforcement personnel and social workers actively involved in the implementation of the legal changes² contained in the Criminal Justice Act, 1991. The professional groups reported that the objectives of the Act, namely that child witnesses should undergo less stress and trauma by the use of videorecordings of their investigative interviews in place of their evidence-in-chief, had, in the main, been achieved. The authors, however, reported that, when compared to respondents from other professional backgrounds, a substantial minority of the prosecutors surveyed were less in favour of the substitution of video-recordings for live testimony. In outlining the reasons for the differential attitude the authors reported that prosecutors, in general, held the view that the video-recordings of children's testimony had less impact on jurors than did live testimony and as a consequence adversely affected the outcome of the trial.

A survey exploring issues regarding the child witness and the caregiver was distributed to 102 professionals who worked within the legal context in England and Wales (Sattar & Bull, 1996). These authors found that the respondents were aware of child witnesses fears and the effect of stress upon them and seemed positive about the benefits of pre-court preparation. Similarly, Cashmore and Bussey (1996) interviewed 50 magistrates and judges in New South Wales, Australia about their beliefs, concerns and practices related to child witnesses. There was considerable variability in their views about the competence of child witnesses and the need for special protective measures in court for these witnesses. There was, however, more consensus about those aspects of children's ability to testify that give rise to judicial concerns about their competence. Children's honesty was not at issue; they were more generally regarded as being at least as honest as adults are, if not more so. They were, however, perceived as highly suggestible and susceptible to the influence of others and prone to fantasy.

In the United States, Quas, DeCicco, Bulkley and Goodman (1996), surveyed 153 district attorneys with regard to the legal innovations which they employed in cases involving child witnesses. The most commonly used techniques reported were: preparing the child to testify (85% of prosecutors reported always using this technique), having a

² Pertaining, *inter alia*, to the videotaping of investigative interviews with child witnesses.

support person in the courtroom (63.4% of lawyers reported always using this technique) and giving the child a tour of the courtroom prior to the trial (83% of district attorney reported always using this technique). Perhaps not surprisingly, prosecutors rated these three techniques (of preparing children to testify, giving the child a tour of the courtroom and the presence of a support person in the courtroom) as the most useful innovations in reducing the trauma experienced by child witnesses. A large number of innovations were reported to be infrequently used by prosecutors in this study especially those which prevented the child witness from facing the accused in court. Fear of challenges from the defence or cause for appeal were commonly cited as the reasons why respondents infrequently or no longer employed closed-circuit television technology or videotaped statements in place of the child's evidence-in-chief at trial.

Currently, the preparation of children for their appearance in court is the preferred method of "empowering" child witnesses in U.S. and Canadian legal proceedings. In contrast, in Ireland and the U.K. those legal innovations which ensure that the child witness does not have to face the accused in court are primarily employed to "protect" child witnesses from unnecessary trauma (Davies, 1992). However, as more and younger children are called as witnesses in criminal proceedings the issue of the provision of pretrial preparation for child witnesses has become increasingly salient on this side of the Atlantic (Aldridge, 1992; Victim Support (Ireland), 1996).

Data as to which professional groups are already involved in the pre-trial preparation of children and decisions as to which groups should have responsibility for this task are not currently available in an Irish context. In England and Wales, Aldridge (1992) noted that there was no systematic approach to the preparation of children for their appearance in legal proceedings and the issue of responsibility for pre-trial preparation had also not been addressed at least at the time. Aldridge (1992) noted that where pre-trial preparation was conducted then it was generally done on an informal basis by police officers or social workers.

Altogether previous research in this area has revealed that professional groups differ in their attitudes towards and practices employed when dealing with cases involving children as witnesses.

3.2. RATIONALE FOR AND OBJECTIVES OF THE PRESENT STUDY

As data on professionals' perceptions of and practices in relation to child witnesses were not available in an Irish context, the current study was designed to survey five professional groups (psychologists, child psychiatrists, social workers, child protection personnel and lawyers) who work directly with child witnesses. The current study, in part, employed the "scenario" methodology used by Melton et al. (1992) to examine professionals' perceptions of the truthfulness of a child's allegations of sexual abuse and their views as to the likelihood that the child would be deemed a competent and credible witness. In addition, professionals' beliefs as to the likelihood that a case involving a child as the key witness would be prosecuted and the likelihood that the accused would be found guilty on the evidence of the child witness were sought.

Furthermore, professionals' expectations as to what a child of 8 years of age should know about the legal process were ascertained. Professionals' perceptions of the causes of stress for child witnesses and their suggestions for ways of minimising such stressors were also elicited. Finally, the present study sought to examine current professional practices in respect of the preparation of child witnesses and to elicit professionals' suggestions for the provision of a programme of pre-trial preparation of child witnesses if such a programme were put on a statutory basis.

3.3. HYPOTHESES OF THE PRESENT STUDY

As the present study was, in the main, exploratory in nature no specific hypotheses were made.

3.4. METHOD

3.4.1. Materials

A 6-page questionnaire entitled "Survey of Professionals who Work with Child Witnesses"³ was developed to assess professionals' attitudes towards and current practices in relation to child witnesses. The questionnaire was sub-divided into five distinct sections. Section One contained items requesting data on respondents' personal and professional background including: respondents' age, gender, current occupation, number of years of experience working with child witnesses and percentage of professional duties devoted to working with children who are involved in the legal process in some capacity. In Section Two respondents were presented with a hypothetical vignette relating to a case in which an 8-year-old girl alleged that she had been sexual assaulted by her stepfather.⁴ The trial vignette was immediately followed by a series of five-point scales which assessed respondents' perceptions of:

- (i) the truthfulness of the child witness
- (ii) the likelihood that the child would be perceived as a competent witness
- (iii) the likelihood that the child would be perceived as a credible witness
- (iv) the likelihood that the child's stepfather would be prosecuted and
- (v) the likelihood that the accused would be found guilty on the basis of the child's evidence.

In Section Three of the questionnaire, respondents were requested to indicate which, if any, of 16 legal terms and concepts⁵ they would expect the 8-year-old child victim-witness in the trial vignette to have a basic understanding of.

³ See Appendix II for a copy of the questionnaire form.

⁴ The hypothetical scenario adopted in the present study was identical to one of the 16 vignette conditions employed in the study on juror's perceptions of child witness presented in Chapter 2.

⁵ The 16 legal terms and concepts presented here were identical to those presented to respondent-jurors in the study reported in Chapter Two of this thesis. These were also the 16 legal terms and concepts which were employed in the study of Irish children's knowledge of the legal system, the results of which are presented in Chapter Four of this thesis.

Section Four of the questionnaire was designed to elicit respondents' views as to the stressors which child witnesses experience as a consequence of their involvement in the legal system. Respondents were also requested to provide their suggestions of methods to mitigate the system-induced stressors which may be encountered by child witnesses. Finally, Section Five of the Survey explored respondent's practices and views in relation to one method of alleviating system-induced stress, that of pre-trial preparation. This section elicited professionals' views as to the potential benefits and limitations of the pre-trial preparation of child witnesses along with eliciting respondents' views as to which professional body might best be responsible for the provision of a statutory programme of pre-trial preparation for child witnesses.

3.4.2. Procedure

Copies of the survey questionnaire were distributed to professionals who were directly involved in the Republic of Ireland in the evaluation, investigation and litigation of cases involving children as witnesses. Sixty survey forms were distributed to the members of staff currently on the employment register at the two national child abuse validation and assessment units and the ten national child guidance clinics. Survey forms were sent to twenty lawyers working in either the Law Library at the Four Courts and/or in the Children's Legal Center, Dublin. The list of twenty lawyers were identified through an independent source, as having the most experience of handling cases which involved child witnesses. Altogether, a total of eighty survey questionnaires were distributed to those professionals who had been independently identified as having the most experience of working with child witnesses in the Republic of Ireland.

A covering letter accompanied the survey form outlining the objectives of the survey and the method by which the professional's name and address had been sourced. As respondents were not requested to record their name on the survey form, anonymity and confidentiality of responses was guaranteed. Respondents were requested to return their completed survey forms in the freepost-addressed envelope enclosed before the stated

deadline. Two weeks later, a follow-up letter was sent to remind all respondents, if they had not already done so, to return their completed survey forms by the stated date. A total of 32 survey forms were returned, representing a 40% return rate, which was considered to be acceptable for a survey of professional groups.

3.4.3. Respondent-Professionals

A total of 32 respondent-professionals returned completed survey forms. Respondents were drawn from 5 distinct professional groups; clinical psychologists, child psychiatrists, child protection workers, social workers and lawyers. The total sample was comprised of 5 males and 27 females. The breakdown of the total sample by both professional group and gender is presented in Table 3.4.1.

Table 3.4.1. Frequency breakdown of total sample of respondent-professionals by professional group and gender.

Professional Group	Male (n)	Female (n)	Total (n)
Clinical Psychologists	2	6	8
Child Psychiatrists	0	3	3
Child Protection Workers	0	8	8
Social Workers	2	5	7
Lawyers	1	5	6

The majority of respondent-professionals ($n=21$, or 66%) were aged between 31 and 50 years of age. One quarter of respondent-professionals were under 30 years of age and the remaining 9 respondents, representing 28% of the total sample, were 50 years of age or over.

Respondents had been professionally involved with children for between 3 years and 35 years. Of the total sample, 37.5% ($n=12$) reported having between 3 and 5 years experience, 25% ($n=8$) had between 6 and 10 years experience while the remaining 37.5%

($n=12$) possessed more than 10 years professional experience working with children. The mean number of years of professional experience working with children for the total sample was 12.38 years. Table 3.4.2. presents the mean number of years of professional experience of working directly with children by respondents' professional group.

Table 3.4.2. Mean number of years of professional experience of working with children by respondents' professional group.

Professional Group	n	Mean Number of Years Experience	Standard Deviation
Clinical Psychologists	8	14.13	10.89
Child Psychiatrists	3	15.33	10.02
Child Protection Workers	8	9.00	6.19
Social Workers	7	14.00	8.98
Lawyers	6	11.17	9.04

As may be seen from Table 3.4.2., an analysis of years of experience working with children indicated that clinical psychologists, child psychiatrists, social workers and lawyers had greater professional longevity working with children than did child protection workers, although it should be noted that the average number of years experience for child protection workers was 9 years thus indicating a substantial length of time in professional involvement with children.

All 32 respondent-professionals had experience of working with child victims who had acted as witnesses in criminal proceedings. In addition, nine respondent-professionals, representing 28.1% of the total sample, reported also having experience of working with children who had testified in civil proceedings.

Respondents were requested to indicate the percentage of their professional duties which were devoted to working with children who were or were likely to be involved in the legal process. The mean percentage for the total sample was 32.8%. One quarter of the

sample reported that, on average 50% or more of their professional duties were devoted to working with child witnesses or with potential child witnesses. Table 3.4.3. presents the reported percentages broken down by professional group.

Table 3.4.3. Mean reported percentage of duties devoted to cases involving children who attend or may have to attend court as a witness in legal proceedings by respondent's professional group.

Professional Group	n	Mean Reported Percentage of Duties
Clinical Psychologists	8	48.13%
Child Psychiatrists	3	31.67%
Child Protection Workers	8	19.75%
Social Workers	7	48.86%
Lawyers	6	11.67%

The overall majority of respondents ($n=23$), representing 71.9% of the total sample, reported having had no special training in working with child witnesses. Of the 9 participants who reported that they had received some specialist training, all had attended workshops on topics relating to child witness testimony.

3.5. RESULTS

The results of the survey will be presented in four sections. Section One will report on the findings of that part of the study where respondent-professionals were presented with a trial vignette where the key witness was an eight year old girl who had alleged that her stepfather had sexually assaulted her. Respondent-professionals were requested to rate how truthful they perceived the child to be and how likely they thought it would be that the child would be viewed as a competent witness and as a credible witness.

Respondent-professionals were also requested to indicate how likely they perceived it to be that the accused would be prosecuted and that the accused would be found guilty based on the testimony of the child witness. Section Two will outline the findings in relation to respondent-professionals' expectations as to which, if any, of 16 legal terms and concepts they would expect the 8-year-old child witness depicted in the trial vignette to understand. Section Three will present the analyses of the data in respect of respondent-professionals' views as to the stressors which child witnesses may be exposed to within the legal system and their suggestions as to how these system-induced stressors may be mitigated. Finally, Section Four will report on the analyses of data on respondent-professionals' practices in relation to the preparation of children for court and their attitudes in respect of the introduction of a systematic programme of preparation of child witnesses.

3.5.1. Professionals' Perceptions of the Truthfulness of an 8-year-old Child Witness, the Likelihood that the child would be perceived as a Competent and Credible Witness and the Likelihood that a Prosecution would be Brought and a Conviction Obtained on the Basis of the Evidence of an 8-year-old Child Victim-Witness.

The mean perceived truthfulness rating,⁶ of the total sample was 3.97, indicating that respondent-professionals, in general, perceived the child as truthful. A statistically

⁶ Measured on a five-point scale, with a score of 1 = Not at all likely to be telling the truth and with a score of 5 = Very likely to be telling the truth.

significant difference was found, using a Mann Whitney U test, between the mean ratings of perceived truthfulness of male respondents ($M=3.20$) and of female respondents ($M=4.11$; $z = 2.284$, $p=.022$). The female respondent-professionals in the present sample were significantly more likely than male respondents to view the child as truthful.

The mean ratings of perceived truthfulness attained by respondents in the five professional groups are presented in Table 3.5.1. A Kruskal Wallis one-way analysis of variance was conducted to examine for differences in mean perceived truthfulness ratings across the 5 professional groups, however, no significant differences were found ($H=6.564$, $df=4$, $p=.146$). Though, as may be seen from Table 3.5.1., the lawyers in the present sample attained the lowest mean perceived truthfulness rating of all 5 professional groups.

Table 3.5.1. Mean ratings of the perceived truthfulness of a hypothetical 8-year-old child victim-witness by respondent’s professional group.

Professional Group	n	Mean Ratings
Clinical Psychologists	8	3.63
Child Psychiatrists	3	4.67
Child Protection Workers	8	4.75
Social Workers	7	3.86
Lawyers	6	3.17

Respondent-professionals’ age did not appear to affect their views of the child’s truthfulness ($H=1.458$, $df=3$, $p=.692$). Thus, younger professionals were no more or less likely to disbelieve the child’s allegations than were older professionals. In addition, the level of experience of working with children reported by the respondent- professionals did not appear to influence their perceptions of the child’s truthfulness (Spearman $\rho = -.24$, $p = .895$).

In a second item, respondents were requested to indicate how likely they perceived it to be that the child witness would be deemed competent to testify. The mean rating,⁷ of perceived likelihood that the child witness would be deemed competent to testify for the total sample was 2.91, which would indicate that respondent-professionals, in general, viewed it somewhat unlikely that the child would be deemed competent to testify. No statistically significant difference was found between the mean ratings of male ($M=3.40$) and female respondent-professionals ($M=2.81$) on this measure ($z=1.211, p=.226$), although male respondent-professionals gave higher ratings of the likelihood that the child would be deemed competent than did female respondent-professionals.

The mean ratings of the likelihood that the child witness would be perceived as competent were calculated for respondents' professional group, the resultant figures are presented in Table 3.5.2.

Table 3.5.2. Mean ratings of the perceived likelihood that the child witness would be deemed to be competent to testify by respondent's professional group.

Professional Group	n	Mean Ratings
Clinical Psychologists	8	2.50
Child Psychiatrists	3	2.33
Child Protection Workers	8	2.63
Social Workers	7	2.71
Lawyers	6	4.33

No statistically significant differences emerged when a Kruskal Wallis one-way analysis of variance was conducted to compare the mean ratings of the five professional groups on perceived likelihood that the child witness would be deemed competent to testify ($H=6.325, df=4, p=.176$). Though not found to be statistically significant, lawyers viewed it most likely, among the five professional groups, that the child witness would be deemed competent to testify.

⁷ Measured on a five-point scale, with a score of 1 = Not at all likely to be deemed competent to testify and with a score of 5 = Very likely to be deemed competent to testify.

The age group to which the professional belonged did not appear to affect their views of the child's competence to act as a witness ($H=3.215$, $df=3$, $p=.360$). In addition, the number of years experience of working with children did not appear to influence respondent-professionals' perceptions of the child's competence to act as a witness in legal proceedings (Spearman $\rho = -.252$, $p = .165$).

The mean rating⁸ of likelihood that the child would be perceived as a credible witness for the total sample was 2.94, which would suggest that respondent-professionals, in general, viewed it somewhat unlikely that the child would be perceived to be a credible witness. The mean rating for male respondents was 2.80 and for female respondents was 2.96, thus female professionals held a slightly more positive view that the child would be perceived as credible than did the male professionals in the present sample. However, when male and female respondents ratings on this measure were compared using a Mann Whitney U test, no statistically significant difference was found ($z = .496$, $p=.620$).

The mean ratings of the likelihood that the child would be perceived as a credible witness were examined in terms of the professional group to which the respondents belonged. Table 3.5.3. presents the mean ratings for each of the five professional groups on the measure of likelihood of the child being perceived to be a credible witness.

Table 3.5.3. Mean ratings of the likelihood that the child would be perceived as a credible witness by respondent's professional group.

Professional Group	n	Mean Ratings
Clinical Psychologists	8	2.13
Child Psychiatrists	3	2.00
Child Protection Workers	8	3.00
Social Workers	7	2.86
Lawyers	6	4.50

⁸ Measured on a five-point scale, with a score of 1 = Not at all likely to be perceived as a credible witness and with a score of 5 = Very likely to be perceived as a credible witness.

Significant differences emerged when a Kruskal Wallis one-way analysis of variance was conducted to compare the mean ratings of each professional group on the measure of perceived credibility of the child witness ($H=14.423$, $df=4$, $p=.006$). Follow-up paired comparisons, using Mann Whitney U tests, revealed that lawyers rated it significantly more likely that the child would be perceived to be a credible witness than did clinical psychologists ($z=2.866$, $p=.004$), child psychiatrists ($z=2.132$, $p=.033$), child protection workers ($z=2.275$, $p=.023$) and social workers ($z=1.996$, $p=.046$).

Professionals' age did not appear to affect their ratings of the likelihood that the child would be perceived as a credible witness ($H=2.245$, $df=3$, $p=.523$). Furthermore, the number of years experience reported by professionals was also not found to be statistically significantly related to their ratings of the likelihood that the child would be perceived as credible (Spearman $\rho = -.127$, $p = .488$).

On the fourth item, respondent-professionals were requested to indicate how likely they thought it would be that the Director of Public Prosecutions (D.P.P.) would prosecute the alleged accused on foot of the child's evidence. The mean rating⁹ of likelihood of the D.P.P. prosecuting the alleged accused for the total sample was 2.44, thus indicating that on average, respondent-professionals viewed it somewhat unlikely that the alleged accused would be prosecuted on the basis of the child's evidence. The mean rating for male respondents was 2.00 and for female respondents was 2.52. Thus, male respondent-professionals rated it less likely that the alleged accused would be prosecuted than did female respondent-professionals, although the difference between the mean ratings was not found to be statistically significant ($z = 1.164$, $p=.245$).

Mean ratings of perceived likelihood that the D.P.P. would prosecute the alleged accused were calculated in respect of respondents' professional group. Table 3.5.4. presents the mean ratings attained by the five professional groups on this measure.

⁹ Measured on a five-point scale, with a score of 1 = Not at all likely to be prosecuted and with a score of 5 = Very likely to be prosecuted.

Table 3.5.4. Mean ratings of the perceived likelihood that the D.P.P. will prosecute the alleged accused by respondent's professional group.

Professional Group	n =	Mean Ratings
Clinical Psychologists	8	1.88
Child Psychiatrists	3	2.67
Child Protection Workers	8	3.13
Social Workers	7	1.86
Lawyers	6	2.83

Significant differences emerged when a Kruskal Wallis one-way analysis of variance was conducted to compare the mean ratings of the five professional groups on perceived likelihood of prosecuting the alleged accused ($H=11.598$, $df=4$, $p=.021$). Follow-up paired comparisons, using Mann Whitney U tests, revealed that social workers rated it significantly less likely than child protection workers ($z=2.052$, $p=.04$) and lawyers ($z=2.407$, $p=.016$) that the D.P.P. would prosecute the alleged accused. In addition, child protection workers gave significantly higher ratings of likelihood of prosecuting the alleged accused than did clinical psychologists ($z=2.145$, $p=.032$).

Neither professionals' age ($H=.640$, $df=3$, $p=.887$) nor number of years experience working with children (Spearman $\rho = .119$, $p =.516$) appeared to influence professional's perceptions of the likelihood that the alleged accused would be prosecuted.

Finally, respondents were requested to indicate how likely it would be that accused would be convicted on the basis of the child's evidence. The mean rating¹⁰ of likelihood that the accused would be convicted for the total sample was 2.56, thus respondent-professionals, in the main, rated it somewhat unlikely that the accused would be found guilty on the evidence of the child witness. Male professionals had a lower mean rating ($M=2.00$) of the likelihood that the accused would be convicted than did female respondents ($M=2.67$) though the difference between these mean ratings was not found to be statistically significant ($z = 1.109$, $p=.268$).

¹⁰ Based on a five-point scale, with a score of 1 = Not at all likely to be convicted and a score of 5 = Very likely to be convicted.

The mean ratings of the five professional groups on the measure of perceived likelihood that the accused would be convicted on the basis of the child's evidence are presented in Table 3.5.5.

Table 3.5.5. Mean ratings of the perceived likelihood that the accused would be convicted on the basis of the child's evidence by respondent's professional group.

Professional Group	n	Mean Ratings
Clinical Psychologists	8	2.00
Child Psychiatrists	3	1.67
Child Protection Workers	8	3.13
Social Workers	7	2.71
Lawyers	6	2.83

A Kruskal Wallis one-way analysis of variance revealed no significant differences between the five professional groups on the mean ratings of perceived likelihood that the accused would be convicted on the basis of the child's evidence ($H=6.641$, $df=4$, $p=.156$). In addition, the age group to which the professional belonged ($H=1.921$, $df=3$, $p=.589$), and their number of years experience working with children (Spearman $\rho = -.093$, $p = .613$) did not appear to influence their perceptions of the likelihood that the accused would be found guilty.

Correlational analyses were conducted to measure for associations between respondent-professional's ratings on each of the five variables:

- (i) perceived truthfulness of the 8-year-old child victim-witness
- (ii) perceived likelihood of the child being viewed as a competent witness
- (iii) perceived likelihood of the child being viewed as a credible witness
- (iv) perceived likelihood that the alleged accused would be prosecuted and
- (v) perceived likelihood of that the accused guilty based on the evidence of the child witness.

The correlational matrix which emerged is presented in Table 3.5.6.

Table 3.5.6. Spearman rank correlation coefficients for respondent-professionals ratings of perceived truthfulness, perceived competence and perceived credibility of the child witness, and likelihood of prosecution and conviction of the accused based on the evidence of an 8 year-old child victim-witness ($N=32$).

	Perceived Truthfulness	Perceived Competence	Perceived Credibility	Likelihood of Prosecution	Likelihood of Finding Guilty
Perceived Truthfulness	1.000	-.407*	-.129	.178	.147
Perceived Competence	-.407*	1.000	.552**	.337	.402*
Perceived Credibility	-.129	.552**	1.000	.463**	.707***
Likelihood of Prosecution	.178	.337	.463**	1.000	.606***
Likelihood of Finding Guilty	.147	.402*	.707***	.606***	1.000

* $p < .05$ (two-tailed)

** $p < .01$ (two-tailed)

*** $p < .001$ (two-tailed)

As might be expected respondent-professionals' ratings of the likelihood that the alleged accused would be prosecuted were found to be highly positively correlated. Respondent-professionals' ratings of the perceived credibility of child witness were found to be highly positively associated with their ratings of the likelihood of finding the defendant guilty. In addition, higher ratings of the likelihood that the child would be perceived to be a competent witness were found to be associated with higher ratings of likelihood that the child would be perceived as a credible witness. Finally, likelihood of the child being perceived as a competent witness were positively correlated with higher ratings of the likelihood that the accused would be found guilty on the basis of the child's evidence.

3.5.2. Professionals' Expectations as to What an 8-year-old Should Know About the Legal Process

Respondent-professionals were requested to indicate which if any of 16 legal terms and concepts they would expect the 8-year-old child victim-witness in the trial vignette to have a basic understanding of. Respondent-professionals ($N=32$) indicated that they would expect that the child depicted in the trial vignette would possess a basic understanding of, on average, 7.34 of the 16 legal terms and concepts presented. The number and percentage of respondent-professionals indicating that the child witness would have an understanding of each of the terms were computed. Table 3.5.7. presents these results.

Table 3.5.7. The number and percentage in descending order of respondent-professionals indicating that the child witness of 8 years of age would have an understanding of each of 16 legal terms and concepts measured in the present study.

Legal Term/Concept	Number	Percentage
Lie	32	100%
Police	32	100%
Promise	32	100%
Truth	32	100%
Judge	28	87.5%
Law	24	75%
Court	21	65.6%
Guilty	9	28.1%
Lawyer	8	25%
Jury	7	21.9%
Defendant	2	6.25%
Evidence	2	6.25%
Prosecution	2	6.25%
Trial	2	6.25%
Witness	2	6.25%
Oath	0	0%

As may be seen from Table 3.5.7. the majority of professionals expected the 8-year-old child victim-witness to understand seven of the 16 legal terms and concepts measured including, police, truth, lie, promise, judge, court and law. In addition, approximately one

in four of the professionals in the present sample, expected a further three terms, guilty, lawyer and jury to be understood by the child witness. In the main, respondent-professionals did not expect the child to possess an understanding of the following six terms; defendant, evidence, prosecution, trial, witness or oath.

3.5.3. Professionals' Views as to the Stressors which Child Witnesses Experience as a Consequence of their Involvement in the Legal System and their Suggestions of Methods to Mitigate these System-Induced Stressors.

The majority of respondent-professionals ($n=25$) reported that they would expect a child witness to react in an anxious or fearful manner in respect of having to appear in court. The remaining seven respondent-professionals, which included 5 of the 6 lawyers in the sample, reported that the child's reaction would be dependent on the cognitive and emotional maturity of the individual child.

Thirteen of the 32 respondent-professionals in the present study, representing just over 40% of the total sample, held the view that appearing in court was too stressful for a child. One in four of the respondent-professionals held that appearing in court was not too stressful for a child, while the remaining eleven respondent-professionals held mixed views on this issue, many of whom reported that it was dependent, once again, on the child's level of cognitive and emotional maturity.

Respondent-professionals were requested to indicate which aspects of the legal process were, in their opinion, particularly stressful for a child. Table 3.5.8. lists the system-induced stressors which were mentioned by respondent-professionals and the number of respondents citing each stressor. It should be noted that the totals do not add up to 100% as respondent-professionals often cited more than one potential stressor.

Table 3.5.8. The number of respondent-professionals and percentage of total sample citing each potential system-induced stressor.

System-Induced Stressor	n	Percentage
Repeated Interviewing by Various Professionals	21	65.6%
Cross-Examination by the Defendant's Lawyer	18	56.3%
Formality of the Courtroom	18	56.3%
Inordinate Delays in the Hearing of the Case	15	46.9%
Having to Confront the Defendant in Court	14	43.8%
Exposure to Age-Inappropriate Language	12	37.5%
Lack of Understanding about the Legal Process	8	25.0%
Fear of Not Being Believed	7	21.9%
Setting Having to Speak in Public	3	9.4%

As may be seen from Table 3.5.8., almost two in every three respondent-professionals cited the repeated interviewing of children as likely to be a cause of stress for children involved in the legal process. The cross-examination of the child witness by the defence counsel was next most frequently cited as likely to be stressful for a child witness. One in four respondent-professionals in the present sample cited a child's lack of familiarity with the legal process as likely to cause the child to experience stress. No significant professional group differences were observed in respect of the likely causes of stress mentioned.

After reporting their views as to the likely causes of stress for children involved in the legal process, respondent-professionals were requested to indicate how, in their opinion, such system-induced stressor might best be minimised. Table 3.5.9. presents the list of suggestions made by respondent-professionals to minimise stress for child witnesses and the number of respondent-professionals citing each means of alleviating system-induced stressors.

Table 3.5.9. The number of respondent professionals and percentage of total sample citing each potential means of minimising system-induced stressors.

Means of Minimising System-Induced Stressors	n	Percentage
Videolink System in All Child Witness Cases	29	90.6%
Pretrial Preparation of Children for Court	19	59.4%
Specialised Training of Professionals	17	53.1%
Fast-tracking Child Witness Cases	16	50.0%
Joint-Agency Interviewing	15	46.9%
Video-recording Initial Pretrial Interviews	14	43.8%
Adoption of a Less Adversarial System	10	31.3%

As may be seen from Table 3.5.9., all but three of the respondent-professionals in the present sample made the suggestion that the video-link system of presenting evidence should be employed in all cases involving children as witnesses. The provision of pretrial preparation of children for their appearance in court was the next most frequently cited suggestion for mitigating the stress of appearing in court for child witnesses. Again, no significant professional group differences were found in respect of the suggestions made by which stressors might be minimised.

3.5.4. Professionals Current Practices in Relation to the Preparation of Children for Court and their Views on the Introduction of a Systematic Programme of Pre-Trial Preparation of Child Witnesses

All respondent-professionals reported that they provided explanations of the court process in instances where a child they were involved with professionally was called on to appear in court. Only one-in-four of the respondents cited that they would employ the “Going to Court-Child Witness Pack” (produced by the Department of Justice, Equality and Law Reform, 1997) when explaining the court process to the child.

The overall majority ($n=26$) of respondent-professionals in the present sample held the view that currently less than 25% of children involved in the legal process in this jurisdiction received any form of pretrial preparation for their appearance in court. Three respondents viewed that the percentage of children receiving some form of pre-trial preparation was between 25 and 50%. While the remaining three respondent-professionals held the view that more than 50% of children involved in legal proceedings received some form of pretrial preparation.

All 32 respondent-professionals held the view that preparing children for their court appearance would be beneficial to the child as it would reduce the anxiety experienced by the child in respect of their appearance in court. Three-quarters of respondents added the rider that the reduction the child's anxiety levels would, in their view, lead to an increased ability on the part of the child to provide optimal testimony. In addition, 75% of respondent-professionals cited that pretrial preparation would have the effect of increasing the child's familiarity with and knowledge of court process. Two respondents stated more specifically that pretrial preparation would provide the child with a more realistic view of the likely outcome of the trial.

Respondent-professionals were also requested to indicate if, in their view, there were any drawbacks or limitations to the provision of pretrial preparation to child witnesses. The main drawback to pretrial preparation cited by 21 respondents was the potential for accusation of coaching of the child witness. Three respondents cited that a situation could arise where a child is so prepared that they might lack emotional affect expected of them. On the other hand, one-quarter of respondents-professionals ($n=8$) held the view that there were, in their opinion, no drawbacks or limitations associated with the pretrial preparation of child witnesses, especially, in their view, when one takes the child's perspective into account. No significant professional group differences were observed in respect of the likely drawbacks to the provision of pretrial preparation to child witnesses.

Respondent-professionals were requested to indicate¹¹ how important it is, in their view, for children to receive some form of preparation prior to their giving evidence in court. The mean rating for the total sample was 3.44, which would suggest that respondents, in the main, held the view that it was very important that children receive some form of preparation prior to their testifying in court. The mean ratings on this measure for each of the professional groups are presented in Table 3.5.10.

Table 3.5.10. Mean ratings by respondent's professional group of importance that the child receive some form of preparation prior to their giving evidence in court.

Professional Group	n	Mean Ratings
Clinical Psychologists	8	3.50
Child Psychiatrists	3	3.67
Child Protection Workers	8	3.87
Social Workers	7	3.71
Lawyers	6	2.33

A subsequent Kruskal Wallis one-way analysis of variance revealed significant professional group differences in relation to how important pretrial preparation was viewed ($H=12.760$, $df=4$, $p=.013$). Follow-up paired comparisons using Mann Whitney U tests revealed that the lawyers in the present sample had a significantly lower mean rating of the importance of pretrial preparation for child witnesses than did clinical psychologists ($z=2.463$, $p=.014$), child psychiatrists ($z=2.021$, $p=.043$), child protection workers ($z=2.866$, $p=.004$) and social workers ($z=2.562$, $p=.01$). Thus, when compared to the views of respondents in the other four professional groups, the lawyers in the present sample held a significantly more negative view of the importance of pretrial preparation of children for their involvement in the legal process.

Respondent-professionals were also asked to indicate their opinions in relation to which professional group or groups should have responsibility for the provision of a programme of pretrial preparation of children for court if such a programme were to be put on a

¹¹ Measured on a four-point Scale, with a score of 1 = Not at all Important and with a score of 4 = Very Important.

statutory basis. Table 3.5.11. presents the numbers of respondents citing each of the professional groups listed as the most appropriate body to have responsibility vested in them for the provision of a statutory programme of preparation.

Table 3.5.11. Number of respondent professionals and percentage of total sample citing each professional group as having responsibility for the provision of a pretrial preparation programme for child witnesses.¹²

Suggested Professional Group	n	Percentage
Child Protection Workers	22	68.75%
Psychologists	19	59.4%
Lawyers	19	59.4%
Social Workers	18	56.3%
Gardai	17	53.1%
Independent Body	7	21.9%

As may be seen from Table 3.5.11., the majority of respondents suggested that child protection workers should have responsibility for the provision of a formal programme of pretrial preparation. While approximately one in five respondents suggested that pretrial preparation should be the responsibility of an independent statutory body. Chi-square analyses revealed professional group differences in relation to the professional group(s) which should be responsible for the provision of a formal programme of pretrial preparation ($X^2=10.057$, $df=4$, $p=.039$). Four of the 6 lawyers in the sample suggested that pretrial preparation should be the responsibility of an independent body whereas only three respondents drawn from the other four professional groups recommended the establishment of an independent statutory body with responsibility for the provision of pretrial preparation to child witnesses.

¹² Note that respondents could provide more than one suggestion for which professional group, in their view, should have responsibility for the provision of a pretrial preparation programme, thus the figures in Table 3.5.11. do not total to 100%.

3.6. DISCUSSION

Respondent-professionals, in general, perceived the child as being truthful, with female respondent-professionals viewing the child as significantly more truthful than male respondent-professionals. In attempting to account for such differences in attitudes it may be, as Gilligan (1982) explained, a consequence of females having been socialised since childhood to be more caring, concerned, helpful and expressive than is the case for males. This explanation is reiterated by Brigham and Spier (1992) who speculated that most female professionals may have warmer, more empathic styles of working with child witnesses than their male counterparts.

Similar to the findings reported by Everson, Boat, Bourg and Robertson (1996), the lawyers in the present study, viewed the child as significantly less truthful when compared to respondents from the four other professional groups. This finding has important implications given that a number of research studies have found that it is more likely that an allegation of child abuse will be substantiated where the professional involved holds a strong belief that children are generally truthful when reporting their sexual victimisation (Everson & Boat, 1989; Kendall-Tackett & Watson, 1991). Research by Kendall-Tackett and Watson (1991) has demonstrated that professionals who believe that children are generally truthful were much more likely to regard a child's allegations of sexual abuse as truthful than were professionals who held a more neutral attitude in respect of children's truthfulness.

Respondent-professionals, in general, viewed that it was somewhat unlikely that the child would be perceived to be a credible witness and would be deemed competent to testify. Interestingly, among the professional groups, lawyers rated it significantly more likely that the child would be perceived to be a credible witness; in addition, lawyers viewed it most likely that the child witness would be deemed competent to testify. Professionals drawn from the four other professional groups (clinical psychologists, child psychiatrists, child protection workers and social workers) are more likely to work with children who possess a broader range of cognitive and communicative skills. These four professional groups are also more likely to encounter children in the earlier stages of the investigative process,

when a child's competence to act as a witness may be assessed and found wanting. Lawyers, on the other hand, generally encounter the child in the final stages of the criminal justice process when it is most likely that the child's competence will already have been assessed (e.g. by the Gardai and by the D.P.P.) and deemed sufficient for the child's involvement in subsequent legal proceedings. That lawyers are more likely to encounter children who have been deemed to possess the cognitive and the communicative competence necessary for testifying may account for their significantly higher credibility and competence ratings of the child witness.

Respondent-professionals viewed it as somewhat unlikely that the accused would be prosecuted and found guilty on the evidence of the child witness. Professional groups were not found to differ significantly in their mean ratings on either of these two scales. In addition, no gender differences were found in respect of professionals' ratings of the perceived competence and credibility of the child witness and likelihood of prosecution and conviction of the accused.

Altogether, the findings of this survey of professionals in relation to the perceptions of child witnesses held by professionals who are involved in the investigation evaluation and adjudication of cases involving children suggest that perceptions of children's truthfulness, competence and credibility does vary by professional group. Of course, it is acknowledged that in the case of all five professional groups, the group means mask a substantial degree of variability in professional beliefs about the truthfulness of children, their credibility and competence to act as witnesses. How much actual practice is influenced by the professionals' views is unclear and would require further empirical investigation.

Respondent-professionals in the present study expected the 8-year-old child victim-witness to understand, on average, seven of the 16 legal terms and concepts measured including, "police", "truth", "lie", "promise", "judge", "court" and "law". This finding accords almost exactly with respondent-jurors' expectations outlined in Chapter Two. Given the importance of the role that professionals play during the course of the child's involvement of the legal process, their expectations as to which legal terms and concepts a

child at a certain age will understand, has important implications for the age-appropriateness of their communication with children. This is especially the case where the expectations held by professionals match the understanding of the child with whom they are communicating (Garbarino & Stott, 1992).

Furthermore, respondent-professionals' opinions concerning potential sources of system-induced stress also concur with those identified by a number of research studies (Flin et al., 1988; Freshwater & Aldridge, 1994; Goodman et al., 1992; Deswirek-Sas et al., 1991).

The most frequently stated means of minimising stress for child witnesses given by respondent-professionals was the suggestion that the "Videolink" system of presenting evidence should be employed in all cases involving children as witnesses. The suggestion that all child witnesses should, as of right, provide their testimony *via* the live television link rather than in open court would ensure that all child witnesses, prior to their appearance in court, would know the manner in which their testimony would be heard. Thus, the implementation of this suggestion would not only alleviate the stress associated with testifying in open court (Flin et al., 1992; Goodman et al., 1992) but would also eliminate some of the unpredictability of the legal process for children by ensuring that children have prior knowledge of where they are going to testify.

The next most frequently cited suggestion for mitigating the stress of appearing in court for child witnesses was for the provision of pretrial preparation of children for their appearance in court. As more and younger children are called as witnesses the issues of support and preparation become increasingly important; indeed, a number of studies have found that appropriate pretrial preparation of the child witness can make a crucial difference to the child's ability to testify (Deswirek-Sas, 1992; Sisterman Keeney et al., 1992). The respondents-professionals in the present study, in the main, held the view that it is very important that children receive some form of preparation prior to their testifying in court, although the lawyers in the present sample, appeared most resistant to the idea of preparing children for court. Given the general view that pretrial preparation was important for children, respondent-professionals' estimates of the current percentage

of child witnesses receiving some form of preparation for their court appearance would suggest that there is considerable variance in the level of preparation currently provided. Indeed, there was a strong indication that few children receive any formal preparation for their appearance in court.

Respondent-professionals' views as to which professional group or groups should have responsibility for the provision of a statutory pretrial preparation programme varied on the basis of professional group. The lawyers in the sample, significantly more so than the respondents from the other four professional groups, recommended the establishment of an independent statutory body with responsibility for the provision of pretrial preparation to child witnesses. This accords with the recommendation made by Aldridge (1992) that the person or body handling the preparation of the child should not be involved in the investigation because of the possibility of a challenge of undue influence. Indeed, the majority of respondents in the present study listed the potential for accusation of coaching as the sole drawback in relation to preparing children for their court appearance.

If professional groups, are currently or will in the future, provide preparation to child witnesses then it has been strongly recommended that such professionals receive appropriate specialist training for this task (Flin, 1993). The current position in respect of the level of specialist training would suggest that only a minority of the professionals working directly with children (28.1% of the present sample) reported having had special training in working with child witnesses. Flin et al. (1988) and Melton et al. (1992) reported higher rates (32% and 48.5% of their total samples respectively) of specialist training among the professionals who participated in their studies. The findings of the present study would support the statement made by Doris et al. (1995) that there is still a noticeable lack of adequate training for child protection professionals to work with child witnesses.

A number of limitations of this study should be noted. First, the sample size of thirty-two professionals is small when compared to the numbers of professionals surveyed by

for instance Brigham and Spier (1992) and Melton et al. (1992). While it is acknowledged that the generalisability of the findings of the present study are compromised to some extent by the relatively small number of professionals surveyed, it must, however, be reiterated that the purpose of the present study was to survey those professionals who were directly involved in the evaluation, investigation and litigation of cases involving children as witnesses. As the number of professionals in the Republic of Ireland working directly with child witnesses is relatively small when compared to other countries such as the United Kingdom and the United States, the number of questionnaires distributed is a reflection of the level of professional involvement with child witnesses in Ireland.

Secondly, though responses were obtained from professionals of both sexes and from a wide range of ages and level of professional experience, the extent to which the sample is representative of professionals who work with children is unknown. Indeed, males and females were far from equally represented in the total sample or in the various professional groups, and it is acknowledged that this gender imbalance has important implications in respect of the generalisability of the findings presented. Further research on professionals' beliefs about child witnesses would be enhanced by having equal representations of gender in each professional group or sufficient sample size to compare statistically the responses of male and female professionals.

Thirdly, the results are limited by sampling problems, common to survey research, particularly in relation to response rates. It is possible that professionals with the greatest concern in relation to child witnesses are those represented in the current study. The return rate in the present sample was 40%, which was considered to be acceptable for a survey of professional groups. Flin et al. (1988) reported a response rate of 50%, while Melton et al. (1992) reported an average response rate of 40.9%, though both their sample sizes were considerably larger. As iterated above, in proportion to the population of the Republic of Ireland (approximately 3 and a half million) there are only a small number of professionals working directly with child witnesses; thus the number of survey questionnaires returned may well reflect this.

Finally, given the “vignette” methodology employed in the present study, the individual professional’s responses reflected their perceptions of an hypothetical 8-year-old child and it may be that in the context of an actual case their perceptions of a same-aged child witness might be very different. It should be noted that respondents were aware of this and did stress that the truthfulness, credibility and competence of a child witness would need to be assessed within the context of the individual child’s maturity and level of understanding of events.

3.7. CONCLUSION

The results of this survey have provided a body of information on the perceptions and practices of the key professional groups who work directly with child witnesses in the Republic of Ireland. Given the limitations outlined, when taken together the findings of this study, in general, accord with earlier studies which found that professional groups differ in their perceptions of the competence and credibility of child witnesses. It must be acknowledged, however, that each professional group plays a different role in their interaction with child witnesses. To avoid having critical decisions based on personal biases rather than on professional judgment, professionals working in the field need to be aware of potential biases in their beliefs as well as the beliefs of other professionals with whom they collaborate in cases involving child witnesses. Overall, the results of the present study clearly demonstrate that beliefs among professionals about the child’s truthfulness, credibility and competence and the professional’s willingness to engage in preparing and supporting children through their experience of involvement in the legal process may have far-reaching psychological and legal implications for the child.

CHAPTER FOUR: IRISH CHILDREN'S COMPETENCE TO ACT AS WITNESSES: A STUDY OF THEIR UNDERSTANDING OF THE LEGAL SYSTEM AND THEIR PERCEPTION OF WHAT IT MIGHT BE LIKE TO ATTEND COURT AS A WITNESS.

4.1. INTRODUCTION

In 1987, Melton and Thompson argued that if professionals are to adequately prepare children for their appearance in court then they must know what children's expectancies, beliefs and affective responses to the legal process are likely to be, among children of various ages. In the intervening time, several writers have suggested that a child's competence as a witness is a function of their understanding of the investigative and judicial process and that children must possess at least some knowledge of the legal system and its key players in order to participate meaningfully in the legal process (Peterson-Badali & Abramovitch, 1992; Saywitz & Nathanson, 1993). Gail Goodman, one of the foremost researchers in the field, captured the essence of these writers' argument when she wrote ". . . children when they testify can only do so in the context of their own understanding of the legal process" (1984: 3).

4.1.1. Extant Empirical Research on Children's Knowledge of the Legal Process

Until quite recently the only relevant literature on children's understanding of the law was concerned with moral development (Tapp & Kohlberg, 1971), legal socialization (Irvine, 1979) or procedural justice (Demetriou & Charitides, 1986). None of these studies, however, measured children's understanding of formal legal procedures.

In the last decade or so, a number of studies assessing children's understanding of aspects of the legal process have been conducted. These studies have found, in the main, that children understand little about the legal system - its procedures, its players and its terminology (Cashmore & Bussey, 1990; Feben, 1985; Flin, Stevenson & Davies, 1989;

Freshwater & Aldridge, 1994; Melton, Limber, Jacobs & Oberlander, 1992; Peterson-Badali & Abramovitch, 1992; Saywitz, 1989; Saywitz, Jaenicke & Camparo, 1990; Warren-Leubecker, Tate, Hinton & Ozbek, 1989). Altogether, it has been consistently found across these studies that young children can have serious gaps in their understanding of the legal system generally and of the role of “witness” more specifically. In the words of one *Guardian Ad Litem*:

“We knew from listening to kids that they didn't understand what the court process was all about. Nor did they know who all the players were. They were very much non-participants in a process that was designed to make decisions about their lives” (in Flin, Davies & Tarrant, 1988: 15).

The bulk of the literature exploring children's legal knowledge has focused on age differences in the understanding of the purpose and function of various court structures and proceedings as well as on children's conceptions of the roles of various legal personnel within the legal system. Not surprisingly, understanding of the legal process has been found to increase with age (Cashmore & Bussey 1990; Flin et al., 1989; Peterson-Badali & Abramovitch, 1992; Saywitz, 1989; Warren-Leubecker et al., 1989). These studies would hold that as children advance in age they begin to grasp certain terms and concepts; nonetheless, these studies have reported that children, and even some adults, still continue to possess serious misconceptions and inaccuracies in respect of the court process and the role of various court personnel.

In one of the first reported studies of children's legal knowledge, Flin, Stevenson and Davies (1989) interviewed 90 Scottish children (aged 6, 8 and 10 years) and 15 adults, all of whom were non-witnesses. All three groups of children were found to be slightly more knowledgeable about the concepts of police, the court, breaking the law and being guilty than they were about the remaining terms assessed. Knowledge of the roles of both witness and judge appeared to be acquired by children by the age of 10. In addition, Flin et al. reported that children in all three age groups were generally unfamiliar with the role of lawyer, jury, what it means to be prosecuted, what a trial involves and what is evidence

and why it is needed in court. Altogether, Flin et al. found that the majority of legal terms and concepts were not clearly or adequately understood by children under the age of ten. In addition, Flin et al. found that reported recognition of a legal term was not always a valid predictor of adequate understanding of that term.

In the United States, Warren-Leubecker et al. (1989), using the largest sample to date, investigated the legal knowledge of 563 children who ranged between 3 and 14 years of age. All the children interviewed were non-witnesses. Similar to the findings of Flin et al. (1987), Warren-Leubecker et al. found clear age trends in children's understanding of the legal process. Warren-Leubecker et al. reported that most young children know very little about legal personnel and court procedures. In a second study, Warren-Leubecker et al. tested an older group of 326 children (aged 9 - 18 years) using a more advanced questionnaire. The adolescents seemed to possess an accurate knowledge of most basic legal terms (e.g., judge, jury, and lawyer) although understanding of more technical terms (e.g., perjury, manslaughter) was still lacking.

Also in the United States, Saywitz and her colleagues undertook a series of studies investigating children's understanding of a range of legal terms. In the first study of the series, Saywitz and Jaenicke (1987) interviewed 67 children, all of whom were non-witnesses. These authors compared 18 four-year-old, 23 eight-year-old and 26 eleven-year-old children on their ability to define a number of terms commonly used in court proceedings. The findings from this initial study indicated, in a way similar to the findings reported by Flin et al. (1989) and Warren-Leubecker et al. (1989), that young children (aged between 4 and 8 years) are limited in comparison with older children in their understanding of even the most basic legal concepts. Saywitz and Jaenicke reported that, while by eight years of age many children have an adequate understanding of the concepts of court and judge, few have mastered the concepts of jury, defendant and lawyer. These authors found that some words were easy for children to define (e.g., judge, lie, police, promise), other terms showed significant age differences (e.g., witness, attorney, lawyer, oath) while the remaining terms were uniformly difficult (e.g., allegation, competent, hearsay).

In a second study, Saywitz (1989) again examined developmental differences in children's conceptualizations of the judicial system; however, in this study Saywitz included children with varied amounts of direct legal experience. A total of 48 children ranging from 4 to 14 years of age participated in interviews which focused on eliciting children's knowledge of court-related concepts (e.g., judge, jury, truth-seeking process). Half of the children had at least 3 months experience of involvement in the legal system. Saywitz reported that knowledge of legal terms appeared to be influenced more by age than by the experiential factors. The children who had had direct experience with the legal process were no more knowledgeable about the process than were children who had not had such contact. Overall, the results of this study indicated that children of different ages and varied amounts of experience brought different expectations to the courtroom and that maturational processes played an important role in the development of children's legal knowledge.

In the third study in the series, Saywitz et al. (1990) examined age-related patterns in children's ability to communicate their understanding of commonly-used legal terms. Using transcripts from actual court proceedings, Saywitz et al. created a list of 35 legal terms which were used frequently in cases involving child witnesses. The legal terms were randomly assigned to two lists and administered to 60 children (20 of each grade: kindergarten, third and sixth grades). Data analysis, once again, revealed grade-related patterns in children's knowledge of and misunderstanding of legal terms.

Cashmore and Bussey (1990) interviewed 96 Australian children aged between 6 and 14 years. The children in this study exhibited the ability to identify court personnel at slightly younger ages than did children in the previously cited studies. The authors of this study contended that their provision of a courtroom model, during the interview process with the child, provided contextual information which had a facilitatory effect in terms of eliciting children's extant level of legal knowledge. Though children's understanding of legal terms was somewhat higher in this study, Cashmore and Bussey found that the order in which an understanding of the legal terms was acquired was similar to that found in

earlier studies, that they understood firstly, the judge, then the lawyer, then the jury and so on.

In a series of studies, Melton and his colleagues (Melton et al., 1992) also found that young children exhibited a paucity of knowledge about the legal process. These authors reported, however, that children by the age of 12 possessed sufficient knowledge of the legal system to enable them to participate effectively therein. Melton et al. also interviewed a sample of 102 victim-witnesses and found that actual experience in the legal system did not correspond to an enhanced understanding of the legal process on the part of the child. In fact, Melton et al. found that victim-witnesses performed more poorly on their Legal Knowledge and Attitudes Schedule than did a control group of same-aged schoolchildren; although once again, the pattern of acquisition of legal knowledge was similar across these two groups.

In the U.K., Freshwater and Aldridge (1994), in their study of the legal knowledge of child witnesses, schoolchildren and adult non-witnesses, found that although misconceptions regarding the legal process and the role of professionals occurred within all three groups, inaccuracies in understanding were more common among the schoolchildren and child witnesses groups.

Finally, Peterson-Badali, Abramovitch and Duda (1997) interviewed 67 children, aged between 7 and 12 years, drawn from two settings, a local school and a treatment programme for children at risk for criminal offending. While all subjects showed some basic legal knowledge, these authors report that many were most unclear about the nature of the lawyer-client relationship.

The next section explores the findings of the studies cited above in respect of children's understanding of the participants, procedures and issues associated with the legal system.

4.1.2. Children's Understanding of Court Procedures

Children, particularly young children, have been found to generally see court as a “bad” place filled with “bad” people (Flin et al., 1989; Saywitz, 1989; Warren-Leubecker et al., 1989). Flin et al. found that children in middle childhood (ages 9 to 11) were more likely to say that the court is neither good nor bad, and by adolescence their perceptions of the court had tended to shift to the positive (1989). In Warren-Leubecker et al.'s (1989) study only 18 percent of the three-year-olds knew what a courtroom was, whereas approximately 40 percent of six-year-olds, 85 percent of seven-year-olds, and more than 90 percent of all groups over the age of nine were familiar with the concept of a courtroom. Those children who had developed a concept of the court tended to know that it is a place to “settle arguments or solve problems” (Warren-Leubecker et al. 1989: 169).

When Cashmore and Bussey (1990) asked 6-14 year old Australian children “what is a court?” there was an increase with age in the frequency of references to court as a place where guilt (or innocence) was determined and conversely, there was a decrease in the frequency of concrete descriptive responses (e.g., a place where there's a judge who sits high on a platform.).

Saywitz (1989), in her interview study of 4-14 year old American children, found that participants' awareness of the concept of the trial as a truth seeking process increased with age. The majority of 4-7 year old children in Saywitz's study saw the goal of the trial process as the accomplishment of a specific act (e.g., to punish the criminal or to make a custody decision). However, older children in the sample, between the age of 8 and 11, were “aware that the trial is a fact-finding process that seeks to uncover the truth” (Saywitz, 1989; 151). Even the 8-11 year-old children did not understand, however, that sometimes the truth (reality) may differ from the judge or the jury's decision about what happened; this understanding was only attained by a minority of the 12-14 year-old participants in Saywitz's study.

4.1.3. Children's Understanding of Court Personnel

Children's understanding of the roles of various legal personnel has also been empirically investigated. In general, as reported above, children have been found to develop the concept of judge before that of lawyer, while the jury is one of the last concepts they comprehend.

The Judge: Perhaps not surprisingly, 91% of the three-year-olds in Warren-Leubecker et al.'s study did not know anything about a judge. By age four, however, children began noting that a judge "dresses in black" (1989: 166), but often added such non-defining details as the judge had white or grey hair; was old, or wore glasses. Saywitz (1989) also found that the judge is likely to be described by young people in terms of the judicial black robe and "hammer", rather than as someone who is in charge of the courtroom and who determines sentences. In Saywitz's study, the judge's role in determining guilt or innocence and in deciding appropriate punishments began to emerge by the ages eight to nine and by adolescence the concept of the judge was found, by the author, to be well established.

The Lawyer: Warren-Leubecker et al. found that children under the age of seven were not familiar with the role of the lawyer. Those children who ventured to guess were likely to say that a lawyer "loans money", "writes down everybody who is bad", "plays golf", "lies" and "sits around" (1989: 168). Not until the age of ten did children in that study exhibit the understanding that a lawyer prosecutes or defends people accused of crimes. However, most children of this age believed that trial lawyers's only purpose was to defend criminals. Warren-Leubecker et al. (1989) found that the specific duties of the lawyer were not well elaborated until adolescence. The findings of Flin et al. (1989) and Saywitz (1989) would support this finding concerning the general developmental path in the child's acquisition of an understanding of the role of the lawyer in legal proceedings.

The Witness: Saywitz (1989) found that the majority of four- to seven-year-olds lacked any understanding of the role of the witness in the trial process. Those four to seven year-

olds who reported some familiarity with the concept of witness tended to operate under the understanding that all witnesses tell the truth and that they invariably are believed. Older children begin to see that while a witness's role was to provide evidence nonetheless the witness's credibility must be also assessed during the course of the trial process.

The Jury: Once again, Saywitz (1989) found that the concept of jury was beyond the comprehension of most four- to seven-year-olds and that even at ages eight to nine, the concept of jury remained elusive. Saywitz reports that only at age ten did the children in her sample begin to exhibit an understanding of the concept of jury. Still, many children at this age did not realize that the jury is an impartial body; instead a minority of children expressed the belief that "victims, witnesses and defendants ask their friends to come be on the jury" (Saywitz, 1989: 151). It was only by twelve to fourteen years of age that the children in Saywitz's study had begun to become aware of the true function of the jury. The implication of these findings is that most children who testify do not appreciate the need to convey their message to the jury as well as to the judge.

The Defendant: Freshwater and Aldridge (1994) reported on the frequent misconception that the victim is the defendant, which is similar to Flin et al.'s (1989) finding that schoolchildren felt the witness was actually on trial as well as, or instead of, the accused.

4.1.4. Children's Understanding of Common Legal Terms and Concepts

Saywitz reported that although children may know that the goal of the court is to accomplish some act (e.g., punishing a "bad" person) they do not understand that evidence must be collected, presented, and evaluated. Saywitz notes that the young children in her sample had ". . . a naive view, assuming that the evidence almost magically presented itself and was, of course, true and believed" (1989: 148).

In order to be found competent as witnesses, children must possess a sense of the obligation to tell the truth. The great majority of children have a grasp of the difference

between truth and falsehood, and of the duty to tell the truth in court (Ruck, 1996). Ruck (1996) examined the development of children's understanding of the importance of telling the truth in court. The younger subjects in the study, those aged 7 and 9, were found to have been more likely to perceive that telling the truth when giving testimony was a way of avoiding negative consequences, while the older children who participated in the study, those aged 11 and 13, were more concerned with upholding societal rules and laws. Their findings reflect closely Lawrence Kohlberg's (1976) theory of the development of moral reasoning.

In a similar vein, Freshwater and Aldridge (1994) found that a high percentage of younger schoolchildren and child witnesses gave answers in terms of the personal consequences of lying, such as avoiding getting into trouble or being sent to prison for lying. Older children and adults gave answers in terms of the importance for justice to be achieved and the effect upon others (such as the defendant) should one not tell the truth. This corresponds with previous work by Cashmore and Bussey (1990) and Flin et al. (1989). Such findings suggest that, contrary to popular belief, younger children, for fear of the personal consequences, are possibly less likely than adults to lie in court.

In a series of recent studies, Lyon and Saywitz (1999) examined 192 maltreated young children's (aged 4 to 7 years) competence to take the oath. In their first study, these authors found that despite serious delays in children's receptive vocabulary, a majority of five year olds correctly identified truthful statements and lies as such and recognized that lying is "bad" and would make authority figures "mad". However, these authors found that most participants up to 7 years of age could not define "truth" and "lie" or explain the difference between the terms. Four-year-olds were above chance in recognising the immorality of lying but exhibited a tendency to identify all statements as the "truth". In their second study, the authors reported that 4 and 5 year olds performed above chance in identifying which of two story characters was lying or telling the truth and in identifying whether the truth teller or the liar said something bad or would get in trouble. Thus, children exhibited better understanding of the immorality of lying than they did the meaning of lying. The authors suggest that when these findings are taken together,

maltreated children's oath-taking competence may be underestimated due to linguistic and motivational difficulties.

4.1.5. Typical Errors Children Tend to Make

In a series of studies, Saywitz and her colleagues (Saywitz, 1989; Saywitz et al., 1990) reported on young children's tendency to make "auditory discrimination errors", that is, mistaking an unfamiliar legal term for a similar sounding familiar word, for example, interpreting jury as "jewelry" or "journey". Young children were also found to make homonym errors by assuming that a familiar non-legal definition was the only definition of a given term. For example, children thought that "court was a place to play basketball" and "a hearing is something you do with your ears". Only older children recognized that the words could mean something else in the forensic context (Saywitz et al., 1990).

Young children's tendency to make auditory discrimination and homonym errors are of concern because they demonstrate that children think they understand the meaning of what is being said to them, and may testify accordingly, when in fact they have a different meaning in mind from the adults. Such miscommunication damages children's perceived credibility. Warren-Leubecker et al. (1989) argued that "... some legal concepts appear to develop through several states of misperception" and that such misrepresentations are potentially more damaging than lack of knowledge to a child's ability to testify or to participate meaningfully in the legal system.

Overall, the results of the studies presented above do not differ greatly, considering the different age groups and methodologies used by the different researchers. Young children, those under 9 years of age, repeatedly demonstrated limited knowledge of the people, places and procedures that make up the legal system. Very young children, those under 7 years, did not simply demonstrate a paucity of knowledge in these studies, but also many misunderstandings and inaccuracies. When taken together the findings of these studies begin to provide a picture of how children understand the court process.

4.1.6. Extant Empirical Research on Adult's Knowledge of the Legal Process

The few studies which have investigated adults' legal knowledge (Banks, Malloney & Willock, 1975; Flin et al., 1989) reveal “. . . contrary to the assumption made by the law, that there is a widespread ignorance on the part of the public about legal matters” (Farrington & Hawkins, 1979; 5). Flin et al. (1989) further reported that the older children and adults in their study did not in all instances perform significantly better than the younger children. The results of Flin et al.'s study accord well with the findings of Banks et al. (1975): knowledge about legal issues was widely lacking on the part of the general public. Furthermore, a number of studies of adult witnesses have made reference to a “. . . general lack of knowledge of the legal process” having caused subjects undue distress (Bacik, Maunsell & Gogan, 1998; Frazier & Haney, 1996; Stafford & Asquith, 1992). Adult witnesses, along with child witnesses, it would seem, may not adequately understand the process they are involved in and this may in turn affect their ability to provide competent testimony.

4.1.7. Sources of Information about the Legal System

Melton et al. (1992) found that close to two-thirds of the schoolchildren interviewed reported that they had heard about the court from television. Even as young as 7 years of age, just over half of the schoolchildren reported television as their source of knowledge about the legal system. Warren-Leubecker et al. (1988) asked the children in their sample, the direct question “Have you seen court on television?”; nine out of ten children replied in the affirmative to this question. According to many of the researchers in the field, the limited and distorted nature of children's conceptions of the legal system is not surprising, given their sources of knowledge about it (Melton et al., 1992; Saywitz, 1989; Warren-Leubecker et al., 1989). Saywitz (1989) argued that the depiction of the court process on television tends to be simplistic, removing the dilemmas and “gray areas” inherent in actual legal cases. Macaulay suggested that television tends to “misrepresent the nature and amount of crime [and] the roles of actors in the legal system” (1987: 197-198).

Of course, some children have firsthand experience with courts. It might be reasonable to assume their knowledge would surpass that of other, less experienced children. Grisso (1981) laid this assumption to rest. In a study of the abilities of 600 wards of the juvenile court to comprehend the Miranda¹ warning and its implications, Grisso found that the majority did not understand either the warning or its implications. Furthermore, comprehension (or lack of it) was not related to the children's amount of prior experience with the courts. Saywitz (1989) found that direct experience with court may in fact reduce comprehension of the legal system because it presents more complex information in a more confusing context. This result finds support in the study of over 100 child victim-witnesses conducted by Melton and his colleagues (Melton et al., 1992). The authors of these two studies claimed that it may be difficult for children involved in the legal process to understand the legal proceedings and the roles of the various players because the system does not operate in a straightforward logical fashion. Instead, as Saywitz noted ". . . the process is fraught with motions, delays, continuances, objections, and other obfuscations" (1989: 121).

4.1.8. Children's Perceptions of What it Would be Like to Attend Court as a Witness

Saywitz's (1989) study of children's knowledge of the legal process found that age and level of experience were the primary factors affecting the expectations the children brought to the courtroom and that the children's expectations were consistent with their age-related developmental abilities. Flin et al.'s (1989) study of schoolchildren found that the majority said that they would feel worried, nervous or scared if they had to go to court. A widely reported belief for both schoolchildren and child witnesses is that court is a place for "bad" people. Furthermore, child witnesses report fearing that they might not be believed and that they themselves might be the one sent to jail (Feben, 1985; Warren-Leubecker et al., 1989). Flin et al., (1989) found that schoolchildren also expressed concern about not being able to understand or answer questions correctly, about not

¹ The Miranda warning refers to the warning which must be made when a suspect is arrested. The text of the warning can vary but it generally begins as: " You have the right to remain silent, anything you say can and will be held against you in a court of law, . . ."

knowing what to do, being on their own in the courtroom, having to speak in front of a large group of people, seeing the accused and fears of retaliation by the accused. In a similar vein, Cashmore and Bussey (1990) found that younger children expressed a general fear of the unexpected or fear of getting into trouble. Older children expressed anxiety about ignorance of court procedures and their fear of retaliation by the accused.

In their study of schoolchildren and child witnesses, Freshwater and Aldridge (1994) found that when age was taken into account there was no significant differences between the child witnesses and the schoolchildren in terms of their overall fears. However, these authors noted that there was some differences found between the two groups in terms of the types of fears expressed. As might be expected, the child witnesses' fears focused upon the court appearance whereas the schoolchildren's fears were more wide-ranging, including fears related to how their family might react. Of course, one possible reason for this is that the schoolchildren were asked to imagine how they would feel, whereas for the child witnesses their fears and concerns were drawn from their experience of involvement in the legal process. The adult participants in Flin et al.'s study (1989) also reported anxiety about how they would perform as a witness and about having to potentially recount unpleasant experiences.

In conclusion, the empirical research available suggests that young children show confusion or ignorance about the court's function, although they have a general sense of the purpose of court. Children's understanding increases substantially with age. The data gathered suggests that there are differences in the ages at which various legal concepts are acquired. Many children, between the ages of 6-8 years, have a sense of what a court is and who is in charge, whereas even by 14 years of age few participants have been found to have an understanding of the distinction between the legal and the empirical truth (Peterson-Badali & Abramovitch, 1992). In addition, Saywitz and Jaenicke contended that "... considering that children know so little about the legal system, and that what they learn from school or television may be misleading or incomplete, the assumption that child witnesses are largely unprepared for testifying is probably correct" (1987: 31). Sisterman-Keeney et al. (1992) have further argued that in order to make a child's

appearance in court as beneficial as possible to the child in his or her case, it is essential that professionals in the field work to improve the child's level of understanding of the court process. To improve a child's understanding of the legal process it is, of course, necessary that professionals be equipped with data on what children of different ages know of the court process and what concerns they might have in participating as witnesses therein.

4.2. RATIONALE FOR AND OBJECTIVES OF THE PRESENT STUDY

As no empirical research has been conducted to examine Irish children's understanding of the legal process, the present study represented a first attempt to gather normative data on age-related patterns of the understanding of legal terms and concepts commonly encountered by children involved in legal proceedings. The rationale for obtaining this normative data was so that any pretrial preparation programme for Irish child witnesses could be specifically tailored to address Irish children's understanding of the legal system and any specific concerns children might have in respect of participation in the Irish legal system.

While it is acknowledged that research has been conducted in a variety of countries to examine children's understanding of the legal process; the methodologies employed and samples tested have differed widely. Nonetheless, as many aspects of the legal process do not vary across jurisdictions, there are some similarities in the legal terms examined across a number of studies. Indeed a number of the legal terms and concepts assessed in the present study were directly comparable to those assessed in previous studies in the area. This feature has allowed for some *post hoc* cross-jurisdictional comparisons to be drawn.

Similar to the paradigm employed by Flin et al. (1989) it was proposed to interview a cross-section of Irish children from 5 different age-groups to determine which of 16 common legal terms and concepts were part of a child's conceptual repertoire at different ages. The understanding of the legal process in a sample of adults was also ascertained, as

Luus and Wells (1992) argued that if children's understanding of the legal process is to be established then a comparative framework should be employed with the relevant referent being an adult's level of understanding.

The present study also sought to ascertain children's feelings regarding the prospect of being a witness in legal proceedings.

4.3. PREDICTIONS MADE AND SPECIFIC HYPOTHESES EXAMINED IN THE PRESENT STUDY

While the research was exploratory in parts, it was possible to make some predictions on the basis of previous work. It was expected, for example, that there would be some legal terms and concepts of which younger Irish children would possess a basic understanding. In addition, drawing from previous studies which included adult participants as referents, it was predicted that there would be adult participants who would know less about the court process than some of the child participants. Finally, it was expected that both child and adult participants would express negative views about the prospect of having to attend court as a witness. Based on the findings of previous empirical studies, two specific hypotheses were tested using a sample of Irish children and adults. These were as follows:

1. Younger children in the sample, those aged 8 and under, exhibit greater deficits in their understanding of the legal process than older children.
2. Irish children would show an increasing understanding of legal terminology and of concepts associated with the court process with increasing age.

4.4. METHOD

4.4.1. Participants

A total sample of 360 Irish children and adults participated in the present study. Participants ranged from 4 to 75 years of age with a mean age for the total sample of 21.6 years. Participants were drawn from 9 age groups, each age group comprising forty participants and containing an equal number of females and males. The age range for each of the nine age groups and the mean age of participants in each age group are shown in Table 4.4.1.

Table 4.4.1. Age-range and mean age of participants in each age group ($N=360$).

Age Group	Age Range of Participants	Mean Age of Participants
Age Group 1	4.0 to 5.9 years	5.0 years
Age Group 2	6.0 to 8.9 years	7.1 years
Age Group 3	9.0 to 11.9 years	9.8 years
Age Group 4	12.0 to 14.9 years	13.1 years
Age Group 5	15.0 to 17.9 years	16.8 years
Age Group 6	18.0 to 20.9 years	20.3 years
Age Group 7	21.0 to 30.9 years	25.2 years
Age Group 8	31.0 to 50.0 years	37.0 years
Age Group 9	Over 50.0 years	60.4 years

Based on the reported occupation of the head of the household in which the participant mainly resided, 34.7% of the total sample ($n= 125$) were categorised as of High socio-economic background (professional, managerial). 34.4% of participants ($n=124$) were categorised as of Low socio-economic status (unskilled manual and unemployed). With the remaining 30.9% of participants ($n=111$) being categorised as of Middle socio-economic status (non-manual and skilled manual). The sample, was therefore, *a posteriori* found to be relatively evenly divided between High (professional, managerial).

Middle (skilled manual) and Low (semi-skilled manual and unskilled) socio-economic status groups.

Just under 40% of the total sample ($n=137$) reported having had some experience of involvement with the legal process. Three-quarters of adult participants reported having had some previous contact with the legal system, whereas only 8% of child participants (*viz.* those under 18 years of age) reported having some experience of contact with the legal process. Table 4.4.2. presents frequencies for the nature of child and adult participants' involvement in the legal process. Participants were requested to indicate as many categories of experience as were applicable to them, thus a minority of adult participants ($n=8$) appeared in more than one category.

Table 4.4.2. Number of children (under 18 years) and adult participants who had various kinds of prior experience with the legal process ($N=360$).

Nature of Prior Experience	Child Participants (n=200)	Adult Participants (n=160)
Attended Court as a Spectator	10	62
Attended Court as a Victim	1	10
Attended Court as a Witness	4	37
Attended Court as a Juror	0	14
Attended Court as a Defendant	1	4
Attended Court in Other Capacity	0	2

The overall majority of the child participants in this study reported having had no direct experience of or contact with the legal process. Three of the 160 children in the four youngest age-groups (aged 4 to 14.9 years) reported having had some previous involvement with the legal process; one child in Age Group 3 had attended court as an eyewitness in civil proceedings relating to a road traffic accident, one child in Age Group 4 had attended court as a witness in family law proceedings, finally one child in Age

Group 3 had attended court as the victim of a sexual offence. In the main, those young persons from Age Group 5 (aged from 15 to 17.9 years) who reported having some direct experience of the legal process reported being spectators in legal cases typically involving some member of their extended family. One 16-year-old participant had been involved in the legal process as a co-defendant in legal proceedings for breach of the peace and had been bound to the peace for 1 month. Two participants, both aged 17 years reported having previously acted as witnesses in legal proceedings; one had witnessed a hold-up in a bank, the other had witnessed an accident on a building site.

The majority of adult participants had some prior contact with the legal process, in the main as spectators in legal proceedings which involved an individual(s) with whom they were familiar. Of the two adult participants who indicated that they had attended court in some capacity other than the five categories listed, one participant reported that they attended court regularly on work-related matters while the other participant did not specify the nature of his prior involvement.

The overall majority, or 89.3%, of the adult participants in this study ($n=160$) reported having completed at least 14 years of education (the equivalent of having completed the Leaving Certificate or A-level examinations). Six adult participants, or 3.8%, reported having completed less than twelve years of full-time education, while the remaining 6.9% of the adult sample ($n=11$) reported having completed between 12 and 13 years of education (equivalent to completing the Junior Certificate or O-level examinations). Just under one in five of the adult sample (18.1%) reported having completed at least 17 years of education, the equivalent of having completed a third-level degree.

4.4.2. Materials

A semi-structured Legal Knowledge and Perception of Court Interview Schedule was specially designed for the present study.² The Interview Schedule was also produced in questionnaire format for administration to adult participants. The Interview Schedule was developed as a practical research instrument for use, in particular, with child participants, that is those under the age of 18. The 60 items in the Interview Schedule were divided into six sub-sections eliciting information on participants':

- 1) Socio-demographic characteristics
- 2) Understanding of court procedures
- 3) Understanding of court personnel
- 4) Understanding of common legal terms and concepts
- 5) Perceptions of what it would be like to attend court as a witness
- 6) Sources of information about the legal system.

The first section of the Interview Schedule sought socio-demographic details on a participant's gender, age,³ and socio-economic status.⁴ In addition, adult participants were requested to provide details on their educational attainment.⁵

Sections 2-4 of the Interview Schedule assessed participants' understanding of a sample of legal terms and concepts commonly used in Irish courts. In total, 16 legal terms and concepts were assessed in the present study, they were as follows; court, trial, judge, lawyer, jury, witness, defendant, police, law, truth, lie, to be found guilty, oath, promise, evidence, and prosecution. The final list of items included in the Interview Schedule included many of the principal words and phrases that a child would be likely to encounter in the investigative, pre-trial and trial stages of the legal process.

² See Appendix IV for a copy of the Interview Schedule.

³ Based on stated date of birth and coded *a posteriori* into 9 age groups: 4-5, 6-8, 9-11, 12-14, 15-17, 18-20, 21-30, 31-50 and 50+ years.

⁴ Adults' socio-economic status was based on stated occupation of participant, while children's socio-economic status was ascertained on the basis of the response provided on the Parental/Guardian Consent Form as to occupation of the head of household in which the child was residing. Occupations were then coded *a posteriori* as High, Middle or Low socio-economic status using the Census 96 categories of socio-economic status.

⁵ Based on the number of years of full-time education adult participants reported having had completed.

The items in Sections 2-4 of the Interview Schedule were structured such that participants were first asked to rate their familiarity with each term as it was presented. Where participants stated that they were familiar with the term, they were then asked to define that term, for example, "What does it mean to tell a lie?". Where appropriate, participants were subsequently questioned about the forensic significance of the term, for example, "What would happen if you told a lie *in court*?".

In Section 5 of the Interview Schedule participants' perceptions of attending court as a witness were elicited *via* their reaction to a hypothetical scenario relating to their eye-witnessing the stealing of a bicycle. The six items which followed the scenario related to the child and the adult's perception of what it would be like to be a witness and how they would feel if they were required to be a witness in court. The source of the participant's knowledge about⁶ and prior experience of involvement⁷ in the legal system were elicited in Section 6 of the Interview Schedule.

At the beginning of each interview, participants in Age Groups 1 through 5 (i.e. those under 18 years of age), were presented with a pictorial model of a courtroom.⁸ The purpose of this was to provide children and young persons with contextual information which had been found in previous studies to have a facilitatory effect in terms of eliciting children's level of legal knowledge (Cashmore & Bussey, 1989; Melton et al. 1992).

A measure of verbal ability, the Vocabulary subtest of the Stanford Binet Intelligence Scale (4th Ed.)⁹ was administered to all participants. As the Interview Schedule relied almost entirely on participant's ability to verbalize their responses, this made it possible to examine the degree to which participants' verbal ability, independent of age, was associated with their level of understanding of the legal system.

⁶ Pre-coded into 6 categories of source of knowledge: family, peers, television, books, prior experience with the legal process and a final write in "other" category.

⁷ Pre-coded into 6 categories of capacity: previously attended court as a witness, victim, spectator, defendant, juror and a final write in "other" category.

⁸ See Appendix IV(b) for a copy of the pictorial model of the courtroom employed in the present study.

⁹ There is an overall correlation of .81 between the Vocabulary sub-score and the total Composite Score, a measure of general cognitive ability, on the Stanford Binet Intelligence Scale which is the highest correlation of the 15 sub-tests of the Stanford-Binet (Thorndike, Hagen & Sattler, 1986).

4.4.3. Procedure

(i) Sampling Procedure

Systematic sampling of both child and adult participants was adopted in the present study. For Age Groups 1 through 5, ten schools were selected systematically from the Department of Education & Science lists of all primary and post-primary schools in the Dublin Metropolitan Area. Permission was sought, from the school's principal, to interview a random sub-sample of 20 pupils in each of the ten schools. Letters outlining the purpose of the study and consent to interview forms were sent to the parents/guardians of those children and young persons who had been randomly selected. In addition, children and young persons were asked their permission to be interviewed. Interviews were conducted until the quota of participants (i.e., 40 participants, 20 female and 20 male) to be interviewed in each age group had been achieved.

The method of systematically sampling adult participants was somewhat different. Three hundred and fifty names were chosen at random from the 1996 electoral register for the Dublin Corporation and Council areas. The starting point for selection of names was chosen at random and then subsequently every 1,360th name on the electoral register was selected.¹⁰ Those selected received a detailed cover letter explaining the purpose of the study and outlining the procedure for completion and return of the questionnaire. Individuals were requested to participate in the study by completing the questionnaire form of the Legal Knowledge and Perception of Court Interview Schedule and returning it by freepost to the principal author. A total of 173 questionnaires, an effective response rate of 173 / 350, or 49.4%, were returned of which 160 fully completed questionnaires were included for analysis.¹¹

¹⁰ The interval being equal to the total number of electors on the electoral register for the given area, in the case of this study that figure was 476, 459 which was divided by the size of the sample which is to be selected; which in this case was 350 and when rounded off to the nearest ten gave a set interval of 1,360.

¹¹ To ensure equal numbers of participants in each of three age groups, thirteen questionnaires were not included for analysis, these surplus questionnaires were selected randomly from the pool of questionnaires within an age group.

(ii) The Interview Process with Child Participants

One-to-one interviews with participants in Age Groups 1 through 5 ($n=200$) were conducted over a period of 18 months. The same interviewer interviewed all child participants and all interviews took place in the participant's school in a room specially designated to the research study. The interviewer attended each classroom a number of times before the interview proper. Additionally, the interviewer spent a day as a classroom assistant so that the children, particularly the young children, could become familiar with the interviewer. This day usually included bringing the children, as a group, to the room where the interviews were to take place to familiarise them with both the contents of the room and its location.

Prior to engaging the child or young person in the interview, a standard explanation of what the interview would involve was given to each participant. Permission was, once again, sought from the child directly before each child was interviewed. In previous studies children were provided with little contextual information about the court situation. The present study utilised a court model and a vignette with pictures, alongside the interview schedule. The variety of research tools used meant that the children had some practical involvement in the interview process and ensured that as far as possible children remained focused on the interview throughout.

The interview duration ranged from 21 minutes to 48 minutes with a mean interview length of 35 minutes. All interviews were audiotaped and *verbatim* transcripts were made. Following the interview there was a debriefing session held in the classroom. This debriefing session allowed children the opportunity to expand on and clarify their experiences in relation to the subject matter of the interview.

(iii) Scoring and Coding of Data

A Scoring Protocol was developed and participants' responses in respect of each of the 16 legal terms were scored for their accuracy and for the degree of detail provided.

Responses on each item were scored as follows:

Score = 0 : No description or an inaccurate description of the term

Score = 1 : An accurate description with very basic information

Score = 2 : An accurate description with at least one defining characteristic

Score = 3 : An accurate description with two or more defining characteristics

Score = 4 : An accurate and definitive description of the term

A coding system was also devised, following piloting of the Interview Schedule, whereby participants' responses on each 16 legal terms were coded individually.¹²

To assess the inter-rater reliability of the coding and scoring procedure, a sub-sample of 72 completed interview schedules, representing 20% of the total sample, were coded and scored by two independent raters. Inter-rater reliability was found to be high for all 16 items ($r=0.959$, $p<0.001$). The internal reliability of the Interview Schedule was also found to be high (Cronbach alpha coefficient = .9664). In addition, subscores on the sixteen items comprising the Legal Knowledge and Perception of Court Interview Schedule were treated as individual factors and a principal components method of factor analysis followed by varimax rotation was performed. Based on the results from the scree plot, the percentage of variance accounted for and the eigenvalues, one factor emerged. This one factor had an eigenvalue of 10.911 and accounted for over 68% of the variance. All 16 items had a statistically significant loading¹³ on this "general legal knowledge" factor. There would thus appear to be a general factor underpinning participants' understanding of the legal process. This finding allows for scores on the 16 items to be summed to provide the participant's total legal knowledge score. The composite or total

¹² See Appendix IV(a) for a copy of the coding system employed in the present study.

¹³ Given the large sample size ($N=360$), factor loadings of greater than .30 were accepted as sufficient for statistical significance (Hair et al., 1998). All 16 items had a loading of greater than .5 on this "general legal knowledge" factor.

legal knowledge score was taken as the principle measure of participants' legal knowledge. The maximum composite legal knowledge score obtainable was 64.

As the items in Section 5 of the Interview Schedule relating to participant's perceptions of attending court as a witness were included for the purpose of collecting qualitative data no formal scoring scheme for the responses on these items was devised. However, for two of the items in Section 5 participants were asked to indicate how they would feel about a) having to attend court and b) giving evidence on the witness stand. A coding judgment was made as to whether the participant's response indicated positive, negative or neutral feelings in respect of their having to be involved in court proceedings. A subsample ($n=60$) of participants' responses on these two items were coded by two independent raters and inter-rater reliability was found to be high ($r=0.906$, $p=0.003$).

4.5 RESULTS

The findings of the present study will be presented in two sections. Section One will report on the analyses of data relating to participant's understanding of 16 common legal terms and concepts. Data on participants' sources of knowledge about the legal process will also be presented in Section One. Section Two will present the results of the qualitative analyses of the data on participants' perceptions of what it would be like to attend court as a witness.

4.5.1. Participants' Understanding of the Legal Process

A Kolmogorov-Smirnov Z test, performed to test the normality of the distribution of legal knowledge scores, revealed that the distribution of legal knowledge scores for the total sample did not differ significantly from the normal curve ($K-S Z = 1.087, Z Prob. = .188$). Participants' legal knowledge scores on the Legal Knowledge and Perception of Court Interview Schedule ranged between 0 and 59 ($N=360$). The range, within each age group, of total legal knowledge scores is presented in Table 4.5.1.

Table 4.5.1. The range of total legal knowledge scores by age group.*

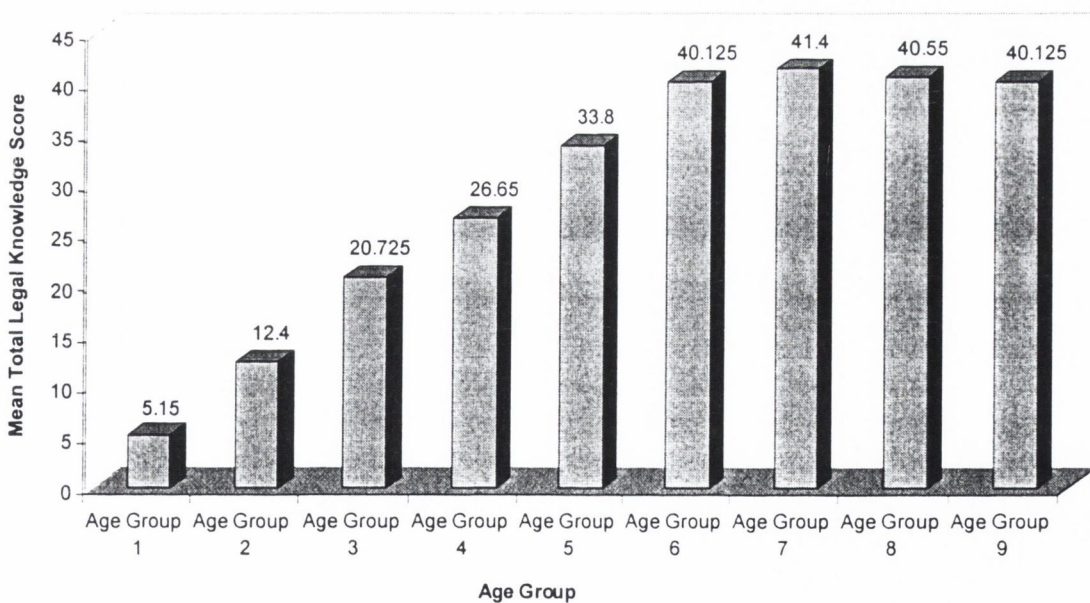
Age Group	Lowest Total Legal Knowledge Score Obtained	Highest Total Legal Knowledge Score Obtained
Age Group 1	0	14
Age Group 2	2	21
Age Group 3	7	30
Age Group 4	14	42
Age Group 5	16	45
Age Group 6	18	59
Age Group 7	27	49
Age Group 8	28	54
Age Group 9	25	51

*Maximum total legal knowledge score achievable = 64.

Examination of the range of scores which participants in each age group obtained, as listed in Table 4.5.1. reveals a large spread of legal knowledge scores within age groups, particularly in relation to the range of scores achieved by young adults in Age Group 6. Of note is the finding that some adult participants obtained lower total legal knowledge scores than some of the child participants in Age Group 3, who were aged 9 to 11 years.

The mean total legal knowledge score for the total sample was 28.81 ($N=360$, $sd=4.01$) while the median legal knowledge score was 31. The mean total legal knowledge scores for each age group are presented in Figure 4.5.1. Adult participants possessed superior knowledge of the legal process when compared to the level of legal knowledge possessed by the children or young persons in the sample. As hypothesised understanding of the legal process increased with age (Hypothesis 2). This pattern is well demonstrated in Figure 4.1.

Figure 4.1. Mean total legal knowledge score by age group.



A one-way analysis of variance, with participant age group as the independent variable and total legal knowledge score as the dependent variable revealed a strong main effect for age group of participant ($F(8, 351) = 199.03, p < .001$). *Post hoc* comparisons using the conservative Scheffe test revealed that the mean total legal knowledge scores of participants in Age Groups 1 to 5 (participants under 18 years of age) differed significantly from the mean total legal knowledge scores of Age Groups 6 to 9 (Scheffe $p < .001$). The mean total knowledge scores of the four adult age groups did not differ significantly from each other.

A series of analyses of variance were performed to examine for age effects in performance on the 16 individual items comprising the Interview Schedule. A strong main effect for participant age group was found on all 16 items. Table 4.5.2. presents the findings of this series of one-way analyses of variance.

Table 4.5.2. Results of the series of one-way analyses of variance (F-ratios) with scores on the 16 items comprising the Interview Schedule as the dependent variables and participant's age group as the independent variable.

Item	df	Mean Square	F-ratio
Court	8	20.938	56.143***
Trial	8	44.187	76.225***
Judge	8	19.603	41.726***
Garda	8	37.176	50.665***
Lawyer	8	17.256	89.054***
Jury	8	51.356	100.972***
Witness	8	34.574	103.367***
Defendant	8	36.394	72.601***
Law	8	18.205	50.573***
Guilty	8	32.447	2.022***
Truth	8	20.465	53.417***
Lie	8	18.924	47.487***
Oath	8	62.144	138.712***
Promise	8	14.534	28.492***
Evidence	8	31.884	53.611***
Prosecution	8	32.128	35.340***

*** $p < .001$

To examine for the presence of main and interaction effects between participant gender, socio-economic status and age group a 2 (Participant Gender) x 3 (Participant SES) x 9 (Participant Age Group) between-subjects analysis of variance was performed with total legal knowledge score as the dependent variable. As may be seen from Table 4.5.3. this analyses of variance revealed a significant main effect for participant age group only. There were no main effects on total legal knowledge for either gender or socio-economic status of participant. Furthermore, no significant interaction effects were found between age group and gender or between age group and socio-economic status.

Table 4.5.3. Results of the 2 x 3 x 9 ANOVA (F-ratios) with participant gender, socio-economic status group (SES) and age group as independent variables and total legal knowledge score as the dependent variable.

	Independent Variables	df	MS	F-ratio
A	Participant Age Group (Part.Age)	8	6121.094	172.444***
B	Participant Gender (Part. Gender)	1	31.367	.884
C	Participant SES Group (Part. SES)	2	61.011	1.719
AB	Part.Age x Part. Gender	8	31.739	.894
AC	Part.Age x Part. SES	16	23.184	.653
BC	Part. Gender x Part. SES	2	5.989	.169
ABC	Part.Age x Part. Gender x Part. SES	16	41.432	1.167

*** p< .001

Note: MS Error = 35.496, df= 306

The number of years of full-time education which participants in Age Groups 6-9 (over 18 years of age) had completed (educational attainment) and participants' total legal knowledge scores were found to be significantly correlated (Spearman $\rho = .388$, $p < .001$). The more years of full-time education which adult participants had completed the higher their legal knowledge score.

Although participants ($n=137$) who had some type of prior involvement in the legal process ($M=40.51$) had a higher mean total legal knowledge score than did participants who had no such experience ($M=39.00$), nevertheless the difference between the means were not found to be statistically significant at the .05 level ($t=1.214$, $df=358$, $p=.226$). T-tests were also conducted to compare total legal knowledge scores of participants who reported having attended court in each of five capacities (as a witness, victim, spectator, defendant or juror) with those who had not attended court for these reasons, however, no significant differences were found.

The Spearman rank correlation coefficient between total legal knowledge score and standard age score achieved on the Vocabulary sub-test of the Stanford-Binet Intelligence Scale was found to be high ($\rho=.885$, $p<.001$). Thus, participants' total legal knowledge scores were significantly correlated with their verbal ability, as measured using the Vocabulary sub-test. It should also be noted, that all participants in each age group, had obtained *at the least* the mean standard age score for their age level on the Vocabulary sub-test when compared to previously established age norms for this sub-test (Thorndike, Hagen & Sattler, 1986).

4.5.2. The Sequence of Acquisition of Legal Terms

A high level of consistency was found in respect of the ages at which accurate knowledge of each of the 16 items first appeared. The cut-off point indicating acquisition of an item was taken to be where at least a two-thirds majority (*viz.* 25 or more out of 40) of participants in each age group could provide *at the least* an accurate, if basic, description of the relevant item. The sequence of acquisition of items and the age group where a basic understanding of the items has been acquired is presented in Table 4.5.4.

Table 4.5.4. The sequence of acquisition of at least a basic understanding of each of the 16 legal terms measured in the present study.

Age Group 1	Age Group 2	Age Group 3	Age Group 4	Age Group 5
Age 4-5	Age 6-8	Age 9-11	Age 12-14	Age 15-17
1. Police	4. Lie	9. Witness	13. Trial	16. Prosecution
2. Truth	5. Promise	10. Defendant	14. Jury	
3. Law	6. Judge	11. Lawyer	15. Oath	
	7. Court	12. Evidence		
	8. Guilty			

The legal terms which were found to be a part of a child's conceptual repertoire in the different age groups are examined in the following sections.

Age Group 1.

In the main, the 4 and 5 year-old children interviewed for the present study possessed little, if any, understanding of many of the 16 items measured by the Legal Knowledge and Perception of Court Interview Schedule. However, the children in this age group had acquired an accurate, if rudimentary, understanding of the role of the police, and the concepts of telling the truth and what a law is.

Age Group 2

The 6 - 8 year old children who participated in this study, on average, provided accurate descriptions of the concepts of telling a lie, making a promise, on the role of the judge, the court process and what it means to be found guilty. Children in this age group, however, still demonstrated little if any understanding of the trial process, the role of the jury or of the concepts of the oath, giving evidence or a prosecution. For the most part children under age of 9 in the present study were not aware of the role of lawyers in court proceedings and did not understand the decision-making role of the jury.

Age Group 3

By the age of 11, the majority of children demonstrated at least a basic understanding of the additional concepts of witness, defendant, lawyer and evidence. The children in the 9-11 year age group had acquired an understanding of the roles of most of the key actors in legal proceedings.

Age Group 4

In general, children aged 12-14 years exhibited an understanding of the additional legal concepts of trial, jury and oath. Altogether, by 14 years of age, an understanding of all the legal terms measured by the Interview Schedule had been acquired by children with the exception of the term “prosecution”

Age Group 5

The most difficult concept for children to grasp was “prosecution”, a basic understanding of which was not acquired until at least the age of 15. Indeed a small minority (2.5%) of adult participants (Age Groups 6 – 9) did not demonstrate even basic understanding of the item “prosecution”.

4.5.3. Participants’ Stated Familiarity with each of the 16 Legal Terms Measured.

Participants were asked to rate their familiarity with each of the 16 items before being requested to provide a description of the legal term or concept. As may be seen from Table 4.5.5. the general trend was for an increase in reported familiarity with individual items as the child increased in age.

Table 4.5.5. The number of participants in Age Groups 1-5 (under 18 years of age) who stated that they were familiar with each of the 16 legal terms and concepts measured in the Interview Schedule. Percentage of Age Group ($n=40$) is included in parentheses.

Item	Age Group 1 4 - 5 Years	Age Group 2 6 - 8 Years	Age Group 3 9 - 11 Years	Age Group 4 12 - 14 Years	Age Group 5 15 - 17 Years
Court	16 (40%)	30 (75%)	39 (97.5%)	40 (100%)	40 (100%)
Trial	6 (15%)	4 (10%)	21 (52.5%)	34 (85%)	40 (100%)
Judge	24 (60%)	37 (92.5%)	40 (100%)	40 (100%)	40 (100%)
Lawyer	8 (20%)	17 (42.5%)	34 (85%)	39 (97.5%)	40 (100%)
Garda	38 (95%)	40 (100%)	40 (100%)	40 (100%)	40 (100%)
Jury	7 (17.5%)	9 (22.5%)	24 (60%)	34 (85%)	39 (97.5%)
Witness	7 (17.5%)	22 (55%)	37 (92.5%)	40 (100%)	40 (100%)
Defendant	7 (17.5%)	9 (22.5%)	24 (60%)	34 (85%)	39 (97.5%)
Law	20 (50%)	31 (77.5%)	38 (95%)	38 (95%)	40 (100%)
Guilty	20 (50%)	31 (77.5%)	38 (95%)	40 (100%)	40 (100%)
Truth	33 (82.5%)	39 (97.5%)	40 (100%)	40 (100%)	40 (100%)
Lie	32 (80%)	40 (100%)	40 (100%)	40 (100%)	40 (100%)
Oath	1 (2.5%)	1 (2.5%)	7 (17.5%)	32 (80%)	40 (100%)
Promise	27 (67.5%)	38 (95%)	40 (100%)	40 (100%)	40 (100%)
Evidence	0 (0%)	8 (20%)	28 (70%)	37 (92.5%)	38 (95%)
Prosecution	1 (2.5%)	6 (15%)	25 (62.5%)	33 (82.5%)	35 (87.5%)

The only exception to the general developmental trend of increasing reported familiarity with increasing age was for the term “trial” where more 4-5 year olds than 6-8 year olds reported being familiar with this term. However, a child’s reporting that they are familiar with a term may not be a true reflection of whether the child possesses an accurate understanding of that term. In this regard, child participants’ responses on each of the 16 items were examined for instances of “false positives” that is where children reported being familiar with an item and then subsequently could not provide a description of the item or provided an incorrect or non-legal description of the item. Table 4.5.6. includes the numbers of children making false positive errors on each item and the percentage of those within an age group who had reported that they were familiar with the term.

Table 4.5.6. Number of participants in Age Groups 1-5 (under 18 years of age) who made false positive errors on each of the 16 legal terms measured in the Interview Schedule. The number of false positives as a percentage of those within each age group reporting familiarity with the term is included in parentheses.

Item	Age Group 1 4 - 5 Years	Age Group 2 6 - 8 Years	Age Group 3 9 - 11 Years	Age Group 4 12 - 14 Years	Age Group 5 15 - 17 Years
Court	5 (31.3%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Trial	5 (83.3%)	1 (25%)	1 (4.8%)	0 (0%)	0 (0%)
Judge	5 (20.8%)	2 (5.4%)	0 (0%)	0 (0%)	0 (0%)
Lawyer	7 (87.5%)	5 (29.4%)	2 (5.9%)	0 (0%)	0 (0%)
Garda	4 (10.5%)	1 (2.5%)	0 (0%)	0 (0%)	0 (0%)
Jury	6 (85.7%)	8 (88.9%)	1 (4.2%)	1 (2.9%)	0 (0%)
Witness	5 (71.4%)	3 (13.6%)	2 (5.4%)	0 (0%)	0 (0%)
Defendant	6 (85.7%)	3 (33.3%)	2 (8.3%)	1 (2.9%)	1 (2.6%)
Law	2 (10.0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Guilty	17 (85.0%)	6 (19.4%)	3 (7.9%)	2 (5%)	0 (0%)
Truth	9 (27.3%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Lie	9 (28.1%)	1 (2.5%)	0 (0%)	0 (0%)	0 (0%)
Oath	1 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Promise	8 (29.6%)	2 (5.3%)	0 (0%)	0 (0%)	0 (0%)
Evidence	0 (0%)	2 (25%)	1 (3.6%)	3 (8.1%)	2 (5.3%)
Prosecution	0 (0%)	6 (100%)	15 (60%)	9 (27.3%)	5 (14.3%)

As may be seen from Table 4.5.6, five of the six children in Age Group 1 who had stated that they were familiar with the term “trial” subsequently provided an inaccurate description of this term. In the main, the various legal professionals were frequently misunderstood, particularly the term “lawyer”. This was most often mistaken for the similar sounding word “liar”, one 6 year old to the request to describe what a lawyer is, responded as follows: “They are people who tells lots of lies, even when they are told not to!”. The term “jury” was also susceptible to poor auditory discrimination, most often mistaken for the term “jewellery”; a typical response came from an 8-year-old “jury is the stuff my Mom wears around her neck and her rings and things”. Another consistent misapprehension was that if a person was to be prosecuted this meant that the individual would be “hung” or “killed”. One notable response from an 8-year-old was as follows: “First, they put you in a chair, they put wires on your head and then you’re dead”.

In contrast, to making “false positive” identification errors, children also made what could be termed “false negative” identification errors. A minority of children when requested to indicate, on the courtroom model, the position of the various legal actors could readily and accurately perform this task, however, when subsequently asked to provide a description of the legal actor and their role in the legal process, they were not able to do so. Table 4.5.7. presents the numbers of children who could indicate the position of, but could not subsequently provide even a basic description of the specific legal personnel measured in the present study.

Table 4.5.7. The number of participants in Age Groups 1-5 (under 18 years of age) who made false negative errors on the 6 items relating to specific legal personnel.

Item	AgeGroup 1 4 - 5 Years	AgeGroup 2 6 - 8 Years	AgeGroup 3 9 - 11 Years	AgeGroup 4 12-14 Years	AgeGroup 5 15-17 Years
Judge	3	3	0	0	0
Lawyer	3	3	1	0	0
Garda	3	1	0	0	0
Jury	0	0	0	1	0
Witness	3	3	1	0	0
Defendant	0	0	0	1	0

The following sections provide an overview of participants understanding of each of the 16 terms measured by the Legal Knowledge and Perception of Court Interview Schedule. Where relevant, participant’s responses are included to give a sample of the type of understanding that participants demonstrated during the course of the interview.

4.5.4. Participants' Understanding of Court Procedures

(i) Participants' Understanding of "Court"

Only 40% ($n=16$) of the children in Age Group 1 and 25% ($n=10$) of Age Group 2 stated that they were not familiar with the item "court" whereas all but one participant over the age of nine stated that they were familiar with (i.e., had previously heard of) the term "court". Of forensic significance was the finding that five of the children in Age Group 1 stated that they were familiar with the term "court" but when asked to provide a description of court provided one which was scored as incorrect. None of the participants in the other eight age groups made false positive identification errors on this term.

Many of the children in Age Groups 1 and 2 (4-8 years of age) who reported being familiar with the term "court" described court in very general terms, as for example "a big room full of people" or "somewhere you go to before you go to jail". The majority (65%) of children under the age of nine in the sample held the view that only "bad" people went to court. One seven-year-old girl said, "only robbers of cars and jewels go to court". Many of the participants, both child and adult, referred to the various legal actors who might be found in a court. Younger children most frequently mentioned the judge. By age 9-11 years, the majority of children were aware that court is a place where justice is administered and where the guilt or innocence of the accused is determined. The descriptions of court provided by children aged 9-11 were generally accurate and detailed and were not dissimilar to those of the adult participants.

Comparison of the age groups showed that, when taken together, with increasing age of participant there was increasing acknowledgement that anyone can go to court ($X^2=40.947$, $df=8$, $p<.001$), that court is a place for administering justice ($X^2=78.870$, $df=8$, $p<.001$) and a place where the guilt or innocence of the accused person is determined ($X^2=20.808$, $df=8$, $p<.001$).

(ii) Participants' Understanding of "Trial"

The majority of children (25 out of 40) did not report the item "trial" as familiar until at least 12 years of age. Indeed five of the six children aged-4 – 5, who had reported that they were familiar with the item "trial", subsequently provided incorrect descriptions of the item. One child in each of Age Groups 2 and 3 also stated that they were familiar with the term but then went on to provide an incorrect description; the 7 year old in Age Group 2 described the term "trial" as "a trap for catching something".

By 12 to 14 years of age, children had come to understand that a judgement was rendered at the end of the trial process with each legal actor playing a specific role in the trial process. In addition, the majority of children by the age of 14 were aware that the trial is a fact-finding process which seeks to uncover the truth. However, it was not until 18 years of age and older that the majority of participants recognised the adversarial nature of the "trial" process. With increasing age it was found that there was increasing mention by participants of the various trial procedures such as examination-in-chief and cross-examination ($X^2= 146.657, df=8, p<.001$), increasing reference to the adversarial nature of the trial process ($X^2= 104.781, df=8, p<.001$) and increasing recognition of the function of the trial process ($X^2= 108.042, df=8, p<.001$).

4.5.5. Participants' Understanding of Court Personnel

(iii) Participants' Understanding of "Judge"

The majority of children at all ages reported being familiar with the term "judge". Once again, however, a substantial number of children in Age Group 1 made "false positive" identification errors. Five of the 24 4-5 year olds, or 20.8%, reported that they were familiar with the item "judge" but then went on to provide an incorrect description of this term. Two children in Age Group 2, aged 6-8 years, also stated that they were familiar with the term "judge" but when describing this legal actor they gave inaccurate information.

In describing the judge, children and adults alike, mentioned the judicial role of determining the guilt or innocence of the accused and deciding on the sanctions to be imposed. However, children, under the age of 12, generally made the assumption that the judge makes all the decisions in the court case, whereas the teenage and adult participants acknowledged the parts played by other legal actors in a criminal trial. Younger children when compared to older children and adults focused more on the physical description of the judge ($X^2= 23.836, df=8, p<.001$). One 5-year-old child described the judge as follows: "he's very old and he has to sit down all the time". An older child, aged 9, responded that the judge usually "... asks lots of questions and bangs and bangs his hammer until everyone stops talking". With increasing age there was increasing appreciation of the judge's administrative role in court; less than 10% of children under 6 mentioned this function, this figure increased to 22.5% of 6-8 year olds and steadily increased into adulthood ($X^2= 60.366, df=8, p<.001$). Additionally, with increasing age there was increasing reference to the judicial function of determining the guilt or innocence of the accused ($X^2= 7.910, df=8, p=.019$). Similar proportions of child and adult participants referred to the trial judge's role in the determination of sanctions ($X^2= 3.816, df=8, p=.148$).

(iv) Participants' Understanding of "Lawyer"

The majority of children in the sample under 9 years of age reported being unfamiliar with the term "lawyer". Indeed, of the 8 children in Age Group 1 who stated that they were familiar with the term "lawyer", seven children subsequently provided an incorrect description of the item. A further 5 of the 17 children in Age Group 2 who had stated that they were familiar with the item also went on to provide an inaccurate description. An 8-year-old suggested that a lawyer was "someone who tells lies all the time". In the main, children were unclear about what a "lawyer" was or the nature of their job; in addition, child participants in the present study tended not to provide even a description of the distinctive garb of a lawyer. Older children and adults made more frequent reference to the advocacy role of the lawyer ($X^2= 80.777, df=8, p<.001$). Indeed, it was not until Age

Group 4 that was there any substantial recognition of the lawyer as an advocate for one side or the other. One exception to this can be seen where a child of 9 years of age described the lawyer as “the one in the trial who gets the guy off”.

(v) Participants’ Understanding of “Garda”

The vast majority of children and adults reported being familiar with the term “Garda”. However 4 of the 38, or 10.5%, of the children in Age Group 1 who had reported being familiar with the term, went on to provide an incorrect or inadequate description of the term. One child, aged 5, also reported being familiar with the term police, but went on to describes the term as follows “a Garda is where you have something in front of your fire”, thus, confusing the term Garda with the similar sounding “guard”. The child persisted with this description even when prompted with the standard question “Can it mean anything else?”

With increasing age there was increasing recognition of the Garda as being a keeper of law and order ($X^2= 192.353, df=8, p<.001$). In addition, in terms of the role that a Garda might play in court, there was also increasing appreciation that the Garda might provide evidence ($X^2= 170.652, df=8, p<.001$) along with having the function of maintaining security of the accused ($X^2= 6.805, df=8, p=.033$). Both these functions were succinctly described by one 9 year old “. . .if the Garda was there when the thing happened he might be asked to tell what happened to the judge but most of the time the Garda stands beside the criminal, and if he tries to break out, the Garda will keep him steady.”

(vi) Participants’ Understanding of “Jury”

The majority of children under the age of 9 did not report being familiar with the term jury. Indeed, the majority of younger children who reported being familiar with the term “jury” tended to make auditory discrimination errors, most often, interpreting “jury” as “jewellery”. It was not until Age Group 4 (12-14 years of age) that the majority of children reported being familiar with the term “jury”. An expected higher proportion of

older children and adults than younger child participants provided descriptions of the features of a jury ($X^2= 137.450, df=8, p<.001$). In addition, with increasing age of participant there was increasing appreciation that in cases where there is a jury then it is the jury which decides the outcome of the trial ($X^2= 101.881, df=8, p<.001$). However, even by 15 years of age there were still some misunderstandings regarding the separate roles of the judge and the jury in legal proceedings before both a judge and jury.

(vii) Participants' Understanding of "Witness"

Just seven of the 4-5 year olds in the present study reported being familiar with the term "witness", of which five went on to make false positive identification errors by providing an incorrect description of the term when requested to do so. Three of the children in Age Group 2 and two children in Age Group 3 made similar false positive identification errors. The overall majority of children in Age Group 3, at 9-11 years of age, reported being familiar with the term "witness". With increasing age of participant there was increasing reference made to the witness having seen what had happened, seen the crime occurring ($X^2= 28.616, df=8, p<.001$) and an increasing appreciation that the witness may not have seen what happened but may possess information which relates to the crime ($X^2= 53.971, df=8, p<.001$). Again, higher proportions of older children and adults than younger children referred to the witness's function as one of providing an account of the crime and what information they possess which related to the crime ($X^2= 97.525, df=8, p<.001$). Younger children, in describing the function of a witness in court, provided more general responses such as "the witness is the one who answers questions".

(viii) Participants' Understanding of "Defendant"

Only a minority of children in the two younger age groups reported being familiar with the term 'defendant'. However, six of the seven children in Age Group 1 and three of the nine children in Age Group 2 made false positive identification errors. Two children in Age Group 3 and one child in each of Age Groups 4 and 5 also made false positive identification errors in respect of this term. Younger children more frequently than older

children and adults referred to the defendant as the “bad person” ($X^2 = 8.413$, $df=8$, $p=.015$). In addition, it was found that with increasing age there was increasing reference made to the defendant as the person who committed the crime ($X^2 = 77.306$, $df=8$, $p<.001$).

4.5.6. Participants’ Understanding of Common Legal Terms

(ix) Participants’ Understanding of “Law”

In the main, children, even as young as 4-5 years of age, reported being familiar with the term “law”, with only 2 of the 20 4-5 year olds who had reported being familiar with the term subsequently making false positive identification errors. Younger children most often defined “law” in terms of a proscriptive rule, “there’s a law that you shouldn’t run in the corridors” ($X^2 = 79.657$, $df=8$, $p<.001$) whereas older children and adults were more likely to describe law in terms of a system of rules/regulations set out by the governing body of the country ($X^2 = 51.236$, $df=8$, $p<.001$). Adults and older children were also more likely to mention the purpose(s) of law ($X^2 = 28.953$, $df=8$, $p<.001$). Younger children were more likely than either older children or adult participants to report that they would not break the law because of the negative consequence there would be for them if they did so ($X^2 = 60.188$, $df=8$, $p<.001$). As one eight-year-old succinctly stated “I wouldn’t be breaking any law, cause if I did they’d put me in jail, and I sure don’t want to go there”.

(x) Participants’ Understanding of “Guilty”

The majority of participants in all age groups reported being familiar with the term “guilty”. However, seventeen of the twenty 4-5 year olds and six of the thirty-one 6-8 year olds who had reported being familiar with the term subsequently made false positive identification errors. Younger children, more so than older children and adult participants, were likely to describe the term “guilty” in terms of “being bad or bold” ($X^2 = 59.699$, $df=8$, $p<.001$). With increasing age, participants were more likely to

describe “guilty” in terms of being a verdict which is pronounced at the end of a decision-making process ($X^2= 49.642, df=8, p<.001$).

(xi) Participants’ Understanding of “Truth”

The overall majority of all participants reported being familiar with the term “truth”, however, nine of the thirty-three 4-5 year olds in Age Group 1 who reported being familiar with the term “truth”, went on to make false positive identification errors. Older children and adults more so than younger children tended to describe truth in moral terms ($X^2= 7.262, df=8, p=.044$), whereas younger children tended to describe “truth” in terms of saying exactly what happened ($X^2= 16.310, df=8, p<.001$).

All participants, both child and adult alike, reported that it was important to tell the truth in court. In Age Group 1 and 2 (under 9 years of age) the justification for telling the truth in court was that if you lied you would get into trouble or would be sent to jail. The overwhelming majority of young children when compared to older children or adults believed that you would be sent to prison as a consequence of lying in court ($X^2= 33.086, df=8, p<.001$). Older children and adult participants were more likely to mention the importance of telling the truth in terms of judging the guilt of the defendant and ensuring that justice was done ($X^2= 64.929, df=8, p<.001$).

(xii) Participants’ Understanding of “Lie”

Akin to the term “truth”, the overall majority of participants, both child and adult, reported being familiar with the term “lie”, although, nine of the thirty-two 4-5 year olds and one of the forty 6-8 year olds who had stated that they were familiar with the term “lie” went on to provide what were categorised as an incorrect description of the term. In describing the term “lie”, more younger children than older children or adults, referred to it in terms of not telling the truth ($X^2=45.370, df=8, p<.001$). In contrast to younger children, older children and adults were more likely to refer to the moral element ($X^2=7.673, df=8, p=.022$).

Furthermore, the younger children more than the older children or adults in the sample believed almost unanimously that lying in court would be punished by imprisonment ($X^2=18.609$, $df=8$, $p<.001$), whereas adult participants were significantly more likely to qualify their response by saying that it must firstly be established that you were lying and then the consequences would be a criminal prosecution ($X^2=125.490$, $df=8$, $p<.001$). Older children and adults were also more likely to mention that lying in court would pervert the course of justice ($X^2=16.659$, $df=8$, $p<.001$).

(xiii) Participants' Understanding of "Oath"

Very few child participants below the age of twelve knew the meaning of the word "oath". One child aged 4-5 did report that they were familiar with the term but when asked to provide a description of the term, the child was unable to do so. An expected higher proportion of older child and adult participants defined "oath" as swearing on the bible to tell the truth ($X^2=122.057$, $df=8$, $p<.001$).

(xiv) Participants' Understanding of "Promise"

The majority of all participants reported being familiar with the term "promise". However, eight of the twenty-seven 4-5 year olds and two of the thirty-eight 6-8 year olds made subsequent false positive identification errors. The older children and adults in the sample tended to describe promise in terms of a personal commitment to another or to the self to do something ($X^2=32.508$, $df=8$, $p<.001$). Younger children, on the other hand, in describing the term tended to make reference to the breaking of a promise for instance "it's bad if you break a promise" ($X^2=8.293$, $df=8$, $p=.016$).

(xv) Participants' Understanding of "Evidence"

Only a minority of child participants under 9 years of age reported that the term evidence was familiar to them. None of the children in Age Group 1 made false positive

identification errors in respect of the term “evidence”, however two of the eight children in Age Group 2, along with smaller percentages of children in each of Age Groups 3, 4 and 5 made false positive identification errors. More than older children and adults, younger children tended to view “evidence” as synonymous with presenting material evidence for instance with “having the gun/knife/weapon” ($X^2=8.432$, $df=8$, $p=.015$). Older children and adults, on the other hand, tended to describe giving evidence in terms of outlining one’s understanding of what happened ($X^2=155.449$, $df=8$, $p<.001$). Indeed, no young child made reference to verbal testimony being acceptable as evidence.

(xvi) Participants’ Understanding of “Prosecution”

Few of the child participants under 9 years of age in the present study reported being familiar with the term “prosecution”. None of the children in Age Group 1 made false positive identification errors in respect of the term “prosecution”, all six children in Age Group 2, fifteen of the twenty-five children in Age Group 3, along with smaller percentages of children in Age Groups 4 and 5 made false positive identification errors. The term “prosecution” was seen by more of the younger children than the older children and adults as synonymous with execution or being killed ($X^2=12.939$, $df=8$, $p=.002$). Older children and adult participants referred to prosecution as the trial process ($X^2=84.645$, $df=8$, $p<.001$). However, for a small number of adults there was still a tendency to see the term “prosecution” in terms of a sanction or sentence.

4.5.7. Participants’ Reported Sources of Information about the Legal Process

Participants were requested to indicate, from a predetermined list of five possible sources, where they had acquired their information about the legal process. Participants were not restricted to one response and therefore the total for the number of participants citing each of the sources do not add up to 100%. Indeed, adult participants frequently cited multiple sources of information about the legal process.

Table 4.5.8. Frequency of participants citing each category of source of information about the legal process.

Age Group	1	2	3	4	5	6	7	8	9
Direct Experience	0	0	2	1	13	17	31	40	32
Television	20	25	35	31	28	30	23	24	27
Family	5	15	19	6	5	3	0	0	0
Peers	0	1	1	2	12	9	3	2	1
Books	0	0	0	4	10	12	15	8	2

No significant age differences in the numbers of participants who reported television as a source of knowledge about the legal process were observed ($\chi^2 = 1.917, df=8, p=.383$). As may be seen from Table 4.5.8., in Age Group 1, half of the child participants cited that they had learned about the legal process from watching television programmes, in Age Group 2 this figure had increased to just over 60% and in Age Group 3 the majority, or 87.5%, of children reported television as a source of information about the legal process. Altogether, exactly two-thirds of children under 12 years of age reported that they had “heard about the legal process” from television programmes. Indeed, television was cited as a source of information about the legal process by well over half of the participants in each of the six remaining age groups.

Significant age differences were observed in the numbers of participants who reported their family members were a source of knowledge for them about the legal process ($\chi^2 = 40.956, df=8, p<.001$). More child participants, those under the age of 18, cited that they had heard about the legal process from members of their family, than did adult participants in Age Groups 6-9.

With increasing age participants were significantly more likely to have reported that direct experience with the legal process was a source of knowledge for them ($\chi^2 = 51.034, df=8, p<.001$). Only a minority of children under 15 years of age reported having had direct experience with the legal process, while, in contrast, the overall majority of

adult participants cited having had some direct involvement in the legal process and that this direct experience was a source of information for them.

Statistically significant age differences were also found for peers as a source of information about the legal process ($\chi^2 = 16.197, df=8, p<.001$). Curvilinear age differences were observed in the number of children who reported to have heard of court from peers, with participants in Age Groups 5 & 6 reporting peers as a source of knowledge about the legal system much more frequently than did younger or older participants. Finally, an expected significantly higher proportion of adult participants than child participants cited "books" as a source information about the legal process ($\chi^2 = 31.097, df=8, p<.001$).

No gender or socio-economic status differences were observed in relation to participants' reported sources of information about the legal process.

Altogether, television was the predominant source of information about the legal system for participants in Age Groups 1 to 6, that is, those participants under 21 years of age, while direct experience with the legal process was the predominant source of information about the legal process for participants aged over 21 years. Other sources of information about the legal process were less frequently mentioned.

4.5.8. Participants' Perceptions of What it Would be Like to Attend Court as a Witness.

Children consistently expressed emotions such as being "worried", "nervous", "scared", "frightened" if they had to attend court as a witness. Adults also expressed negative emotions at the possibility of being a witness but, generally, in terms of feeling "nervous" rather than fearful. However, as may be viewed from Table 4.5.9., a substantial minority of participants, particularly child participants in Age Groups 1 and 2, reported that they would feel positive or "happy" to go to court as a witness. For coding purposes,

participant's responses to this item were recategorised by the researcher under the headings of "positive" or "negative" feelings.

Table 4.5.9. Participants' anticipated feelings in respect of attending Court categorised as negative or positive.

Age Group	Negative Feelings	Positive Feelings
Age Group 1 (n=40)	22 (55%)	18 (45%)
Age Group 2 (n=40)	22 (55%)	18 (45%)
Age Group 3 (n=40)	32 (80%)	8 (20%)
Age Group 4 (n=40)	33 (82.5%)	7 (17.5%)
Age Group 5 (n=40)	33 (82.5%)	7 (17.5%)
Age Groups 6-9 (n=160)	120 (75%)	40 (25%)

In explaining why they would feel positive in respect of going to court as a witness, children in Age Groups 1 and 2 most typically replied that they had not been before and would like to go and see what it would be like. One four year old, said, "it would be very exciting to go there" and as an afterthought wondered if she would be able to get ice cream there? Thus, many of the younger children in the sample viewed having to attend court in terms of its novelty value and exemplifying their understanding of court as a general place where people go, attributing to it none of its forensic significance. The older participants, in the main, who reported that they would feel positive about attending court, referred to their role in ensuring that justice would be done and that the thief would be punished. A small minority of adult participants, explained that they would like to go for personal experience, to say that they had at least once acted as a witness in criminal proceedings.

The most common justifications participants provided for their belief that they would feel nervous, scared or frightened if called on to appear as a witness in court were "fear of speaking to a large group of strangers", "fear of the accused retaliating", "not knowing what would happen in court", "fear of being asked loads of questions and not being believed" and often concomitantly "fear of what would be the consequences for

themselves, e.g. being sent to jail". Statements such as "they might think you did it and then you would be the one going to jail" (9 year old) or "I'd be scared because I'd have to talk in front of them all and I wouldn't like that" (8 year old) or, "I've never been before. I wouldn't know what to do" (9 year old) were typical of the responses provided by child participants in the present study. Indeed, some of the children in Age Groups 1 & 2 (under 9 years of age) believed that a child witness went to jail if they made a mistake on the witness stand. One child (9 year old) who had been the victim of a sexual offence and had been a witness in a criminal proceedings said that she did not like it because "of all the questions they asked, I didn't know if I was saying the right things".

Adult participants appeared to be more concerned with their conduct or performance as a witness and with the necessity of having to recount unpleasant events. They also referred to the unfamiliarity of the surroundings and "lack of knowledge of the proceedings" as causes for nervousness.

An examination of age trends revealed some significant differences in responses across the age groups. Generally older children and adults tended to expect to feel more negative about having to attend court and having to testify than did younger children ($X^2=11.588$, $df=8$, $p=.021$). Younger children were more likely than older children and adult participants to respond that they would have negative feelings about attending court because of having to speak to a large group of strangers ($X^2=22.299$, $df=8$, $p<.001$), while older children and adults were significantly more likely than younger children to state a "fear of the accused retaliating" as their reason for having negative feelings in respect of attending court ($X^2=12.970$, $df=8$, $p=.002$).

Overall, child participants believed that they would have negative feelings in respect of attending court, though a minority of children in Age Groups 1 and 2 indicated that they would have positive feelings about attending, for many because they had "never been before and would like to go to see what it was like".

4.6. DISCUSSION

Children showed increasing knowledge of legal terminology and of concepts associated with the court process with increasing age. The results of the factor analysis presented in Section 4.4. would suggest that there is one general factor: “a general legal knowledge” underpinning participants’ understanding of the legal process and this general factor develops and becomes increasingly cognitively sophisticated with age.

While, developmental theories, in the main, would predict age differences in children’s understanding of the legal system, theories differ in what it is that brings about the changes in understanding which are reported. Piagetian theory holds that children must acquire a general cognitive ability before they can apply that competency to a specific domain, in this instance to an understanding of the legal system (Piaget, 1983). Thus, the development of understanding of the legal process found in the present study is likely to be closely connected to the level of cognitive skills which the child possesses at a given age. Information processing theorists would also agree that a child’s understanding of the legal process is affected by their general level of cognitive competence, however, the information processing approach specifically holds that children’s understanding of the legal process is dependent on their repertoire of mnemonic strategies for storing and retrieving information (Cowan, 1997).

While improvement in understanding of the legal process is well documented as being age-related, this improvement may, it has been argued, be more influenced by the level of expertise and exposure children may to the legal process than with their age *per se* (Colley & Beech, 1989). Research which has specifically examined individual differences in levels of understanding has highlighted that children can possess localised expertise, or domain specific knowledge, which may account for the individual variation found in the present study (Chi, 1983).

Contextual approaches to a child's understanding of the world taken by developmentalists such as Vygotsky (1978) and Nelson (1986) would further acknowledge that children's competencies in different domains develop relatively independently and thus often unevenly, although these theorists would still hold that the highest level of competency a child may attain at any one point in time is still constrained by developmental factors. The observed developmental trends in Irish children's understanding of the legal process are thus predicted by and large by the theoretical literature and in addition reflect the findings of previous empirical research on children's understanding of the legal process which has been conducted elsewhere.

Overall the findings of the present study support the contention that children younger than nine years of age are not adequately well informed about the legal process to enable them to participate as effectively as they might as witnesses. As iterated in the introduction to this chapter, the principal aim of the study was to identify normative data on levels of legal terminology and the results indicate that there are many words a child witness would encounter during a trial which would require some explanation. The only terms which were reasonably well known, even by the 4-5 year olds, were Garda, truth and law. In contrast, the roles of various legal professionals such as judge, lawyer, jury, defendant and witness were rarely described correctly. Peterson-Badali and Abramovitch (1992) noted that serious misconceptions about the role of lawyers and judges in court may create difficulties for child defendants as well as for child witnesses.

Though some adults knew a lot less than some of the participants drawn from the younger age groups, nevertheless, all four adult groups had significantly higher mean scores on the Legal Knowledge and Perception of Court Interview than the five younger age groups. Only adult groups provided multi-definitive explanations with any frequency. Although the current study would indicate that, in general, adults possess a good understanding of the workings of the legal process and the roles of the various legal personnel, nevertheless, the findings of other research would indicate that adults too express confusion and lack of understanding of aspects of the legal process (Bacik et al., 1998; Stafford & Asquith, 1992).

Furthermore, the large spread of knowledge scores within age groups is also worthy of note. It cannot be assumed that all children of a certain age possess the same or a similar level of legal knowledge as that possessed by other same-aged children. This finding raises the issue of the need to assess children's level of understanding of the legal process on an individual basis.

Inaccurate responses provided by children revealed a predictable pattern of errors. Younger children (under 9 years of age) more frequently gave responses termed as auditory discrimination errors (e.g., "Jury is the stuff my mom wears around their neck" for "jewelry" and "lawyer is someone who tells lies") (Saywitz et al., 1989). A number of the misunderstandings which children made in the present study and their implications for children's effective participation in the legal process are worthy of particular attention.

- (i) Children from the two younger age groups (those under 9 years of age) believed, in the main, that only "bad" people went to court. As a consequence of this belief, it is possible that young children may feel pressured to demonstrate that they themselves are innocent of any wrong-doing, thus, they may misinterpret their role in the trial process and focus on their own innocence rather than on the provision of evidence in respect of the accused. By 11 years of age the majority of participants appreciated that any person "bad" or otherwise may be involved in legal proceedings.
- (ii) Children from the two younger age groups (i.e., those under 9 years of age) tended to mistake the legal term for a similar sounding non-legal or familiar word. Thus younger children were more likely than older children or adults to state that they understood a particular term when in actuality they had committed an auditory discrimination error.
- (iii) "Giving evidence" was understood by the children in the younger two age groups to be synonymous with presenting material evidence (e.g., "with having the gun" or "showing the thing the man used in the robbing"). No young child made reference to verbal testimony being acceptable as evidence. Implications for the

terminology used by professionals, be they police officers, lawyers or psychologists if the children were called to testify or to give evidence before the court – children may experience apprehension because they do not have in their possession the evidence as they understand it to mean.

- (iv) The term “prosecution” was understood by the majority of children under 12 years of age to be equated with “execution” or with “being killed on the chair”. Here again there are implications for the terminology used by professionals be they police officers, lawyers or psychologists if the children were informed that a prosecution was being brought or that the accused was being prosecuted – especially significant in circumstances where the child knew the accused such as is often the case in child sexual abuse case – prosecution of the accused may be misinterpreted as meaning that the accused was going to be executed.
- (v) Although few children knew the meaning of the term “oath”, many demonstrated an accurate understanding of the concepts of “promise” and “telling the truth”. Furthermore, the two younger age-groups believed almost unanimously that lying in court would be punished by imprisonment. This finding raises the issue of whether, in fact, young children would be less likely than adults to not tell the truth in court, for fear of the consequences which they conceive would occur if they were to do so.

While Piagetian theory would contend that younger children possess insufficient understanding of the moral implications of testifying, a position which is espoused by Lawrence Kohlberg (Kohlberg, 1969), the findings of the present study in respect of young children’s beliefs about the consequences of lying would not lend support to such a contention.

A minority of children reported that they would like to go to court, particularly as they had never been and were curious to see what it was like. The majority of children, however, used negative emotions or statements to describe how they would feel if they were called to be a witness. This is not surprising given their understanding of the legal

process as outlined in the preceding paragraphs. Children expressed the following concerns:

- (a) Having to speak in front of people
- (b) Being cross-examined by lawyers
- (c) Fear of making a mistake
- (d) Fear of not being believed
- (e) Fear of retaliation by the accused
- (f) Unfamiliarity with the trial process.

While adults also frequently expressed negative emotions at the possibility of being a witness they did so in terms of feeling nervous about the event rather than feeling fearful or scared as the children had reported. Unfamiliarity with the legal process was one of the stated sources of adult's apprehension in respect of appearing as a witness in legal proceedings. It should be noted that, whereas only 8% of child participants reported having had some level of prior involvement in the legal process, almost three-quarters of the adult sample had had some prior contact with the legal process.

Misconceptions about the purpose of a trial or court procedures probably explain to some degree children's reported fears about the prospect of attending court as a witness. It must be emphasized that the children interviewed in the present study were not witnesses and were only hypothesising about their feelings. Research with children waiting to attend a real trial does however, suggest that many child witnesses are in fact anxious about their court appearance. Generally children's negative emotions about court seemed to be related to the idea that courts were for bad people (a belief also reported by Feben, (1985) and Warren-Leubecker et al. (1988)) and that they might not be believed and consequently be sent to jail. There appeared to be an underlying misconception that the witness was actually on trial as well as or instead of the accused. Feben (1988) suggests " that children required to appear as witnesses in court may think themselves to be in trouble and as a result likely to be sent to jail" (p.118). Other reasons children in the present study gave for anticipating feelings of fearfulness or anxiety accord with the

factors that have been identified as causes of stress for child witnesses (Dezwirek-Sas et al., 1991).

The most significant source of children's knowledge about the legal system reported in the present study is television, which some authors claim has negative implications for the child's level of understanding of the legal process. One researcher in the field has stated ". . . a child's understanding of the specific procedures and actions involved in a court case remains hazy, tainted by the distorted "lessons" television has offered them regarding the law" (Macaulay, 1987: 31). Thus, a child's main source of information about the legal process may have a counteractive effect on the development by the child of accurate knowledge about the legal process.

More children said that they were familiar with a term than could actually adequately define it. This finding leads to problems in the assessment of the child's competence where they report that they are familiar with a term and are subsequently not able to display even a basic understanding of that term or concept. These errors could be explained by the fact that young children fail to identify and monitor their own limitations as communicators. In addition, younger children's resistance to the prompt, "Could it mean anything else?" suggests that they had limited metacognitive ability to foresee that a term could mean something else in a different, potentially unfamiliar, context. Moreover, it may be difficult for them to shift from one context to another or to generate alternate solutions (Acredolo & Horobin, 1987). The fact that the children were questioned in a non-legal setting also may have contributed to younger children's inability to recognize the potential for a second solution in spite of the pictorial model which would suggest that the terms related to the court process. Given these results, legal professionals and others must be very clear about the type of task requested of a child witness. It may not be sufficient to ask a child if she recognizes a legal term. When asked, "Do you know what prosecution is?" a young child may be likely to answer "yes", but may perceive the term "prosecution" to be synonymous with the term "execution". Children must be requested to tell further what a term means in their own words. Only in this way will interviewers know if a child's understanding is sufficiently accurate and if not then they can intervene

as appropriate by providing children with the information which is needed for the task of testifying.

As the goal of the present study was to establish a normative base of Irish children and adults' understanding of the legal process, this study did not specifically interview children who had some experience of the legal process, though a small minority of children who had some direct experience were interviewed. Official permission was sought, by the present author, to interview a small sample of child witnesses, however, bureaucratic restraints made the task impossible to conduct within the available time-frame of the present study. A number of other studies, which have interviewed child witnesses have found that such children do not always possess a better understanding of the criminal process (Freshwater & Aldridge, 1994; Melton, et al. 1992; Whitcomb, 1992). Thus, experience of involvement with the legal system does not lead to a concomitant increase in knowledge of the legal process. Nonetheless, the generalisability of the findings of the present study to the level of understanding of children who have had some involvement in the legal process is arguable.

Furthermore, in the present study, participants' perceptions of attending court were based on their reactions to a hypothetical scenario depicting the participant having witnessed a theft and as a consequence having to act as a witness in legal proceedings. The scenario depicted was relatively innocuous, so as to remain within ethical guidelines; the majority of Irish child witnesses, however, testify in relation to crimes which have been committed against them. Thus, the perceptions of children in the present sample in relation to how they might feel about having to act as a witness in court may differ widely from the concerns of child witnesses.

The findings of the present study suggest several avenues for further research. There is a need for further investigation into the question of how children's legal experience impacts on their understanding of the legal process. Researchers need also to begin to develop measures which improve the ability of the child questioner to place legal terms in context and which assess children's comprehension of legal terms directly. For example,

children's predictions of what will happen next after watching segments of videotapes of courtroom scenarios may elicit a more complete picture of their knowledge of the legal process. Although a courtroom model was employed in the present study to provide a contextual background to the questions being asked, children's level of understanding of the legal process may have been greater if the materials employed or the setting in which the interview took place were more ecologically valid. For example, if children were tested in a courtroom context or using legal terms which were embedded in stories about court then perhaps the child participants may have demonstrated higher levels of legal understanding knowledge than were found in the present study.

4.7. CONCLUSION

Overall, the results of the present study, in terms of Irish children's understanding of the legal process and their perceptions of what it would be like to attend court as a witness, support the findings of previous studies in that they indicate a developmental trend in the child's understanding of the court process, legal personnel and a variety of common legal terms and concepts. In addition the findings reveal that most Irish children under nine years of age do not have sufficient knowledge to enable them to participate as effectively as they might as witnesses. If children voices are to be included in the legal process and if their account of events is to be given due weight then a more systematic approach to the preparation of all children for their court appearance must be adopted. Such preparation, according to a number of studies, has the effect of maximising children's participation within the legal system while simultaneously advancing the legal system's interest in discovering the "truth".

CHAPTER FIVE: GENERAL DISCUSSION AND CONCLUSIONS

5.1. General Discussion

The present thesis sought to conduct the first empirical research on issues relating to child witnesses in the Republic of Ireland. Three key areas were examined empirically, firstly, Irish jurors' perceptions of children's competence to act as witnesses, secondly, the practices and perceptions of professionals based in the Republic of Ireland and who work with child witnesses and thirdly, the understanding which Irish children possess about the legal process and their perceptions of what it would be like to attend court as a witness. The overall objective of the thesis being to examine how best to accommodate the testimony of children in Irish courtrooms.

Jurors, on the one hand, viewed the child witness as trustworthy, while on the other hand, perceived the child witness's account of events to be susceptible to suggestion. Indeed, attempts to reconcile these somewhat contradictory views, in respect of the credibility and competence of child witness, has provided the basis for much empirical research over the course of the last two decades.

Child witness age emerged as a main source of the variance in jurors' ratings of the perceived credibility of the child witness and of the likelihood that the defendant would be found guilty on the basis of the evidence of the child. The younger the child, the less credible they were perceived to be and the less likely it was that the defendant would be found guilty. This finding has important implications for the trial of offences committed against young children in this jurisdiction. It may be that young children are not legally barred from acting as witnesses, nonetheless, given the low credibility which would be attached to their evidence, it seems unlikely that young children would be called on to provide their account of events in a court of law. Indeed, the views of the current Director of Public Prosecutions would support this contention given his statement that “. . . there is a general perception in the courts that you're not going to get intelligible evidence from a child

under seven” (Irish Times, 18.11.95). The increasing levels of reporting of child victimisation, combined with the reform of evidentiary rules and legal procedures pertaining to child witnesses would suggest that more and younger children are likely to become involved in the legal process in future years. It remains to be seen whether, this increasing contact will lead to a concomitant attitude change in respect of the competence of young children to act as witnesses in legal proceedings in this jurisdiction.

Generally, both the jurors and the professionals surveyed were reasonably accurate in their perceptions of children’s legal knowledge at different ages. Where perceptions were discrepant from children’s actual legal knowledge, there was no clear tendency to consistently either overestimate or underestimate children’s legal knowledge. Though some minor exceptions may be noted, for example, the sample of respondent-jurors slightly underestimated the age at which most children understand the term “guilty” and “defendant” while simultaneously respondent-jurors overestimated the ability of young children to understand the concepts of “trial” and “evidence”. Overall, the findings of the studies presented in this thesis indicate that professionals who work with children would appear to possess relatively accurate expectations as to a child’s level of understanding of the legal process at different developmental stages.

Respondent-professionals rated the repeated investigative interviewing of children as that element of the legal process which is most likely to be stressful for a child witness; in contrast, the sample of respondent-jurors rated the child’s having to confront the accused as the most likely to cause the child witness to experience distress. In turn, the child participants interviewed in the present study most often mentioned the “public performance” element, i.e., “having to speaking to a large group of strangers” as likely to cause them stress. The respondent-professionals’ emphasis on the problematic nature of repeatedly interviewing children is perhaps not surprising, given the context of their work with child witnesses. It may also be a reflection of the current moves towards greater inter-agency co-operation in the identification, assessment and investigation of child victimisation (Department of Health and Children, 1999).

Based on the findings of the study reported in Chapter Three, it would appear that only a minority of those professionals surveyed, who are currently engaged in working directly with children, have received any specialised training in child witness-related issues. Given the importance of the role that professionals play in respect of the child's experience of involvement in the legal process this finding has important implications. As Stafford and Asquith noted ultimately, the "... quality of experience a witness has in the courtroom, depends greatly upon the quality of the contact that the witness has had with the key individuals in the legal system" (1992: 78). Where professionals have been trained to identify and address children's needs within the context of the legal process, they are better equipped to reduce the "systemic revictimisation" experienced by many children involved in the legal process (Butler-Sloss, 1988).

Those reforms which have taken place to date with the objective of accommodating the child witness's testimony have gone some way down the road of ensuring that a child's testimony is both "heard and believed." Nevertheless, empirical research is seeking improved methods of maximising the accuracy and completeness of a child's testimony and facilitating the child's experience. One such method "the empowerment of children through the provision of pre-court preparation" has been espoused more readily in North American countries than on this side of the Atlantic where more "protective measures" have been the preferred means of accommodating the child witness (Davies & Westcott, 1995). Preparation for court has been found to alleviate anxiety about legal proceedings, enhance competence of the witness with the consequence of increasing the perceived credibility of the child witness by the jury. Furthermore, preparation which begins early in the investigative process may by reducing system anxiety have the concomitant result of increasing the numbers of child witnesses who are ultimately capable of testifying. Finally, far greater numbers of children report victimisation than ultimately testify in criminal proceedings, nevertheless, from the point of reporting there is the assumption that the child will testify in court, thus preparation helps those children and adults who do testify as well as the far greater number of those who do not.

While some pretrial preparation of child witnesses appears to be taking place in this jurisdiction it would appear, however, that it is left, most often, to the discretion of the individual professional as to whether they deem it necessary to advise and inform children as to the trial process. In the absence of any formal guidelines as to what constitutes acceptable preparation for child witness it is likely that a child will act as witness without having received any advice or information about their role within the process and what they could reasonably expect to happen.

The findings of the study reported in Chapter Four highlight further the need to prepare children, especially young children for their court appearance, as that study would indicate that children below the age of 9, exhibit little if any understanding of much of the vocabulary commonly encountered in the legal process. A number of studies have shown that children can be adequately prepared for their experience of testifying. Indeed, many of the preparation programmes designed to date include as a core element, instruction on the investigative and judicial processes and that such law-related education, by building on children's rudimentary understanding of the legal process facilitates a more effective participation of the child within the legal process. In preparing children for their involvement in the legal process, Melton et al. (1992) gave some practical guidance suggesting that the focus of preparation should be on children's understanding of the process of resolution of criminal cases. Moreover, children should be helped to understand this process from the perspectives of both sides, from the defendant's and the victim's viewpoint.

Children's general limited understanding of the legal process and the current lack of any systematic preparation of child witnesses can result in misunderstandings associated with depreciated credibility of the child witness. Indeed, the degree to which children misunderstand the forensic process may influence "... their verbal and nonverbal responses to questions in ways that are not yet understood completely" (Saywitz et al., 1993: 70). For instance, lack of eye-contact with jurors, based on children's thinking that the jury are merely spectators at the trial, may in turn influence jurors' assessments of children's credibility.

A number of recommendations have been delineated in the literature which are seen to have the effect of maximising children's understanding of and participation within the legal system. These have been compiled for the purpose of this discussion to present a best-practice model of a "Preparation Programme for Child Witnesses". Such a model should address *inter alia* any deficits in the child witness's understanding of the legal process and should equip the child with the skills necessary for them to provide as competent testimony as within their capability. The programme should also include elements which relate to the training of professionals and to the raising awareness of issues relating to child-witnesses. Each of these elements are outlined in greater detail below:

- (1) The preparation of the child for the experience of testifying in court which would be tailor-made to the need of each child witness, by individually assessing a child witness's understanding of the legal process and feelings in relation to attending court.
- (2) The systematic provision of information from the point of first contact with the legal system – whereby each step of the process is delineated and explained to the child in a manner which is age-appropriate.
- (3) The provision of formal training for members of the judiciary, relevant legal, law enforcement and child protection personnel on the aspects of children's development of forensic relevance.
- (4) The development and utilisation of more effective, age-appropriate, interview strategies which is necessary because empirical research has shown that in order to elicit reliable information, the questions asked must be appropriate for the developmental stage of the child being interviewed.
- (5) The raising of awareness among adults, particularly those providing for the care of the child, of the salient issues for child witnesses as any misconceptions held by adults can influence the child's reaction.
- (6) The instruction of the child in stress reduction techniques to further aid the child's ability to cope with the experience.
- (7) The provision of court support at trial, through a specially trained and assigned court mediator or liaison officer with the child.

- (8) The provision of post-trial explanation of the outcome of the legal proceedings and any further support or resources required by the child witness.

The objective of this programme of preparation of children for their experiences in the legal process, is to ensure that the child's experience of involvement in the investigative, adjudicative, and post-trial stages of the legal process is as "empowering" for them as is "attainable".

The need for such a systematic programme of pretrial preparation for child witnesses is of even more significance, given the recent research findings in relation to the potential for negative effects on jurors' perceptions of the child's credibility following from the presentation of their testimony *via* closed-circuit television technology. The consequence of these findings may unfortunately lead prosecutors to consider not availing of the alternative and less "confrontative" method of presenting testimony. This may lead to a situation wherein the "Videolink" is available in theory, whereas in practice its use may be circumscribed, which would leave child witnesses in a situation of having to testify in open court though the presumption would exist that there are alternatives to such open testifying.

Flin (1993: 187) argues that along with the need to prepare children for court there is perhaps a concomitant need to prepare the jurors who are called on to judge the credibility of children's evidence. In addition, Flin (1993:296) points out that though closed-circuit television can save a child the trauma of having to confront the accused face-to-face in the court, it does nothing, however, about (and in the Irish experience confounds) the long pre-trial delays, the use of inappropriate language by lawyers when communicating with children (Walker, 1993), the cross-examination of a child by a lawyer who aims to intimidate and discredit the child as a witness (Westcott, 1995) or in respect of preventing the defendant and/or his/her associates intimidating a child in the environs of the courthouse.

Altogether, those preparation techniques, which review the questions that children may have in respect of the legal process and which provide tours of the courtroom, may decrease anxiety of child witnesses, but may not facilitate their ability to give verbal

testimony leaving it riddled with inconsistencies. The development of new, empirically tested preparation techniques that go beyond anxiety reduction and desensitization to advancing techniques which enhance memory, comprehension monitoring, and resistance to leading questions is fertile ground for future research.

In addition, research comparing the legal knowledge of child witnesses with non-witnesses should enhance our understanding of Irish children's experiences with the legal system and will also provide an evaluation of educational and support programmes designed for child victims who have to attend court. Further research needs to compare the understanding of child witnesses with that of non-witnesses. While this was an original intention of the author, bureaucratic constraints meant that it was not possible to do so on the understandable grounds of ethical issues relating to the protection of the anonymity of the child.

There are no published statistics in this jurisdiction which record the numbers and/or ages of children who are cited as witnesses in criminal trials.¹ The absence of any “real” information on the participation rates of children in our criminal justice system needs to be addressed. The official recording of crimes where a child was the victim, and the number of children who acted as witnesses, is of paramount importance. Such records would provide a truer picture of both the extent of child victimisation and the legal remedies employed to address such crimes in Irish society.

The empirical evidence considered in this thesis shows that there is no justification for considering children incompetent as witnesses by virtue of their age alone. In order to improve children's testimony it was important that attention was focused on elucidating jurors' perceptions of children's and adolescents' credibility as eyewitnesses as well as identifying children's strengths and limitations in respect of their understanding of the legal process and how they are treated by the legal system by legal agents and other professionals who interact with child witnesses.

“The power of the law [is] to present its own perceptions of child witnesses and to maintain that opinion in the face of overwhelming psychological evidence which suggests that these perceptions are at variance with reality” (Dempster, 1991: 352).

Any inferences drawn on the basis of responses elicited by the researcher depend upon an assumption of shared meaning between the researcher and the respondents surveyed. Additionally, the quality and validity of the information collected is necessarily dependant on the honesty and the articulatory ability of the respondents. Studies which employ the self-report paradigm are susceptible to this limitation. The research conducted by the author and presented in Chapters Two and Three of the present thesis, where the perceptions of respondents were assessed using survey methodology, are no exception.

With the limitations of the present findings in mind, a consideration of the practical implications of mainly (a) the development and evaluation of new techniques for “empowering child witnesses” and (b) the training professionals to communicate with children in a manner which is age-appropriate. Reference is made to future research, the results of which can assist in these endeavors, leading in unison to more accurate and effective testimony by children, as well as facilitating the fact-finding process and ultimately, the course of justice.

Finally, children’s competence to act as witnesses is not only influenced by their understanding of the legal process rather it is acknowledged that there are a multitude of factors which come to bear on the testimony provided by a child witness. As iterated in earlier in the thesis a child’s ability to testify about an event can depend on *inter alia* the characteristics of the case, the nature of the to-be-remembered event, the competence of the questioner and the context in which the child is questioned. Thus, whether the case is one which involves the child as a victim-witness where they themselves have experienced victimisation at the hands of a person that is known to them, or is one where the child has

¹ International sources, such as the National Centre for Child Abuse and Neglect in the United States reported that the majority of

witnessed an event such as an accident involving strangers can impact on the child's competence to testify which in turn can influence their perceived credibility in the eyes of the jury. An event which is familiar to and personally significant or salient for the child leads to a more accurate and complete free recall of the event. The context in which the child is questioned also plays an important role in the child's ability to remember and relate what they have observed or experienced this is particularly the case where the child is being pressured to provide an account of the event against his or her will or where the child is experiencing undue stress. It is well documented that if the language used by the questioner avoids "lawyerese", is constructed in a simple, uncomplicated linguistic form, if the place and the persons surrounding the child are supportive then these factors along with adequate pretrial preparation can together enhance the child's competence to act as a witness in legal proceedings.

5.2. Conclusion

The judicial system which exists in Ireland, can affect the degree to which involvement in the investigative and adjudicative process can promote emotional healing or exacerbate the emotional conflict produced by the circumstances which gave rise to the legal proceedings in the first instance. While giving due consideration to the rights of the accused, to ensure that the experience of involvement in the legal process for the child is one which heals rather than adds to their suffering. McGough strongly argues that having to choose between protecting children and protecting the rights of the accused is a false choice and it is her view that "... it is eminently possible to do both" (1994: 7).

In conclusion, child victimisation is one of the most significant social problems facing modern Ireland. A number of indicators, including; the level of reporting of child abuse and the relaxation of the laws of evidence pertaining to child witnesses suggest that Irish children are increasingly likely to become involved in criminal proceedings.

Psychological research has revealed that, in the main, child witnesses possess sufficient

child victims were younger than 8 years of age (N.C.C.A.N. Annual Report, 1996).

cognitive and communicative skills for the task of testifying and that children can be competent witnesses when their special requirements are understood. In addition, psychologists have, more recently, begun to examine elements of the pretrial process, including; strategies used to interview children for legal purposes and the systematic preparation of children for their attendance at court.

As we approach the end of this century, and enter a new millennium, we know a great deal about the capabilities and the needs of child witnesses. Significant progress has also been made in how the legal systems in many societies worldwide have responded to child witnesses, nonetheless, much remains to be achieved if we are to ensure that children's voices are heard in our courts of law and that crimes committed against children are treated with the seriousness they deserve in the light of the vulnerability of the victim.

“Children have a right to justice and their evidence is essential if society is to protect their interests and deal effectively with those who would harm them”.

(Jack & Yeo, 1992)

REFERENCES

- Adler, M. & Millar, A.** (1991). *Socio-legal research in the Scottish courts*. Edinburgh: Scottish Office, Central Research Unit.
- Aldridge, J.** (1992). The further training of professionals dealing with child witnesses. In H.R. Dent & R.H. Flin (Eds.). *Children as witnesses*. Chichester: Wiley.
- Aldridge, J. & Freshwater, K.** (1993). The preparation of child witnesses. *Journal of Child Law*, 5, 25-28.
- American Psychological Association** (1990). *Craig vs. Maryland : Brief of the American Psychological Association*. Washington DC: American Psychological Association.
- Applebaum, P., Uyehara, L. & Elin, M.** (1997). (Eds.). *Trauma and memory: Clinical and legal controversies*. New York: Oxford University Press.
- Avery, M.** (1983). The child abuse witness: Potential for secondary victimisation. *Criminal Justice Journal*, 7, 1-48.
- Bacik, I., Maunsell, C. & Gogan, S.** (1998). *The legal process and victims of rape: A comparative analysis of the laws and legal procedures relating to rape, and their impact upon victims of rape, in the fifteen member states of the European Union*. Dublin: Dublin Rape Crisis Centre, Law School, Trinity College & E.U. Commission.
- Baker, A. W. & Duncan, S. P.** (1985). Child sexual abuse: A study of prevalence in Great Britain. *Child Abuse and Neglect*, 9, 457-467.
- Banks, C., Malloney, E. & Willcock, H.** (1975). Public attitudes to crime and the penal system. *British Journal of Criminology*, 15, 228-240.
- Barnett, M.A. & Sinisi, C.S.** (1990). The initial validation of a liking of children scale. *Journal of Personality Assessment*, 55, 161-167.
- Batterman-Faunce, J. & Goodman, G.S.** (1993). Effects of context on the accuracy and suggestibility of child witnesses. In G.S. Goodman & B.L. Bottoms (Eds.). *Child victims, child witnesses: Understanding and improving children's eyewitness testimony*. New York: Guilford Press.
- Berdie, D.R., Anderson, J.F. & Niebuhr, M.A.** (1986). *Questionnaires: Design and use*. 2nd Ed. London: Scarecrow.

- Berliner, L. & Barbieri, M. K.** (1984). The testimony of the child victim of sexual assault. *Journal of Social Issues*, 40, 125-137.
- Binet, A.** (1900). *La suggestibilitie*. Paris: Schleicher Freres.
- Birch, D. J.** (1992). Children's evidence. *Criminal Law Review*, 31, 262-276.
- Borgida, E. & Brekke, N.** (1985). Psycho-legal research on rape trials. In A. Burgess (Ed.). *Rape and sexual assasult: A research handbook*. New York: Garland.
- Bottoms, B.L.** (1993). Individual differences in perceptions of child sexual assault victims. In G.S. Goodman & B.L. Bottoms (Eds.). *Child victims, child witnesses: Understanding and improving children's eyewitness testimony*. New York: Guilford Press.
- Bottoms, B. L. & Goodman, G. S.** (1994). Perceptions of children's credibility in sexual assault cases. *Journal of Applied Social Psychology*, 24, 702-732.
- Bottoms, B. L. & Goodman, G. S.** (Eds.). (1996). *International perspectives on child abuse and children's testimony: Psychological research and law*. Thousand Oaks, CA.: Sage.
- Bottoms, A. & McLean, J.D.** (1978). The defendant's perspective. In J. Baldwin, and A.K. Bottomley (Eds.). *Criminal justice: Selected readings*. London: Martin Robertson.
- Brennan, M. & Brennan, R.** (1988). *Strange language (2nd Ed.)*. Wagga Wagga: Riverina Murray Institute of Higher Education.
- Brewer, K., Rowe, D. & Brewer, D.** (1997). Factors related to the prosecution of child sexual abuse cases. *Journal of Child Sexual Abuse*, 6, 91-111.
- Briggs, K., Hubbs-Tait, L. Culp, R. & Blankemeyer, M.** (1995). Perceiver bias in expectancies for sexually abused children. *Journal of Applied Family and Child Studies*, 44, 291-298.
- Brigham, J.C.** (1988). *Professionals' evaluation of child witnesses*. Scottish Branch, British Psychological Society, Annual Meeting. Edinburgh.
- Brigham, J.C.** (1995). *Evaluations of the accuracy of children's memory and testimony*. Society for Applied Research in Memory and Cognition, Annual Meeting. Vancouver, Canada.

- Brigham, J.C. & Spier, S.A.** (1992). Opinions held by professionals who work with child witnesses. In H.R. Dent & R.H. Flin (Eds.), *Children as witnesses*. Chichester: Wiley.
- Broussard, S.D. & Wagner, W.G.** (1988). Child sexual abuse: Who is to blame? *Child Abuse and Neglect*, 12, 563-569.
- Brownmiller, S.** (1976). *Against our will: Men, women and rape*. Harmondsworth: Penguin.
- Bruck, M. & Ceci, S.** (1995). Brief on behalf of amicus developmental, social and psychological researchers, social scientists and scholars. *Psychology, Public Policy and the Law*, 1, 1-51.
- Bulkley, J. A.** (1985). Background and overview of child sexual abuse: Law reforms in the mid-1980's. *University of Miami Law Review*, 40, 5-18.
- Bulkley, J.A.** (1989). The impact of new child witness research on sexual abuse prosecutions. In S.J. Ceci, D.F. Ross & M.P. Toglia (Eds.), *Perspectives on children's testimony*. New York: Springer-Verlag.
- Bull, R.** (1995). Innovative techniques for the questioning of child witnesses, especially those who are young and those with learning disability. In M.S. Zaragoza, J.R. Graham, G.C. Hall, R. Hirschman, & Y. S. Ben-Porath (Eds.), *Memory and testimony in the child witness*. California: Sage Publications.
- Bull, R. & Carson, D.** (Eds.). (1995). *Handbook of psychology in legal contexts*. Chichester: Wiley.
- Bull, R. & Davies, G.** (1996). The effect of child witness research on legislation in Great Britain. In B. L. Bottoms & G. S. Goodman (Eds.), *International perspectives on child abuse and children's testimony: Psychological research and law*. Thousand Oaks, CA.: Sage.
- Bunreacht na hEireann** (1937). *The Irish Constitution*. Dublin: Government Stationery Office.
- Butler-Sloss, E.** (1988). *Report of the Enquiry into child abuse in Cleveland, 1987*. London: H.M.S.O.
- Byrne, R. & McCutcheon, J.P.** (1996). *The Irish legal system*. 3rd Ed. Dublin: Butterworths.

- Cammack, M.** (1995). In search of the post-positivist jury. *Indiana Law Journal*, 70, 405-489.
- Carroll, L.** (1865). *Alice's adventures in wonderland*. London: Penguin
- Carson, D.** (1990). *Professionals and the courts: A handbook for expert witnesses*. Birmingham: Venture Press.
- Cashmore, J.** (1992). *The use of closed-circuit television for child witnesses in the ACT*. Sydney: Australia Law Reform Commission.
- Cashmore, J. & Bussey, K.** (1990). Children's conceptions of the witness role. In J. R. Spencer, G. Nicholson, R. H. Flin, & R. Bull (Eds.), *Children's evidence in legal proceedings*. Cambridge: Cambridge University Law Faculty.
- Cashmore, J. & Bussey, K.** (1996) Judicial perceptions of child witness competence. *Law and Human Behaviour*, 20, 313-334.
- Catton, K.** (1978). Children in the courts: A selected empirical review. *Canadian Journal of Family Law*, 1, 329-362.
- Cavenagh, W. E.** (1959). *The child and the court*. London: Gollancz.
- Ceci, S.J. & Bruck, M.** (1993). The suggestibility of the child witness: A historical review and synthesis. *Psychological Bulletin*, 113, 1-31.
- Ceci, S. & Bruck, M.** (1995). *Jeopardy in the courtroom: A scientific analysis of children's testimony*. Washington D.C. : American Psychological Association.
- Ceci, S. & Hembrooke, H.** (Eds.). (1998). *Expert witnesses in child abuse cases: What can and should be said in court*. Washington DC : American Psychological Association.
- Ceci, S. J., Ross, D. F., & Toglia, M. P.** (Eds.). (1989). *Perspectives on children's testimony*. New York: Springer-Verlag.
- Ceci, S.J., Toglia, M.P, & Ross, D.F.** (Eds.). (1987). *Perspectives on children's eyewitness memory*. New York: Springer-Verlag.
- Central Statistics Office** (1996). Census 96. Dublin: Government Stationery Office.
- Charleton, P.** (1990). The victim in Irish constitutional law: A new departure. *Irish Law Times*, June, 140.
- Charleton, P.** (1992). *Offences against the person*. Dublin: Roundhall Press.
- Chi, M.** (1983) *Trends in memory development*. Basel: Karger.

- Cohn, J.** (1998). Violations of human rights in children and adolescents. *International Journal of Adolescent Medicine and Health*, 10, 185-192.
- Colley, A.M. & Beech, J.R.** (1989). *Acquisition and performance of cognitive skills*. New York: Wiley.
- Conley, J.M., O'Barr, W.M. & Lind, E.A.** (1978). The power of languages: presentational style in the courtroom. *Duke Law Journal*, 1375-1399.
- Cooney, T. & Torode, R.** (1989). *Report of the Child Sexual Abuse Working Party*. Dublin: Irish Council for Civil Liberties.
- Corder, B.F. & Whiteside, R.** (1988). A survey of jurors' perceptions of issues related to child sexual abuse. *American Journal of Forensic Psychology*, 6, 37-43.
- Cowan, N.** (1997). *The development of memory in childhood*. Sussex: Psychology Press.
- Cutler, B.L. & Penrod, S.D.** (1995). *Mistaken identification: The eyewitness, psychology and the law*. New York: Cambridge University Press.
- Davies, G.** (1992). Protecting the child witness in the courtroom. *Child Abuse Review*, 1, 33-41.
- Davies, G.** (1992). Series Preface. In H.R. Dent & R.H. Flin (Eds.). *Children as witnesses*. Chichester: Wiley.
- Davies, G. & Drinkwater, J.** (Ed.). (1988). *The child witness: Do the courts abuse children?* Leicester: British Psychological Society.
- Davies, G., Flin, R.H. & Baxter, J.** (1986). The child witness. *Howard Journal of Criminal Justice*, 25, 81-99.
- Davies, G. & Noon, E.** (1991). *An evaluation of the live-link for child witnesses*. London: Home Office.
- Davies, G. & Noon, E.** (1993). Videolinks: Their impact on child witness trials. *Issues in Criminological and Legal Psychology*, 20, 22-26.
- Davies, G. & Westcott, H.** (1995). The child witness in the courtroom: Empowerment or protection? In M.S. Zaragoza, J.R. Graham, G.C. Hall, R. Hirschman, & Y. S. Ben-Porath (Eds.), *Memory and testimony in the child witness*. California: Sage Publications.

- Davies, G., Wilson, C., Mitchell, R. & Milsom, J.** (1995). *Videotaping children's evidence: An evaluation*. London: Home Office.
- DeMause, L.** (1975). *The history of childhood*. New York: Psychohistory Press.
- Demetriou, A. & Charitides, L.** (1986). The adolescent's construction of procedural justice as a function of age, moral thought and sex. *International Journal of Psychology*, 21, 333-353.
- Dent, H. R.** (1982). The effects of interviewing strategies on the results of interviews with child witnesses. In A. Trankell (Ed.), *Reconstructing the past*. The Netherlands: Kluwer.
- Dent, H. R.** (1991). Experimental studies of interviewing child witnesses. In J.L. Doris (Ed.), *The suggestibility of children's recollections*. Washington D.C. : American Psychological Association.
- Dent, H. R. & Flin, R. H.** (Eds.). (1992). *Children as witnesses*. Chichester: Wiley.
- Dent, H. R. & Stephenson, G.** (1979). An experimental study of the effectiveness of different techniques of questioning child witnesses. *British Journal of Social and Clinical Psychology*, 18, 41-51.
- Department of Health and Children** (1999). *Child abuse statistics*. Dublin: Child Care Division.
- Department of Justice, Equality and Law Reform** (1997). *Going to court: A child witness pack*. Dublin: Government Stationery Office.
- Department of Justice, Equality and Law Reform** (1998). *Discussion paper: The law on sexual offences*. Dublin: Government Stationery Office.
- DePaulo, B.M., Stone, J.I. & Lassiter, G.D.** (1985). Deceiving and detecting deceit. In B.R. Schlenker (Ed.), *The self in social life*. New York: McGraw-Hill.
- Dezwirek-Sas, L.** (1992). Empowering child witnesses for sexual abuse prosecution. In H.R. Dent & R.H. Flin (Eds.), *Children as witnesses*. Chichester: Wiley.
- Dezwirek-Sas, L., Hurley, P., Austin, G., & Wolfe, D.** (1991). *Reducing the system-induced trauma for child sexual abuse victims through court preparation: Assessment and follow-up*. London, Ontario: London Family Court Clinic.

- Dezwirek-Sas, L., Hurley, P., Hatch, A., Malla, S., & Dick, T.** (1993). *Three years after the verdict. A longitudinal study of the social and psychological adjustment of child witnesses*. London, Ontario: Family Court Clinic.
- Dezwirek-Sas, L., Wolfe, D. & Gowdey, K.** (1996). Children and the courts in Canada. In B.L. Bottoms & G.S. Goodman, (Eds.), *International perspectives on child abuse and children's testimony: Psychological research and law*. Thousand Oaks, CA.: Sage Publications.
- Director of Public Prosecutions** (1995). *Commentary*. Irish Times, 18.11.95
- Donaldson, M.** (1992). *Human minds*. London: Allen Lane, Penguin.
- Donaldson, M., Grieve, R. & Pratt, C.** (Eds.) (1983). *Early childhood development and education*. Oxford: Blackwell.
- Doris, J.** (Ed.). (1991). *The suggestibility of children's recollections*. Washington DC: American Psychological Association.
- Doris, J., Mazur, R. & Thomas, M.** (1995). Training in child protective services: A commentary on the amicus brief of Bruck and Ceci (1993/1995). *Psychology, Public Policy and Law*, 1, 479-493.
- Doueck, H., Weston, E., Filbert, L, Beekhuis, R. & Redlich, H.** (1997). A child advocacy programme: Caretakers and professionals' views. *Journal of Child Sexual Abuse*, 6, 113-132.
- Dublin Rape Crisis Centre** (1999). *Annual Report*. Dublin : Dublin Rape Crisis Centre.
- Duggan, L.M., Aubrey, M., Doherty, E., Isquith, P., Levine, M. & Scheiner, J.** (1989). The credibility of children as witnesses in a simulated child sex abuse trial. In S.J. Ceci, D.F. Ross & M.P. Toglia (Eds.), *Perspectives on children's testimony*. New York: Springer-Verlag.
- Eagly, A.H. & Wood, W.** (1991). Explaining sex differences in social behaviour: A meta-analytic perspective. *Personality and Social Psychology Bulletin*, 17, 306-315.
- Edwards, S.** (1996). *Sex and gender in the legal process*. London: Blackstone.
- Ekman, P. & O'Sullivan, M.** (1989). Hazards in detecting deceit. In D.C. Raskin (Ed.), *Psychological methods in criminal investigation and evidence*. New York: Springer-Verlag.

- Esselman-Tomz, J. & McGillis, D.** (1997). *Serving crime victims and witnesses*. 2nd Ed. Washington D.C.: U.S. Department of Justice, National Institute of Justice.
- Everson, M.D. & Boat, B.** (1989). False allegations of sexual abuse by children and adolescents. *Journal of American Academy of Child and Adolescent Psychiatry*, 28, 230-235.
- Everson, M.D., Boat, B., Bourg, S. & Robertson, K.R.** (1996). Beliefs among professionals about rates of false allegations of sexual abuse. *Journal of Interpersonal Violence*, 11, 541-553.
- Faller, K.C.** (1984). Is the child victim of sexual abuse telling the truth? *Child Abuse and Neglect*, 7, 473-481.
- Farrington, D. P. & Hawkins, K.** (1979). Psychological research on behaviour in legal contexts. In D. P. Farrington, K. & Hawkins, & S. Lloyd-Bostock (Eds.), *Psychology, law and legal processes*. London: Macmillan.
- Fazio, R.H., Zanna, M.P. & Cooper, J.** (1978). Direct experience and attitude-behaviour consistency: An information processing analysis. *Personality and Social Psychology Bulletin*, 4, 48-51.
- Feben, D. J.** (1985) *Age of witness competency: Cognitive correlates*. Honours Thesis, Monash University, Australia.
- Finkelhor, D.** (1984). *Child sexual abuse: New theory and research*. New York: Free Press.
- Finkelhor, D. & Dziuba-Leatherman, J.** (1994). Victimization of children. *American Psychologist*, 49, 173-183.
- Finlayson, L.M. & Koocher, G.P.** (1991). Professional judgement and child abuse reporting in sexual abuse cases. *Professional Psychology: Research and Practice*, 22, 464-472.
- Fischer, K.W.** (1980). A theory of cognitive development: The control and construction of hierarchies of skills. *Psychological Review*, 87, 477-531.
- Fisher, R., & Geiselman, R. E.** (1992). *Memory-enhancing techniques for investigative interviewing: The cognitive interview*. Springfield, Illinois: C.C. Thomas.

- Fisher, R. & McCauley, M.** (1995). Improving eyewitness testimony with the cognitive interview. In M.S. Zaragoza, J.R. Graham, G.C. Hall, R. Hirschman, & Y. S. Ben-Porath (Eds.). *Memory and testimony in the child witness*. California: Sage Publications.
- Fivush, R. & Hudson, J.** (Eds.). (1990). *Knowing and remembering in young children*. New York: Cambridge University Press.
- Flavell, J. H., Miller, P. & Miller, S.** (1993). *Cognitive development. (3rd ed.)*. New York: Prentice Hall.
- Flin, R.H.** (1993). Hearing and testing children's evidence. In G.S. Goodman & B.L. Bottoms (Eds.). *Child victims, child witnesses: Understanding and improving children's eyewitness testimony*. New York: Guilford Press.
- Flin, R. H.** (1995). Children's testimony: Psychology on trial. In M.S. Zaragoza, J.R. Graham, G.C. Hall, R. Hirschman, & Y. S. Ben-Porath (Eds.). *Memory and testimony in the child witness*. California: Sage Publications.
- Flin, R. H., Boon, J., Knox, A., & Bull, R.** (1992). Children's memories following a five-month delay. *British Journal of Psychology*, 83, 323-336.
- Flin, R. H., Bull, R., Boon, J. & Knox, A.** (1993). Child witnesses in Scottish criminal trials. *International Review of Victimology*, 2, 309-329.
- Flin, R. H., Davies, G. & Stevenson, Y.** (1987). Children as witnesses: Psycho-legal aspects of the English and Scottish systems. *Medicine & Law*, 6, 215-291.
- Flin, R. H., Davies, G., & Tarrant, A.** (1988). *The child witness*. Final Report to the Scottish Home & Health Department.
- Flin, R. H. & Spencer, J. R.** (1995). Children as witnesses: Legal and psychological perspectives. *Journal of Child Psychology & Psychiatry*, 36(2), 171-189.
- Flin, R. H., Stevenson, Y. & Davies, G.** (1989). Children's knowledge of court proceedings. *British Journal of Psychology*, 80, 285-297.
- Frank, J.** (1949). *Courts on trial*. Princeton, New Jersey: Princeton University Press.
- Frazier, P.A. & Haney, B.** (1996). Sexual assault cases in the legal system : Police, prosecutor and victim perspectives. *Law and Human Behaviour*, 20, 607-628.
- Freshwater, K., & Aldridge, J.** (1994). The knowledge and fears about court of child witnesses, schoolchildren and adults. *Child Abuse Review*, 3, 183-195.

- Freud, S.** (1940). An outline of psychoanalysis. In J. Strachey (Ed.). *Standard edition of the complete work of Sigmund Freud, Vol. 23*. London: Hogarth
- Gabora, N.J., Spanos, N.P. & Joab, A.** (1993). The effects of complainant age and expert psychological testimony in a simulated child sexual abuse trial. *Law and Human Behaviour, 17*, 103-119.
- Garda Commissioner** (1998). *Annual Crime Report, 1997*. Dublin: Government Publications Office.
- Garbarino, J., & Stott, F.** (1992). *What children can tell us: Eliciting, interpreting and evaluating information from children*. San Francisco: Jossey-Bass.
- Gilligan, C.** (1982). *In a different voice*. Cambridge MA.: Harvard University Press.
- Glaser, D.** (1995). Children's evidence: State of the art? *Child Abuse Review, 4*, 240-245.
- Gold, L. J., Darley, J., Hilton, A. & Zanna, M.** (1984). Children's perceptions of procedural justice. *Child Development, 55*, 1752-1759.
- Goodman, G.** (1984). Children's testimony in historical perspective. *Journal of Social Issues, 40*, 9-31.
- Goodman, G. S.** (1984). The child witness: Conclusions and future directions for research and legal practice. *Journal of Social Issues, 40*, 157-175.
- Goodman, G. S. & Aman, C.** (1990). Children's use of anatomically detailed dolls to recount an event. *Child Psychology, 61*, 1859-71.
- Goodman, G. S., Aman, C. & Hirschman, J.** (1987). Child sexual and physical abuse: Children's testimony. In S. J. Ceci, M. P. & Toglia, & D. F. Ross (Eds.), *Children's eyewitness memory*. New York: Springer-Verlag.
- Goodman, G.S. & Bottoms, B.L.** (Eds). (1993). *Child victims, child witnesses: Understanding and improving testimony*. New York: Guilford Press.
- Goodman, G.S., Bottoms, B.L., Herscovici, B. & Shaver, P.R.** (1989). Determinants of the child victims's perceived credibility. In S.J. Ceci, D.F. Ross & M.P. Toglia (Eds.), *Perspectives on children's testimony*. New York: Springer-Verlag.

- Goodman, G.S., Bottoms, B.L., Schwartz-Kenney, B. & Rudy, L. (1991).** Children's testimony about a stressful event: Improving children's reports. *Journal of Narrative and Life History*, 1, 69-99.
- Goodman, G.S., Golding, J.M. & Haith, M. (1984).** Juror's reactions to child witnesses. *Journal of Social Issues*, 40, 139-156.
- Goodman, G.S. Golding, J.M., Hegleson, V.S., Haith, M. & Michelli, J. (1987).** When a child takes the stand: Jurors' perceptions of children's eyewitness testimony. *Law and Human Behaviour*, 11, 27-40.
- Goodman, G. S. & Heed, R. (1988).** Age-differences in eyewitness testimony. *Law and Human Behaviour*, 10, 317-332.
- Goodman, G. S. & Jones, D. P. H. (Ed.). (1988).** *The emotional effects of criminal court testimony on child sexual assault victims: A preliminary report*. Leicester: British Psychological Society.
- Goodman, G.S., Levine, M., Melton, G.B. & Ogden, D.W. (1991).** Child witnesses and the confrontation clause. *Law and Human Behaviour*, 15, 13-29.
- Goodman, G.S. & Schwartz-Kenney, B.M. (1992).** Why knowing a child's age is not enough: Influences of cognitive, social and emotional factors on children's testimony. In H.R. Dent & R.H. Flin (Eds.). *Children as witnesses*. Chichester: Wiley.
- Goodman, G. S., Taub, E. P., Jones, D. P., England, P., Port, L. K., Rudy, L., & Prado, L. (1992).** Testifying in criminal court: Emotional effects on child sexual assault victims. *Monographs of the Society for Research in Child Development*, 57, 1-163.
- Goodman, G.S., Tobey, A.E., Batterman-Faunce, J.M., Orcutt, H., Thomas, S., Shapiro, C. & Sachsenmaier, T. (1998).** Face-to-face confrontation: Effects of closed-circuit technology on children's eyewitness testimony and jurors' decisions. *Law and Human Behaviour*, 22, 165-203.
- Goyette, M.A. & Rosenberg, M.S. (1987).** *Adult's beliefs about children's eyewitness testimony: Perceptions of the child and verdict in a case of child sexual assault*. Presented at the Third National Family Violence Conference. Durham, New Hampshire.

- Graffam-Walker, A.** (1999). *Handbook on questioning children: A linguistic perspective* (2nd Edition). Washington D.C.: A.B.A. Center on Children and the Law.
- Grisso, T.** (1981). *Juveniles' waiver of rights: Legal and psychological competencies*. New York: Plenum Press.
- Grisso, T.** (1986). *Evaluating competencies*. New York: Plenum Press.
- Groves, P.** (1991). Improving witness care. *C.P.S. Journal*, 4, 5-6.
- Hair, J.F., Anderson, R.E. Tatham, R.L. & Black, W.C.** (1998). *Multivariate Data Analysis*. (5th Ed.). New Jersey: Prentice-Hall.
- Hans, V.P. & Vidmar, N.** (1986). *Judging the jury*. New York: Plenum Press.
- Haralambie, A.M.** (1993). Handling child custody, abuse and adoption cases. Colorado Springs: McGraw-Hill.
- Hastie, R., Penrod, S.D. & Pennington, N.** (1983). *Inside the jury*. Cambridge MA: Harvard University Press.
- Haugaard, J.J.** (1993). Young children's classification of the corroboration of a false statement as the truth or a lie. *Law and Human Behaviour*, 17, 645-659.
- Haugaard, J.J. & Reppucci, N.D.** (1988). *The sexual abuse of children: A comprehensive guide to current knowledge and intervention strategies*. San Francisco: Jossey-Bass.
- Hedderman, C.** (1987). *Children's evidence: The need for corroboration*. London: Home Office Research and Planning Unit Paper 41.
- Home Office** (1992). *Memorandum of good practice on videorecorded interviews with child witnesses for criminal proceedings*. London: H.M.S.O.
- Hutcheson, G., Baxter, J., Telfer, K. & Warden, D.** (1995). Child witness statement quality: Question type and errors of omission. *Law and Human Behaviour*, 6, 631-648.
- Irish Society for the Prevention of Cruelty to Children (I.S.P.C.C.)**. (1998). *Annual Report*. Dublin: I.S.P.C.C.
- Irvine, R.** (1979). Legal socialisation: A critique of a new approach. In D. P. Farrington, K. & Hawkins, & S. Lloyd-Bostock (Eds.), *Psychology, law and legal processes*. London: Macmillan.

- Isquith, P., Levine, M. & Scheiner, J.** (1993). Blaming the child: Attribution of responsibility to victims of child sexual abuse. In Goodman, G.S. & Bottoms, B.L. (Eds). *Child victims, child witnesses: Understanding and improving testimony*. New York: Guilford Press.
- Jack, M. & Yeo, T.** (1992). *Foreword. Memorandum of good practice on video recorded interviews with child witnesses for criminal proceedings*. Home Office & Department of Health. London: H.M.S.O.
- Jones, D.P.H.** (1988). The child witness in court: Implications for clinical and legal practice. In G. Davies & J. Drinkwater (Eds.). *The child witness: Do the courts abuse children?* Leicester: British Psychological Society.
- Jones, D.P.H. & McQuiston, M.** (1988). *Interviewing the sexually abused child*. (3rd Ed.). London: Gaskell.
- Joutsen, M.** (1994). Victim participation in proceedings and sentencing in Europe. *International Review of Victimology*, 3, 57-67.
- Kalichman, S.C. & Brosig, C.L.** (1993). Practicing psychologists' interpretations of and compliance with child abuse reporting laws. *Law and Human Behaviour*, 17, 83-93.
- Kalven, H. & Zeisel, H.** (1966). *The American jury*. Boston: Little Brown.
- Kapardis, A.** (1997). *Psychology and law*. Cambridge: Cambridge University Press.
- Kassin, S.M., Wrightsman, L.S.** (1988). *The American jury on trial: Psychological perspectives*. Washington D.C.: Hemisphere.
- Kelly, D.** (1982). *Victims' reactions to the criminal justice response*. Presented at the Annual Meeting of the Law and Society Association. Toronto, Canada.
- Kendall-Tackett, K.A. & Watson, M.W.** (1991). Factors that influence professionals' perceptions of behavioural indicators of child sexual abuse. *Journal of Interpersonal Violence*, 6, 385-395.
- Keogh, G. & Whelan, B.** (1986). *A statistical analysis of the Irish electoral register and its use for population estimation and sample surveys*. Dublin: E.S.R.I.
- Kerr, N.L., Hymes, R.W., Anderson, A.B. & Weathers, J.E.** (1995). Defendant-juror similarity in mock juror judgments. *Law and Human Behaviour*, 19, 545-567.

- Kilpatrick, D.G & Saunders, B.E.** (1997). *The Prevalence and Consequences of Child Victimization*. U.S. Department of Justice, Office of Justice Programs: National Institute of Justice.
- Kilpatrick, D.G & Saunders, B.E., Amick-McMullan, A., Best, C.L., Veronen, L.J. & Resnick, H.S.** (1989). Victim and crime factors associated with the development of crime-related post-traumatic stress disorder. *Behaviour Therapy*, 20, 199-214.
- King, M. A. & Yuille, J. C.** (1987). Suggestibility and the child witness. In S. J. Ceci, M. P. & Toglia, & D. F. Ross (Eds.), *Children's eyewitness memory*. New York: Springer-Verlag.
- Kohlberg, L.** (1976). Moral stages and moralisation: The cognitive-developmental approach. In T. Lickona (Ed.). *Moral development and behaviour: Theory, research and social issues*. New York : Holt.
- Kovera, M.A. & Borgida, E.** (1996). Children on the witness stand: The use of expert testimony and other procedural innovations in U.S. child sexual abuse trials. In B.L. Bottoms & G.S. Goodman, (Eds.). *International perspectives on child abuse and children's testimony: Psychological research and law*. Thousand Oaks, CA.: Sage Publications.
- Kovera, M.A., Borgida, E., Gresham, A.W., Swim, J. & Gray, E.** (1993). Do child sexual abuse experts hold pro-child beliefs? A survey of the International Society for Traumatic Stress Studies. *Journal of Traumatic Stress*, 6, 383-404.
- Kovera, M. & McAuliff, B.** (1999). Child witnesses in custody cases: The effects of system and estimator variables on the accuracy of their reports. In R. Galatzer-Levy & Kraus, L. (Eds.). *The scientific basis of child custody decisions*. New York: Wiley & Sons.
- LaFree, G.D.** (1980). Variables affecting guilty pleas and convictions in rape cases: Toward a social theory of rape processing. *Social Forces*, 58, 833-850.
- Law Reform Commission** (1989). *Consultation paper on child sexual abuse*. Dublin: Law Reform Commission.
- Law Reform Commission** (1990). *Report on child sexual abuse*. Dublin: Law Reform Commission.

- Leippe, M., Brigham, J., Cousins, C. & Romanczyk, A.** (1989). The opinions and practices of criminal attorneys regarding child eyewitnesses. In S. J. Ceci, D. Ross, & M. Toglia. (Eds.), *Perspectives on children's testimony*. New York: Springer.
- Leippe, M.R., Manion, A.P. & Romanczyk, A.** (1992). Eyewitness persuasion: How and how well do fact-finders judge the accuracy of adults' and children's memory reports? *Journal of Personality and Social Psychology*, *63*, 181-197.
- Leippe, M.R., Manion, A.P. & Romanczyk, A.** (1993). Discernability or discrimination?: Understanding jurors' reactions to accurate and inaccurate child and adult eyewitnesses. In G.S. Goodman & B.L. Bottoms (Eds.). *Child victims, child witnesses: Understanding and improving children's eyewitness testimony*. New York: Guilford Press.
- Leippe, M.R. & Romanczyk, A.** (1987). Children on the witness stand: A communication/persuasion analysis of jurors' reactions to child witnesses. In S.J. Ceci, M.P. Toglia & D.F. Ross (Eds.), *Perspectives on children's eyewitness memory*. New York: Springer-Verlag.
- Leippe, M.R. & Romanczyk, A.** (1989). Reactions to child (versus adult) eyewitnesses: The influence of jurors' preconceptions and witness behaviour. *Law and Human Behaviour*, *13*, 103-132.
- Leippe, M., Romanczyk, A., & Manion, A.** (1991). Eyewitness memory for a touching experience: Accuracy differences between child and adult witnesses. *Journal of Applied Psychology*, *76*, 367-397.
- Libai, D.** (1969). The protection of a child victim of a sexual offence in the criminal justice system. *Wayne Law Review*, *15*, 977-1032.
- Lipovsky, J.A.** (1994). The impact of court on children: Research findings and practical recommendations. *Journal of Interpersonal Violence*, *9*, 238-257.
- Lipovsky, J.A. & Stern, P.** (1997). Preparing children for court: An interdisciplinary view. *Child Maltreatment*, *2*, 150-163.
- Lipovsky, J.A. Tidwell, R., Crisp, J. & Kilpatrick, D. G.** (1992). Child witnesses in criminal court: Descriptive information from three southern states. *Law and Human Behaviour*, *16*, 635-650.
- Loftus, E.** (1979). *Eyewitness testimony*. Cambridge, Mass.: Harvard University Press.

- Luus, E. & Wells, G.L.** (1992). The perceived credibility of child eyewitnesses. In H.R. Dent & R.H. Flin (Eds.). *Children as witnesses*. Chichester: Wiley.
- Luus, E., Wells, G. & Turtle, J.** (1995). Child eyewitnesses: Seeing is believing. *Journal of Applied Psychology*, 80, 317-326.
- Lyon, T. & Saywitz, K.** (1999). Young maltreated children's competence to take the oath. *Applied Developmental Science*, 3, 16-27.
- McCord, D.** (1986). Expert psychological testimony about child complaints in sexual abuse prosecutions: A foray into the admissibility of novel psychological evidence. *Journal of Criminal Law and Criminology*, 77, 1-68.
- MacFarlane, K. & Bulkley, J.** (1982). Treating child sexual abuse: An overview of program models. In J. Conte & D. Shore (Eds.). *Social work and child sexual abuse*. New York: Hawthorn.
- MacFarlane, K., Waterman, J., Coneley, S., Damon, L., Durfee, M. & Lang, S.** (1986) *Sexual abuse of young children*. New York: Guilford Press.
- McGough, L. S.** (1994). *Child witnesses: Fragile voices in the American legal system*. New Haven, CT.: Yale University Press.
- McGrath, K.** (1996). Intervening in child sexual abuse in Ireland: Towards victim-centred policies and practices. *Administration*, 44, 57-72.
- McGuire, W.** (1985). Attitudes and attitude change. In G.Lindzey & E. Aronson (Eds.). *The handbook of social psychology*. New York: Random House.
- McIntosh, J.A. & Prinz, R.J.** (1993). The incidence of alleged sexual abuse in 603 family court cases. *Law and Human Behaviour*, 17, 95-101.
- McKay, J.** (1990). Opening address to the International Conference on Children's Evidence. In J. R. Spencer, G. Nicholson, R. H. Flin, & R. Bull (Eds.), *Children's evidence in legal proceedings*. Cambridge: Cambridge University Law Faculty.
- McKeown, K., & Gilligan, R.** (1990). *Child sexual abuse in the Eastern Health Board area of Ireland: An analysis of confirmed cases in 1988*. Dublin.: Sociological Association of Ireland.

- McLoughlin, E., Maunsell, C. & O'Connell, M.** (1999). *Children in the juvenile justice system: An analysis of cases involving children who appeared before the courts and an indepth profile of a sample of children convicted of criminal offences.* Dublin: Government Stationery Office.
- McMahon, M.** (1995). *Engendering motherhood.* New York: Guilford Press.
- Marxsen, D., Yuille, J. & Nisbet, M.** (1995). The complexities of eliciting and assessing children's statements. *Psychology, Public Policy and the Law*, 1, 450-460.
- Mayall, B.** (Ed.) (1994). *Children's childhoods: Observed & experienced.* London: Falmer Press.
- Melton, G.B.** (1980). Children's concepts of their rights. *Journal of Clinical Child Psychology*, 9, 186-190.
- Melton, G. B.** (1981). Children's competency to testify. *Law and Human Behaviour*, 5, 73-85.
- Melton, G.B.** (1983). *Child advocacy: Psychological issues and interventions.* New York: Plenum Press.
- Melton, G.B.** (1991). Preserving the dignity of children around the world: The U.N. Convention on the Rights of the Child. *Child Abuse and Neglect*, 15, 343-350.
- Melton, G. B. & Limber, S. P.** (1989). Psychologists' involvement in cases of child maltreatment. *American Psychologist*, 44, 1225-1233.
- Melton, G. B., Limber, S. P., Jacobs, J. E., & Oberlander, L. B.** (1992). *Preparing sexually abused children for testimony: Children's perceptions of the legal process.* Final Report of Grant No. 90 CA-1274 for the National Center on Child Abuse and Neglect: Washington D.C.
- Melton, G. B. & Thompson, R. A.** (1987). Getting out of a rut: Detours to less travelled paths in child witness research. In S. J. Ceci, M. P. & Toglia, & D. F. Ross (Eds.), *Children's eyewitness memory.* New York: Macmillan.
- Memon, A., Cronin, O., Eaves, R., & Bull, R.** (1992). *An empirical test of the mnemonic component of the cognitive interview: Can they explain the apparent memory-enhancing effects of the cognitive interview.* Paper presented at the Third European Law and Psychology Conference, Oxford.

- Memon, A., Cronin, O., Eaves, R., & Bull, R.** (1993). The cognitive interview and child witnesses. *Issues in Criminological and Legal Psychology, 20*, 3-9.
- Memon, A. & Kohnken, G.** (1992) Helping witnesses to remember more: The cognitive interview. *Expert Evidence, 1*, 39-48.
- Memon, A., Vrij, A. & Bull, R.** (1998). Psychology and law: Truthfulness, accuracy and credibility. London: McGraw-Hill.
- Montoya, J.** (1995). Lessons from Akiki and Michaels on shielding child witnesses. *Psychology, Public Policy and the Law, 1*, 340-369.
- Morgan, J. & Plotnikoff, J.** (1990). Children as victims of crime: Procedure at court. In J. R. Spencer, G. Nicholson, R. H. Flin, & R. Bull (Eds.), *Children's evidence in legal proceedings*. Cambridge: Cambridge University Law Faculty.
- Morgan, J. & Williams, J.** (1993). A role for a support person for child witnesses in criminal proceedings. *British Journal of Social Work, 23*, 113-121.
- Morgan, J., & Zedner, L.** (1992). *Child victims*. Oxford: Clarendon Press.
- Morison, S. & Greene, E.** (1992). Juror and expert knowledge of child sexual abuse. *Child Abuse and Neglect, 16*, 595-613.
- Moston, S. & Engleberg, T.** (1992). The effects of social support on children's eyewitness testimony. *Applied Cognitive Psychology, 6*, 61-75.
- Myers, J. E. B.** (1992). Steps toward forensically relevant research. *Monographs of the Society for Research in Child Development, 57*, 143-152.
- Myers, J. E. B.** (1992). *Evidence in child abuse and neglect cases*. New York: Wiley & Sons.
- Myers, J. E. B.** (1993). A call for forensically relevant research. *Child Abuse and Neglect, 17*, 573-579.
- Myers, J. E. B.** (1993). The competence of young children to testify in legal proceedings. *Behavioural Sciences and the Law, 11*, 121-133.
- Myers, J. E. B.** (1995). New era of skepticism regarding children's credibility. *Psychology, Public Policy and Law, 1*, 387-398.

- Myers, J. E. B.** (1996). A decade of international reform to accommodate child witnesses. In B. L. Bottoms & G. S. Goodman (Eds.), *International perspectives on child abuse and children's testimony: Psychological research and law*. Thousand Oaks, CA.: Sage.
- National Society for the Prevention of Cruelty to Children (N.S.P.C.C.)** (1993). *Child Witness Pack*. London: N.S.P.C.C.
- National Women's Council of Ireland** (1996). *Report of the Working Party on the legal and judicial process for victims of sexual and other crimes of violence against women and children*. Dublin: N.W.C.I.
- Naylor, B.** (1989). Dealing with child sexual assault: Recent developments. *British Journal of Criminology*, 29, 395-407.
- New Law Journal** (1997). Fast-tracking on child abuse a success says Crown Prosecution Service. *New Law Journal*, 147, 1078.
- Ni Rafteraigh, U. (Barrister-at-Law)** (1999). *Personal communication with the author*.
- Nigro, G.N., Buckley, M.A., Hill, D.E. & Nelson, J.** (1989). When juries "hear" children testify: The effects of eyewitness age and speech style on jurors' perceptions of testimony. In S.J. Ceci, D.F. Ross & M.P. Toglia (Eds.), *Perspectives on children's testimony*. New York: Springer-Verlag.
- Nightingale, N.N.** (1993). Juror reactions to child victim witnesses: Factors affecting trial outcome. *Law and Human Behaviour*, 17, 679-694.
- O'Barr, W.M.** (1982). *Linguistic evidence*. New York: Academic Press.
- Ornstein, P., Gordon, B. & Larus, D.** (1992). Children's memory for a personally experienced event: Implications for testimony. *Applied Cognitive Psychology*, 6, 49-60.
- Park, L. & Renner, K.** (1998). The failure to acknowledge differences in developmental capabilities leads to unjust outcomes for child witnesses in sexual abuse cases. *Canadian Journal of Community Mental Health*, 17, 5-19.
- Penrod, S. & Cutler, B.** (1987). Assessing the competence of juries. In I. Weiner & A. Hess (Eds.) *Handbook of forensic psychology*. New York: Wiley & Sons.

- Perry, N.W. & Wrightsman, L.S.** (1991). *The child witness: Legal issues and dilemmas*. Newbury, CA: Sage.
- Peters, D.P.** (1991). The influence of stress and arousal on the child witness. In J. Doris (Ed.). *The suggestibility of children's recollections*. Washington DC: American Psychological Association.
- Peters, D.P.** (Ed.). (1996). *The child witness: Cognitive, social and legal issues*. Deventer: Kluwer.
- Peterson-Badali, M. & Abramovitch, R.** (1992). Children's knowledge of the legal system: Are they competent to instruct legal counsel? *Canadian Journal of Criminology*, 34(2), 139-160.
- Peterson-Badali, M., Abramovitch, R. & Duda, J.** (1997). Young children's legal knowledge and reasoning ability. *Canadian Journal of Criminology*, 39, 145-170.
- Piaget, J.** (1972). *Judgement and reasoning in the child*. Totawa, NJ: Littlefield Adams (Originally published, 1924).
- Pigot, T.** (1989). *Report on the advisory group on video evidence*. London: Home Office.
- Plotnikoff, J.** (1990). Support and preparation of the child witness: Whose responsibility? *Law and Practice*, 1, 21-30.
- Plotnikoff, J.** (1990). Delay in child abuse prosecutions. *Criminal Law Review*, 645-647.
- Poole, D. & Lamb, M.** (1998). *Investigative interviews of children: A guide for helping professionals*. Washington DC : American Psychological Association.
- Pynoos, R. &, & Eth, S.** (1984). The child as witness to homicide. *Journal of Social Issues*, 40, 97-108.
- Qin, J., Quas, J.A., Redlich, A.D. & Goodman, G.S.** (1997). Children's eyewitness testimony: Memory development in the legal context. In N. Cowan (Ed.) *The development of memory in childhood*. Sussex: Psychology Press.
- Quas, J.A. DeCicco, V., Bulkley, J. & Goodman, G.S.** (1996). District attorneys' views of legal innovations for child witnesses: Research brief. *AP-LS News*, 5-8.
- Raine, J.W. & Smith, R.E.** (1991). *The victim-witness in court project: Report of the research programme*. London: Victim Support.

- Read, A. F.** (1987) *Minor's ability to participate in the adjudication process: A look at their understanding of court proceedings and legal rights*. Unpublished Master's Thesis, University of Toronto.
- Reppucci, N.D. & Crosby, C.A.** (1993). Law, psychology and children: Overarching issues. *Law and Human Behaviour*, 17, 1-10.
- Ring, M.E. & Davis, L.** (1997). *The evidence of children: Protecting the child*. Presented at a Bar Council Conference on Children's Evidence. Dublin, Ireland.
- Ross, D.F., Dunning, D., Toglia, M.P. & Ceci, S.J.** (1990). The child in the eyes of the jury: Assessing mock jurors' perceptions of the child witness. *Law and Human Behaviour*, 14, 5-23.
- Ross, D.F., Hopkins, S., Hanson, & Lindsay, R.** (1994). The impact of protective shields and videotape testimony on conviction rates in a simulated trial of child sexual abuse. *Law and Human Behaviour*, 18, 553-566.
- Ross, D. F., Miller, B. S. & Moran, P. B.** (1987). The child in the eyes of the jury: Assessing mock jurors perceptions of the child witness. In S. J. Ceci, M. P. & Toglia, & D. F. Ross (Eds.), *Children's Eyewitness Memory*. New York: Macmillan.
- Ruback, R.B., & Weiner, N.A.** (Eds.) (1995). *Interpersonal violent behaviours: Social and cultural aspects*. New York: Springer Publishing.
- Ruck, M.D.** (1996). Why children think they should tell the truth in court: Developmental considerations for the assessment of competency. *Legal and Criminological Psychology*, 1, 103-116.
- Runyan, D.K.** (1993). The emotional impact of societal intervention into child abuse. In G. S. Goodman & B.L. Bottoms (Eds.). *Child victims, child witnesses: Understanding and improving testimony*. New York: Guilford Press.
- Runyan, D.K., Everson, M., Edelsohn, G., Hunter, W. & Coulter, M.** (1988). Impact of legal intervention on sexually abused children. *Journal of Pediatrics*, 113, 647-653.
- Runyan, D.K., Hunter, W.M., Everson, M.D., Whitcomb, D. & DeVos, E.** (1994). The Intervention Stressors Inventory: A measure of the stress of intervention for sexually abused children. *Child Abuse and Neglect*, 18, 319-329.

- Saks, M.J. & Hastie, R.** (1979). *Social psychology in court*. New York: Van Nostrand Reinhold.
- Sanders, A. & Young, R.** (1994). *Criminal justice*. London: Butterworths.
- Sattar, G & Bull, R.** (1996). Pre-court preparation for child witnesses. *Issues in Criminological and Legal Psychology*, 26, 67-75.
- Saywitz, K.** (1987). Children's testimony: Age-related patterns of memory errors. In S. Ceci, M. Toglia, & D. Ross (Eds.), *Perspectives on children's eyewitness memory*. New York: Springer.
- Saywitz, K.** (1989). Children's conceptions of the legal system: "Court is a place to play basketball". In S. Ceci, D. Ross, & M. Toglia (Eds.), *Perspectives on children's testimony*. New York: Springer.
- Saywitz, K.** (1995). Improving children's testimony: The question, the answer and the environment. In M.S. Zaragoza, J.R. Graham, G.C. Hall, R. Hirschman, & Y. S. Ben-Porath (Eds.), *Memory and testimony in the child witness*. California: Sage Publications.
- Saywitz, K. & Camparo, L.** (1998). Interviewing child witnesses: A developmental perspective. *Child Abuse and Neglect*, 22, 825-843.
- Saywitz, K., Goodman, G. S., Nicholas, E., & Moan, S.** (1991). Children's memories of a physical examination involving genital touch: Implications for reports of child sexual abuse. *Journal of Consulting and Clinical Psychology*, 59, 682-691.
- Saywitz, K. & Jaenicke, C.** (1987). *Children's understanding of legal terms: A preliminary report of grade-related trends*. Presented to the Biennial Meeting of the Society for Research on Child Development, Baltimore, MD.
- Saywitz, K., Jaenicke, C., & Camparo, L.** (1990). Children's Knowledge of legal terminology. *Law and Human Behaviour*, 14, 523-535.
- Saywitz, K. & Moan-Hardie, S.** (1994). Reducing the potential for distortion of childhood memories. *Consciousness and Cognition: An International Journal*, 3, 408-425.
- Saywitz, K., & Nathanson, R.** (1993). Children's testimony and their perceptions of stress in and out of the courtroom. *International Journal of Child Abuse and Neglect*, 17, 613-622.

- Saywitz, K., Nathanson, R. & Snyder, L.** (1993). Credibility of child witnesses: The role of communicative competence. *Topics in Language Disorders, 13*, 59-78.
- Saywitz, K., Nathanson, R., Snyder, L. & Lamphear, V.** (1993). *Preparing children for the investigative and judicial process: Improving communication, memory, and emotional resiliency*. Final Report to National Centre on Child Abuse and Neglect Grant, No. 90-CA-1179. Los Angeles: University of California.
- Saywitz, K. & Snyder, L.** (1993). Improving children's testimony with preparation. In G.S. Goodman & B. Bottoms (Eds.), *Child victims, child witnesses*. New York: Guilford.
- Saywitz, K., Snyder, L. & Lamphear, V.** (1990). *Preparing child witnesses: The efficacy of memory strategy training*. Presented at the Annual Convention of the American Psychological Association, Boston.
- Saywitz, K., Snyder, L. & Nathanson, R.** (1999). Facilitating the communicative competence of the child witness. *Applied Developmental Science, 3*, 58-68.
- Scheiner, J.L.** (1988). The use of minimalist vignette as a method for assessing the generalisability of trial simulation results. In M. Levine (Ed.) *Simulated jury research on a child as a witness*. Eastern Psychological Association, New York: American Psychological Association.
- Schetky, D.H.** (1997). Child victims in the legal system. In P. Applebaum, L. Uyehara & M. Elin (Eds.). *Trauma and memory: Clinical and legal controversies*. New York: Oxford University Press.
- Schmidt, C.W. & Brigham, J.C.** (1996). Jurors' perceptions of child victim-witnesses in a simulated sexual abuse trial. *Law and Human Behaviour, 20*, 581-606.
- Scottish Law Commission** (1990). Report on the evidence of children and other potentially vulnerable witnesses. Edinburgh: H.M.S.O.
- Shanahan, K.** (1992). *Crimes worse than death*. Dublin: Attic Press.
- Shapland, J., Wilmore, J. & Duff, P.** (1985). *Victims in the criminal justice system*. Aldershot: Gower.

- Sincoff, J.B. & Sternberg, R.J.** (1989). The development of cognitive skills: An examination of recent theories. In A.M. Colley & J.R. Beech (Eds.). *Acquisition and performance of cognitive skills*. New York: Wiley.
- Sisterman-Kenney, K., Amacher, E. & Kastankis, J.** (1992). The court prep group: A vital part of the court process. In H.R. Dent & R.H. Flin (Eds.). *Children as witnesses*. Chichester: Wiley.
- Smith, G.** (1993). Video-recording children's statements. *Journal of Child Law*, 5(1), 21-24.
- Spanos, N.P. BuBreuil, S.C. & Gwynn, M.I.** (1991). The effects of expert testimony concerning rape on the verdicts and beliefs of mock jurors. *Imagination, Cognition & Personality*, 11, 37-51.
- Spencer, J.R.** (1988). Child witnesses: A case for legal reform? In G. & D. Davies J. (Eds.), *Child witnesses: Do the courts abuse children?* Leicester: British Psychological Society.
- Spencer, J.R.** (1997). *The evidence of children: The English experience*. Paper presented at a Meeting of the Irish Bar Council on "The Evidence of Children". Dublin, June, 1997.
- Spencer, J. R., & Flin, R. H.** (1990). *The evidence of children*. London: Blackstone Press.
- Spencer, J. R., & Flin, R. H.** (1993). *The evidence of children. (2nd ed.)*. London: Blackstone Press.
- Spencer, J.R., Nicholson, G., Flin, R.H. & Bull, R.** (1990). *Children's evidence in legal proceedings: An international perspective*. Cambridge: Cambridge Law Faculty.
- Stafford, A. & Asquith, S.** (1992). *The witness in the Scottish criminal justice system*. Edinburgh: Scottish Office: Central Research Unit.
- Stasser, G., Kerr, N.L. & Bray, R.M.** (1982). The social psychology of jury deliberations: Structure, process and product. In N.L. Kerr & R.M. Bray (Eds.). *The psychology of the courtroom*. New York: Academic Press.

- Sternberg, K., Lamb, M. & Herschkowitz, I.** (1996). Child sexual abuse investigations in Israel: Evaluating innovative practices. In B. L. Bottoms & G. S. Goodman (Eds.), *International perspectives on child abuse and children's testimony: Psychological research and law*. Thousand Oaks, CA.: Sage.
- Steward, M., Bussey, K., Goodman, G.S. & Saywitz, K.** (1993). Implications of developmental research for interviewing children. *Child Abuse and Neglect*, 17, 25-37.
- Stewart, M.W., Dobbin, S. & Gatowski, S.** (1996). "Real rapes" and "real victims": The shared reliance on common cultural definitions of rape. *Feminist Legal Studies*, 4, 159-171.
- Swim, J.K., Borgida, E. & McCoy, K.** (1993). Videotape versus in-court witness testimony: Does protecting the child witness jeopardize due process? *Journal of Applied Social Psychology*, 23, 603-631
- Tapp, J. L. & Kohlberg, L.** (1971). Developing sense of law and legal justice. *Journal of Social Issues*, 27, 65-92.
- Tapp, J.L. & Melton, G.B.** (1983). Preparing children for decision-making: Implications for legal socialization research. In G.B. Melton, G.P. Koocher & M.J. Saks (Eds.). *Children's competence to consent*. New York: Plenum Press.
- Tedesco, J. F. & Schnell, S. V.** (1987). Children's reactions to sex abuse investigation and litigation. *Child Abuse and Neglect*, 11, 267-272.
- Terr, L. C.** (1986). The child psychiatrist and the child witness: Travelling companions by necessity, if not by design. *Journal of the American Academy of Child Psychiatry*, 25(4), 462-472.
- Thompson, R. A.** (1992). Developmental changes in research risk and benefit: A changing calculus of concerns. In B. Stanley & J. Sieber (Eds.), *Social research on children and adolescents: Ethical issues*. London: Sage.
- Thorndike, R.L., Hagen, E.P. & Sattler, J.M.** (1986). *Stanford-Binet Intelligence Scale: Technical manual*. (4th Ed.). Chicago: The Riverside Publishing Company.

- Tobey, A. E., Goodman, G. S., Batterman-Faunce, J. M., Orcutt, H. K. & Sachsenmaier, T.** (1995). Balancing the rights of children and defendants: Effects of closed-circuit television on children's accuracy and jurors' perceptions. In M.S. Zaragoza, J.R. Graham, G.C. Hall, R. Hirschman, & Y. S. Ben-Porath. (Eds.), *Memory and testimony in the child witness*. California: Sage Publications.
- Trickett, P. & Schellenbach, C.** (Eds.). (1998). *Violence against children in the family and the community*. Washington DC: American Psychological Association.
- Trute, B., Adkins, E. & McDonald, G.** (1992). Professional attitudes regarding the sexual abuse of children: Comparing police, child welfare and community mental health personnel. *Child Abuse and Neglect*, 16, 359-386.
- United Nations** (1989). *Convention on the rights of the child*. U.N. Document: A/Res/44/25.
- U.N.I.C.E.F.** (1998). *The progress of nations report*. Vienna: U.N.I.C.E.F. Publications.
- Victim Support (Ireland)** (1996). *Circular on victim-witness court programme*. Dublin: Victim Support (Ireland).
- Vygotsky, L.S.** (1978). *Mind in society: The development of higher mental processes*. Cambridge, MA: Harvard University Press.
- Warren, A. & McGough, L.** (1996). Research on children's suggestibility: Implications for the investigative interview. In B. L. Bottoms & G. S. Goodman (Eds.), *International perspectives on child abuse and children's testimony: Psychological research and law*. Thousand Oaks, CA.: Sage.
- Warren-Leubecker, A., Tate, C., Hinton, I., & Ozbek, N.** (1989). What do children know about the legal system and when do they know it? In S.J. Ceci, D.F. Ross, & M. P. Toglia (Eds.), *Perspectives on children's testimony*. New York: Springer.
- Wells, G.L., Turtle, J.W. & Luus, C.A.** (1989). The perceived credibility of child eyewitnesses: What happens when they use their own words? In S. J. Ceci, D. Ross, & M. Toglia. (Eds.), *Perspectives on children's testimony*. New York: Springer.
- Westcott, H. & Davies, G.** (1993). Children's welfare in the courtroom: Preparation and protection of the child witness. *Children and Society*, 7, 388-396.

- Whipple, G.M.** (1911). The psychology of testimony. *Psychological Bulletin*, 8, 307-309.
- Whitcomb, D.** (1992). *When the victim is a child* (2nd Ed.). Washington, D.C.: National Institute of Justice, U.S. Department of Justice.
- Whitcomb, D.** (1993). *Child victims as witnesses: What the research says*. Newton, Mass: Education Development Center, Inc.
- Whitcomb, D., Shapiro, E.P. & Stellwagen, C.D.** (1985). *When the victim is a child: Issues for judges and prosecutors*. Washington, D.C.: National Institute of Justice, U.S. Department of Justice.
- Wilson, C.H.** (1995). Developmental issues concerning testing children's evidence in court. *Expert Evidence*, 4, 20-24.
- Women's Aid** (1995). *Making the links: Towards an integrated strategy for the elimination of violence against women in intimate relationships with men*. Dublin: Women's Aid.
- Woolard, J., Reppucci, N. & Redding, R.** (1996). Theoretical and methodological issues in studying children's capacities in legal contexts. *Law and Human Behaviour*, 20, 219-228.
- Wright, M.** (1996). *Justice for victims and offenders*. Milton Keynes: Open University Press.
- Wrightsmann, L.S.** (1987). *Psychology and the legal system*. Belmont, CA: Brooks Cole.
- Yarmey, A.D. & Jones, H.P.** (1983). Is the psychology of eyewitness identification a matter of common sense? In S.M. Lloyd-Bostock & B.R. Clifford (Eds.). *Evaluating eyewitness evidence*. Chichester: Wiley & Sons.
- Young, J., Borgida, E., Sullivan, J. & Aldrich, J.** (1987). Personal agendas and the relationship between self-interest and voting behaviour. *Social Psychology Quarterly*, 50, 64-71.
- Zaragoza, M.S., Graham, J. R., Hall, G., Hirschman, R., & Ben-Porath, Y.S.** (Ed.). (1995). *Memory and testimony in the child witness*. Thousand Oaks, CA: Sage Publications.

APPENDICES

APPENDIX I

Number of Reported and Confirmed Cases of Child Abuse and Child Sexual Abuse in Ireland: 1984 –1997

	1984	1985	1986	1987	1988	1989*	1991	1992	1993	1994	1995	1996 ⁺	1997 ⁺
Child Abuse[§]													
Reported Cases:	479	767	1015	1646	2673	3252*	3856	3812	4110	5152	6415	7732 ⁺	7312 ⁺
Confirmed Cases:	184	304	495	763	1243	1658*	1465	1701	1609	1868	2276	2270 ⁺	2659 ⁺
Child Sexual Abuse													
Reported Cases:	86	234	475	929	1055	1242*	1507	1362 [#]	1793	1,816	2,441	2,183 ⁺	1,988 ⁺
Confirmed Cases:	33	133	274	456	465	568*	599	587 [#]	681	557	765	624 ⁺	579 ⁺

Source: Department of Health and Children (1999).

§ These figures include cases of physical abuse, sexual abuse, emotional abuse and neglect.

* Figures were not collected in 1990 due to a revision of the procedures used in the collection of data.

Data from the Midlands Health Board was not available for 1992; the total figure presented is based on data received from the 7 other regional Health Boards.

+ Data from the Southern Health Board was not available for 1996 or 1997; the total figure presented is based on data received from the 7 other regional Health Boards.

APPENDIX I (a)

PART III

EVIDENCE IN CERTAIN PROCEEDINGS

12.—This Part applies to—

Offences to which
Part III applies.

- (a) a sexual offence,
- 5 (b) an offence involving violence or the threat of violence to a person, or
- (c) an offence consisting of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence mentioned in *paragraph (a)* or (b).
- 10

13.—(1) In any proceedings for an offence to which this Part applies a person other than the accused may give evidence, whether from within or outside the State, through a live television link—

Evidence through
television link.

- 15 (a) if the person is under 17 years of age, unless the court sees good reason to the contrary,
- (b) in any other case, with the leave of the court.

(2) Evidence given under *subsection (1)* shall be videorecorded.

20 (3) While evidence is being given through a live television link pursuant to *subsection (1)* (except through an intermediary pursuant to *section 14 (1)*), neither the judge, nor the barrister or solicitor concerned in the examination of the witness, shall wear a wig or gown.

14.—(1) Where—

Evidence through
intermediary.

- 25 (a) a person is accused of an offence to which this Part applies, and
- (b) a person under 17 years of age is giving, or is to give, evidence through a live television link,

30 the court may, on the application of the prosecution or the accused, if satisfied that, having regard to the age or mental condition of the witness, the interests of justice require that any questions to be put to the witness be put through an intermediary, direct that any such questions be so put.

35 (2) Questions put to a witness through an intermediary under this section shall be either in the words used by the questioner or so as to convey to the witness in a way which is appropriate to his age and mental condition the meaning of the questions being asked.

(3) An intermediary referred to in *subsection (1)* shall be appointed by the court and shall be a person who, in its opinion, is competent to act as such.

40 15.—(1) Where—

Procedure in
District Court in
relation to certain
offences.

- (a) a person is before the District Court charged with an offence to which this Part applies,

- (b) the person in respect of whom the offence is alleged to have been committed is a person under 17 years of age,
- (c) the offence is not being tried summarily or is not being dealt with on a plea of guilty, and
- (d) it is proposed, pursuant to *section 16 (1) (b)*, that a videorecording of a statement made by that person during an interview as mentioned in that provision shall be given in evidence at the trial,

the prosecution shall, in addition to causing the documents mentioned in section 6 (1) of the Criminal Procedure Act, 1967, to be served on the accused—

- (i) notify him that it is proposed so to give evidence, and
- (ii) give him an opportunity of seeing the videorecording of the interview in advance of the preliminary examination.

(2) If at a preliminary examination of an offence to which this Part applies the person in respect of whom the offence is alleged to have been committed is available for cross-examination, any statement made by him on a videorecording mentioned in *section 16 (1) (b)* may be considered by the judge of the District Court conducting the preliminary examination.

(3) If the accused consents, an edited version of the videorecording of an interview mentioned in *section 16 (1) (b)* may, with the leave of the court, be shown at the preliminary examination and, in that event, *subsection (2)* and the said *section 16 (1) (b)* shall apply in relation to that version as it applies to the original videorecording.

(4) The Criminal Justice (Legal Aid) Act, 1962, is hereby amended—

(a) by the insertion after section 2 of the following section:

“2A. (1) Where—

- (a) a person is before the District Court charged with an offence to which *Part III* of the *Criminal Evidence Act, 1992*, applies, and
- (b) it is proposed that at the preliminary examination of the offence evidence will be given through a live television link pursuant to *section 13* of that Act, and
- (c) a certificate for free legal aid (in this Act referred to as a ‘legal aid (preliminary examination) certificate’) is granted in respect of him by the District Court,

the person shall be entitled to free legal aid at the preliminary examination pursuant to a legal aid (preliminary examination) certificate and to have a solicitor and counsel assigned to him for that purpose in such manner as may be prescribed by regulations under section 10 of this Act.

(2) A legal aid (preliminary examination) certificate shall be granted in respect of a person if (but only if)—

- (a) application is made therefor,

(b) it appears to the District Court—

(i) that his means are insufficient to enable him to obtain legal aid, and

5 (ii) that, having regard to all the circumstances of the case (including the nature of such defence (if any) as may have been set up), it is essential in the interests of justice that he should have legal aid at the preliminary examination.”,

and

10 (b) by the insertion in section 9 (2), after “legal aid (District Court) certificate,” of “a legal aid (preliminary examination) certificate.”.

16.—(1) Subject to *subsection (2)*—

Videorecording as evidence at trial.

15 (a) a videorecording of any evidence given by a person under 17 years of age through a live television link at the preliminary examination of an offence to which this Part applies, and

20 (b) a videorecording of any statement made by a person under 14 years of age (being a person in respect of whom such an offence is alleged to have been committed) during an interview with a member of the Garda Síochána or any other person who is competent for the purpose,

shall be admissible at the trial of the offence as evidence of any fact stated therein of which direct oral evidence by him would be admissible:

25 Provided that, in the case of a videorecording mentioned in *paragraph (b)*, either—

(i) it has been considered in accordance with *section 15 (2)* by the judge of the District Court conducting the preliminary examination of the offence, or

30 (ii) the person whose statement was videorecorded is available at the trial for cross-examination.

35 (2) (a) Any such videorecording or any part thereof shall not be admitted in evidence as aforesaid if the court is of opinion that in the interests of justice the videorecording concerned or that part ought not to be so admitted.

40 (b) In considering whether in the interests of justice such videorecording or any part thereof ought not to be admitted in evidence, the court shall have regard to all the circumstances, including any risk that its admission will result in unfairness to the accused or, if there is more than one, to any of them.

45 (3) In estimating the weight, if any, to be attached to any statement contained in such a videorecording regard shall be had to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.

(4) In this section "statement" includes any representation of fact, whether in words or otherwise.

Transfer of proceedings.

17.—In any proceedings for an offence to which this Part applies in any circuit or district court district in relation to which any of the provisions of *sections 13 to 16* or *section 29* is not in operation the court concerned may, if in its opinion it is desirable that evidence be given in the proceedings through a live television link or by means of a videorecording, by order transfer the proceedings to a circuit or district court district in relation to which those provisions are in operation and, where such an order is made, the jurisdiction of the court to which the proceedings have been transferred may be exercised—

(a) in the case of the Circuit Court, by the judge of the circuit concerned, and

(b) in the case of the District Court, by the judge of that court for the time being assigned to the district court district concerned.

Identification evidence.

18.—Where—

(a) a person is accused of an offence to which this Part applies, and

(b) evidence is given by a person (in this section referred to as "the witness") through a live television link pursuant to *section 13 (1)*,

then—

(i) in case evidence is given that the accused was known to the witness before the date on which the offence is alleged to have been committed, the witness shall not be required to identify the accused at the trial of the offence, unless the court in the interests of justice directs otherwise, and

(ii) in any other case, evidence by a person other than the witness that the witness identified the accused at an identification parade as being the offender shall be admissible as evidence that the accused was so identified.

Application of *Part III* to persons with mental handicap.

19.—The references in *sections 13 (1) (a)*, *14 (1) (b)*, *15 (1) (b)* and *16 (1) (a)* to a person under 17 years of age and the reference in *section 16 (1) (b)* to a person under 14 years of age shall include references to a person with mental handicap who has reached the age concerned.

APPENDIX II

Child Witness Attitude Survey

DEPARTMENT OF PSYCHOLOGY
TRINITY COLLEGE DUBLIN

Section 1: Socio-Demographic Details

Instructions:

Please tick the response that applies to you.

Age:

Under 20 21 to 30 31 to 40 41 to 50 51 to 60 Over 60

Gender:

Male Female

Present Occupation (please specify):

Educational Background:

Please indicate the number of years of full-time education, which you have completed to date.

Years

Have you ever been in an Irish courtroom?

(Please tick the appropriate response)

Yes No

If yes, then in what capacity? (Please tick as many as apply)

- Previously attended court as a witness.
- Previously attended court as a victim of an offence.
- Previously attended court as a spectator.
- Previously attended court as an accused/defendant.
- Previously attended court as a juror.
- Other (Please Specify) _____

Section 2: Child Witness Attitude Scale

Instructions: The following is a list of statements relating to children and their competence to act as witnesses in legal proceedings. Please circle the number, which indicates your level of agreement or disagreement with each of the statements. For example, if you “Strongly Agree” with the statement circle the number 1; if you “Agree” with the statement, circle the number 2 etc.

1. A child’s memory of events is less accurate than that of an adult.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

2. Children are more truthful than adults.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

3. Children are more suggestible than adults.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

4. A child is less likely than an adult to make false allegations about a criminal offence.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

5. Children are less able to distinguish fantasy from reality than are adults.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

6. A child’s memory for an emotionally traumatic event is more reliable than that of an adult.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

7. Children should never be allowed to testify in court.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

8. A child witness is less likely than an adult witness to appear confident when presenting their evidence on the witness stand.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

9. A child's testimony is less likely to be consistent when compared to an adult's testimony.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

10. Child witnesses are more influenced by a lawyer's leading questions than are adult witnesses.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

11. Children are much less credible (i.e. believable) witnesses when compared to adults.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

12. A child witness is less likely than an adult witness to feel stressed about appearing in court.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

13. Lack of information about what happens to witnesses when they go to court would negatively effect a child's testimony much more than the testimony of an adult.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

14. Compared to when the key eyewitness in a trial is an adult, a jury is less likely to convict if the key eyewitness is a child.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1	2	3	4	5

Section 3

Please read the passage below.

Joan is 5 years of age. She recently told her mother that her stepfather had sexually assaulted her. Joan's mother reported her daughter's allegations to a member of the Gardai. The Gardai undertook an investigation into Joan's allegations. Criminal charges were brought against Joan's stepfather and the case went to trial in this jurisdiction (i.e. Rep. of Ireland). At the trial, Joan was required to testify.

Imagine that you are a juror in the criminal proceedings of this case.

i) How credible a witness would you, as a juror in this case, perceive Joan to be?

Not at all credible Somewhat Credible Very Credible
1 2 3 4 5

ii) As a juror in this case, how likely would you be to find Joan's stepfather guilty on the basis of Joan's evidence.

Not at all likely Quite likely Very likely
1 2 3 4 5

iii) Which of the following legal terms and concepts do you think that Joan would be likely to understand?
(Tick as many as you think apply)

- | | | |
|---------------------------------|---|--|
| <input type="checkbox"/> Police | <input type="checkbox"/> Witness | <input type="checkbox"/> Guilty |
| <input type="checkbox"/> Lawyer | <input type="checkbox"/> A Law | <input type="checkbox"/> Defendant |
| <input type="checkbox"/> Court | <input type="checkbox"/> To be Prosecuted | <input type="checkbox"/> Lie |
| <input type="checkbox"/> Judge | <input type="checkbox"/> Promise | <input type="checkbox"/> Give Evidence |
| <input type="checkbox"/> Trial | <input type="checkbox"/> Truth | |
| <input type="checkbox"/> Jury | <input type="checkbox"/> Oath | |

Thank you for your time and cooperation in completing this survey.

APPENDIX II (a)

16 Trial Vignette Conditions

A) 5-Year-Old Female Child Victim-Witness

Joan is 5 years of age. She recently told her mother that her stepfather had sexually assaulted her. Joan's mother reported her daughter's allegations to a member of the Gardai. The Gardai undertook an investigation into Joan's allegations. Criminal charges were brought against Joan's stepfather and the case went to trial in this jurisdiction. At the trial, Joan was required to testify.

B) 8-Year-Old Female Child Victim-Witness

Joan is 8 years of age. She recently told her mother that her stepfather had sexually assaulted her. Joan's mother reported her daughter's allegations to a member of the Gardai. The Gardai undertook an investigation into Joan's allegations. Criminal charges were brought against Joan's stepfather and the case went to trial in this jurisdiction. At the trial, Joan was required to testify.

C) 12-Year-Old Female Child Victim-Witness

Joan is 12 years of age. She recently told her mother that her stepfather had sexually assaulted her. Joan's mother reported her daughter's allegations to a member of the Gardai. The Gardai undertook an investigation into Joan's allegations. Criminal charges were brought against Joan's stepfather and the case went to trial in this jurisdiction. At the trial, Joan was required to testify.

D) 16-Year-Old Female Child Victim-Witness

Joan is 16 years of age. She recently told her mother that her stepfather had sexually assaulted her. Joan's mother reported her daughter's allegations to a member of the Gardai. The Gardai undertook an investigation into Joan's allegations. Criminal charges were brought against Joan's stepfather and the case went to trial in this jurisdiction. At the trial, Joan was required to testify.

E) 5-Year-Old Male Child Victim-Witness

John is 5 years of age. He recently told his mother that his stepfather had sexually assaulted him. John's mother reported her son's allegations to a member of the Gardai. The Gardai undertook an investigation into John's allegations. Criminal charges were brought against John's stepfather and the case went to trial in this jurisdiction. At the trial, John was required to testify.

F) 8-Year-Old Male Child Victim-Witness

John is 8 years of age. He recently told his mother that his stepfather had sexually assaulted him. John's mother reported her son's allegations to a member of the Gardai. The Gardai undertook an investigation into John's allegations. Criminal charges were brought against John's stepfather and the case went to trial in this jurisdiction. At the trial, John was required to testify.

G) 12-Year-Old Male Child Victim-Witness

John is 12 years of age. He recently told his mother that his stepfather had sexually assaulted him. John's mother reported her son's allegations to a member of the Gardai. The Gardai undertook an investigation into John's allegations. Criminal charges were brought against John's stepfather and the case went to trial in this jurisdiction. At the trial, John was required to testify.

H) 16-Year-Old Male Child Victim-Witness

John is 16 years of age. He recently told his mother that his stepfather had sexually assaulted him. John's mother reported her son's allegations to a member of the Gardai. The Gardai undertook an investigation into John's allegations. Criminal charges were brought against John's stepfather and the case went to trial in this jurisdiction. At the trial, John was required to testify.

I) 5 -Year-Old Female Child Bystander-Witness

Joan is 5 years of age. Joan's mother was admitted to hospital but was pronounced dead on arrival. Joan told the attending doctor that her stepfather had assaulted her mother. The doctor reported Joan's allegations to a member of the Gardai. The Gardai undertook an investigation into Joan's allegations. Criminal charges were brought against Joan's stepfather and the case went to trial in this jurisdiction. At the trial, Joan was required to testify.

J) 8 -Year-Old Female Child Bystander-Witness

Joan is 5 years of age. Joan's mother was admitted to hospital but was pronounced dead on arrival. Joan told the attending doctor that her stepfather had assaulted her mother. The doctor reported Joan's allegations to a member of the Gardai. The Gardai undertook an investigation into Joan's allegations. Criminal charges were brought against Joan's stepfather and the case went to trial in this jurisdiction. At the trial, Joan was required to testify.

K) 12 -Year-Old Female Child Bystander-Witness

Joan is 5 years of age. Joan's mother was admitted to hospital but was pronounced dead on arrival. Joan told the attending doctor that her stepfather had assaulted her mother. The doctor reported Joan's allegations to a member of the Gardai. The Gardai undertook an investigation into Joan's allegations. Criminal charges were brought against Joan's stepfather and the case went to trial in this jurisdiction. At the trial, Joan was required to testify.

L) 16 -Year-Old Female Child Bystander-Witness

Joan is 5 years of age. Joan's mother was admitted to hospital but was pronounced dead on arrival. Joan told the attending doctor that her stepfather had assaulted her mother. The doctor reported Joan's allegations to a member of the Gardai. The Gardai undertook an investigation into Joan's allegations. Criminal charges were brought against Joan's stepfather and the case went to trial in this jurisdiction. At the trial, Joan was required to testify.

M) 5 -Year-Old Male Child Bystander-Witness

John is 5 years of age. John's mother was admitted to hospital but was pronounced dead on arrival. John told the attending doctor that his stepfather had assaulted his mother. The doctor reported John's allegations to a member of the Gardai. The Gardai undertook an investigation into John's allegations. Criminal charges were brought against John's stepfather and the case went to trial in this jurisdiction. At the trial, John was required to testify.

N) 8 -Year-Old Male Child Bystander-Witness

John is 8 years of age. John's mother was admitted to hospital but was pronounced dead on arrival. John told the attending doctor that his stepfather had assaulted his mother. The doctor reported John's allegations to a member of the Gardai. The Gardai undertook an investigation into John's allegations. Criminal charges were brought against John's stepfather and the case went to trial in this jurisdiction. At the trial, John was required to testify.

O) 12 -Year-Old Male Child Bystander-Witness

John is 12 years of age. John's mother was admitted to hospital but was pronounced dead on arrival. John told the attending doctor that his stepfather had assaulted his mother. The doctor reported John's allegations to a member of the Gardai. The Gardai undertook an investigation into John's allegations. Criminal charges were brought against John's stepfather and the case went to trial in this jurisdiction. At the trial, John was required to testify.

P) 16 -Year-Old Male Child Bystander-Witness

John is 16 years of age. John's mother was recently admitted to hospital but was pronounced dead on arrival. John told the attending doctor that his stepfather had assaulted his mother. The doctor reported John's allegations to a member of the Gardai. The Gardai undertook an investigation into John's allegations. Criminal charges were brought against John's stepfather and the case went to trial in this jurisdiction. At the trial, John was required to testify.

APPENDIX III

**Survey of
Professional Groups
who work with
Child Witnesses**

**DEPARTMENT OF PSYCHOLOGY
TRINITY COLLEGE DUBLIN**

SECTION 1

Present Occupation (Please specify):

Gender: (Please circle your response)

Male

Female

Age: (Please circle your response)

21 to 30 yrs

31 to 40 yrs

41 to 50 yrs

51 to 60 yrs

Over 60 yrs

Number of years experience working directly with children _____ Yrs

Has any child you encountered in your professional capacity appeared as a witness in legal proceedings? (Please circle your response).

Yes

No

If yes, then in what capacity did the child(ren) appear?

What percentage of your professional duties is devoted to cases involving children who attend or may have to attend court as a witness in legal proceedings?

_____ %

Have you received any special training in working with child witnesses?

(Please circle your response)

Yes

No

If yes, please indicate the nature of the training that you have received.

Please read the passage below and circle your responses to the items that follow.

Joan is 8 years of age. She recently disclosed to her mother that her stepfather had sexually assaulted her on a number of occasions. Joan's mother reported her daughter's allegations to a child protection worker from the local Health Board. An investigation into the child's allegations was subsequently undertaken by the Health Board and then subsequently by the Gardai. Assume that Joan is an average child in such a case and that any other relevant facts (e.g. amount of corroborating evidence) are those that are most typical for such a case.

a) In your opinion, how likely is it that Joan is telling the truth?

Not at all likely Quite likely Very likely
1 2 3 4 5

b) In your opinion, how likely is it that the Director of Public Prosecutions (D.P.P.) will bring criminal charges against Joan's stepfather?

Not at all likely Quite likely Very likely
1 2 3 4 5

Assuming that the D.P.P. decides to bring criminal charges against Joan's stepfather and the case goes to trial in this jurisdiction (i.e. Rep. of Ireland). Please circle your responses to the following statements. Once again, please assume that any other relevant facts (e.g. amount of corroborating evidence) are those that are most typical for such a case.

i) How likely is it, in your opinion, that the judge will deem Joan to be competent to testify?

Not at all likely Quite likely Very likely
1 2 3 4 5

ii) How likely is it, in your opinion, that the judge or jury in the case will perceive Joan to be a credible witness?

Not at all likely Quite likely Very likely
1 2 3 4 5

iii) **How likely is it, in your opinion, that the judge or jury in the case will convict Joan's stepfather?**

Not at all likely
1

2

Quite likely
3

4

Very likely
5

iv) **Which of the following concepts do you think that Joan would be likely to understand? (Tick as many as you think apply)**

police

witness

guilty

lawyer

a law

defendant

court

breaking the law

oath

judge

promise

give evidence

trial

truth

to be prosecuted

jury

lie

SECTION 3

Based on your professional experience, how do children, in general, react to their court appearance?

Do you think that appearing in court is altogether too stressful for a child?

Yes

No

Not Necessarily because:

Which, if any, aspects of the pre-trial process are, in your opinion, particularly stressful for a child?

How might the impact of such aspects of the pre-trial process be best minimised in your opinion?

Which, if any, aspects of the trial process are, in your opinion, particularly stressful for a child witness?

How might the impact of such aspects of the trial process be best minimised, in your opinion?

SECTION 4

If a child that you are involved with professionally had to go to court, would you explain about the court process to the child? (Please circle your response)

Yes No

If yes, what information would you provide the child?

In your experience, what proportion of children in Ireland receive some form of preparation for court? (Please circle your response)

0% 1-25% 26-50% 51-75% 76-100%

As far as you are aware, in Ireland which Professional Groups are involved in the preparation of children for court: (Circle as many as you think apply)

Members of the Gardaí	Social Workers	Solicitors
Barristers	Psychologists	Other: (Please specify) _____

In your opinion, are there any beneficial effects of preparing a child witness for court? (Please circle your response)

Yes No

If yes, what might those beneficial effects be, in your opinion?

Might there be any potentially negative effects or drawbacks of preparing a child witness for court?

How important do you believe it is for children to receive some form of preparation prior to their giving evidence in court? (Please circle your response)

Not at all
Important

Somewhat
Important

Very
Important

Absolutely
Essential

If a programme of pre-trial preparation of child witnesses was to be put on a statutory basis which professional group should, in your view, have responsibility for the provision of such a programme?

Please feel free to use the space below to make any additional comments. I welcome any further thoughts and insights you may have about how the legal system might be improved for child witnesses. Again, THANK YOU for taking the time to participate in this survey.

APPENDIX IV

Legal Knowledge and Perception of Court Interview Schedule

DEPARTMENT OF PSYCHOLOGY
TRINITY COLLEGE DUBLIN

SECTION 1: Socio-Demographic Details

- (1) Participant Identification No:
- (2) Date of Birth: _____
- (3) Gender: Male Female
- (4) Occupation of Head of Household: _____
- (5) Position of Child in His/Her Family _____
- (6) Number of Siblings: Total Brothers Sisters
-

SECTION 6: Sources Of Information About The Legal System

- (31) Participant's Previous Involvement in Court Proceedings:
- Previously attended court as a defendant witness.
 - Previously attended court as a victim of an offence.
 - Previously attended court as a spectator.
 - No previous involvement.
- (32) Sources of Knowledge about the Legal System
- Prior Experience with the Legal System
 - Television
 - Family
 - Peers
 - Other: Please Specify: _____

SECTION 2: Understanding Of Court Procedures

Item 1: Court

- (7) (a) Do you know what a “court” is? Yes No
- (b) Tell me all you know about court.
- (1) _____
- (2) _____
- (c) What do you think happens in court?
- (1) _____
- (2) _____
- (d) Why do people go to court?
- (1) _____
- (2) _____
- (e) What kind of people do you think go to court?
- (1) _____
- (2) _____

Item 2: Trial

- (8) (a) Do you know what a “trial” is? Yes No
- (b) Tell me all you know about a trial.
- (1) _____
- (2) _____
- (c) What do you think happens during a trial?
- (1) _____
- (2) _____

SECTION 3: Understanding Of Court Personnel

(9) What different kinds of people can you think of that are usually in a courtroom?

- | | |
|----------------------------------|--------------------------|
| (a) Judge | (f) Solicitor |
| (b) Witness | (g) Jury |
| (c) Accused/Defendant | (h) Police Officer/Garda |
| (d) Defence Lawyer/Barrister | (i) Court Clerk |
| (e) Prosecuting Lawyer/Barrister | (j) Court Reporter |
| (k) Any Other: | |
- Please Specify: _____

Item 3: Judge

(10) (a) Do you know what a “judge” is? Yes No

Position: Correct Incorrect

(b) Tell me all you know about the judge.

- (1) _____
- (2) _____
- (3) _____

(c) What do you think a judge does in court?

- (1) _____
- (2) _____
- (3) _____

Item 4: Lawyer

(11) (a) Do you know what a “lawyer” is? Yes No

Position: Correct Incorrect

(b) Tell me all you know about a lawyer.

- (1) _____
- (2) _____
- (3) _____

(c) What do you think a lawyer / barrister / solicitor does in court?

(1) _____

(2) _____

(3) _____

Item 5: Police Officer/ Garda

(12) (a) Do you know what a “police officer/Gárda” is? Yes No

Position: Correct Incorrect

(b) Tell me all you know about a “police officer/Gárda” .

(1) _____

(2) _____

(c) What do you think a police officer/Gárda might do in court?

(1) _____

(2) _____

(3) _____

Item 6: Jury

(13) (a) Do you know what a “jury” is? Yes No

Position: Correct Incorrect

(b) Tell me what you think a “jury” is.

(1) _____

(2) _____

(3) _____

(c) What do you think the jury does in court?

(1) _____

(2) _____

(3) _____

Item 7: Witness

- (14) (a) Do you know what a “witness” is? Yes No
Position: Yes No

(b) Tell me what you think a “witness” is.

- (1) _____
(2) _____
(3) _____

(c) What do you think a witness does in court?

- (1) _____
(2) _____
(3) _____

Item 8: Defendant

- (15) (a) Do you know what a “defendant” is? Yes No
Position: Yes No

(b) Tell me what you think a “defendant” is.

- (1) _____
(2) _____
(3) _____

(c) What do you think a defendant does in court?

- (1) _____
(2) _____
(3) _____

SECTION 4: Understanding Of Legal Concepts

Item 9: A Law

(16) (a) Do you know what a "law" is? Yes No

(b) Tell me what you think a "law" is.

(1) _____

(2) _____

(17) (a) What do you think it means to "break the law"?

(1) _____

(2) _____

(b) What do you think would happen if someone broke the law?

(1) _____

(2) _____

Item 10: Guilty

(18) (a) What do you think it means that a person is found guilty?

(1) _____

(2) _____

(b) What do you think it means that a person is found not guilty?

(1) _____

(2) _____

Item 11: Truth

(19) (a) What does it mean to tell the truth?

(1) _____

(2) _____

(b) Do you think that it is important to tell the truth in court? Why?

(1) _____

(2) _____

(3) _____

Item 12: Lie

(20) (a) What does it mean to tell a lie?

(1) _____

(2) _____

(b) What do you think would happen if someone told a lie in court?

(1) _____

(2) _____

Item 13: Oath

(21) What do you think it means to take an oath?

(1) _____

(2) _____

Item 14: Promise

(22) (a) What do you think it means to make a promise?

(1) _____

(2) _____

(b) What would happen if someone broke a promise?

(1) _____

(2) _____

Item 15: Give Evidence

(23) What do you think it means to give evidence?

(1) _____

(2) _____

Item 16: To be Prosecuted

(24) What do you think it means to be prosecuted?

(1) _____

(2) _____

SECTION 5: Perceptions Of What It Would Be Like To Attend Court As A Witness

Sample Vignette & Corresponding Pictures.

Suppose that you saw a person steal something e.g. a car. You told an adult about what you saw and that person told your story to the policeman/Garda. The policeman/Garda asked you some questions about what you had seen. The policeman found the person that they think stole the car. They had to go to court and the policeman/Garda asked you to go to court as a witness.

(25) How do you think you would feel about going to court? Why?

(1) _____

(2) _____

(26) Do you think that you would like/not like to go to court? Why?

(1) _____

(2) _____

(27) Do you think that court is a good/bad (bad/good) place? Why?

(1) _____

(2) _____

(28) What do you think you would have to do in court?

(1) _____

(2) _____

(29) What do you think you would feel like when telling your story in court? Why?

(1) _____

(2) _____

(30) What do you think would happen after you told you story? Why?

(1) _____

(2) _____

Date of Interview

APPENDIX IV (a)

LEGAL KNOWLEDGE AND PERCEPTION OF COURT

INTERVIEW SCHEDULE

CODING SYSTEM

ITEM 1: COURT

- 1= Physical Description
- 2= Mention of the Actors (judge, lawyer etc)
- 3= Administering Justice (e.g. Trial Process)
- 4= Determination of Guilt/Innocence of Person
- 5= Sanctions/Sentences
- 6= Other

ITEM 2: TRIAL

- 1= Mention of actors (judge, jury, lawyers, witnesses etc)
- 2= Mention of procedures (e.g. cross examination)
- 3= Mention of setting
- 4= Mention of Adversarial Nature of the trial
- 5= Determination of guilt or innocence of person
- 6= Determination of sanctions/Punishment (jail-term, fine)
- 7 = Other

ITEM 3: JUDGE

- 1= Physical Description
- 2= Administrative Role
- 3= Determination of guilt or innocence of person
- 4= Determines sanctions/sentence
- 5= Other

ITEM 4: LAWYER

- 1= General Advocate
- 2 = Adversarial Element
- 3= Minimizes Sanctions (gets client off/out of trouble)
- 4= Physical Description
- 5= Other

ITEM 5: GARDA

- 1= Keeper of law and order
- 2= Investigation of Crimes
- 3= Apprehension of Criminals
- 4= Physical Description
- 5= Other

ITEM 6: JURY

- 1= Physical Description (e.g. 12 people)
- 2= Listen to Evidence
- 3= Determine guilt/innocence of accused.
- 4= Element of Concensus re: Verdict
- 5= Jewellery
- 6= Other

ITEM 7: WITNESS

- 1= Saw crime occurring (saw what happened)
- 2= Possesses information relating to the crime
- 3= Other

ITEM 8: DEFENDANT

1. Person who allegedly committed the crime
2. Person who did the crime
3. Other

ITEM 9: LAW

- 1= Rule
- 2= Made by Government/Governing Body of the Country
- 3= Mention purpose of law
- 4= Other

ITEM 10: GUILTY

- 1= Jury decides person committed the crime
- 2= Person did the crime
- 3= Person sent to jail
- 4= Other

ITEM 11: TRUTH

- 1= Tell exactly what happened
- 2= Don't tell lies
- 3= Moral element
- 4= Example
- 5= Other

ITEM 12: LIE

- 1= Not telling the truth.
- 2= Not saying exactly what happened
- 3= Moral element (it is wrong to tell lies)
- 4= Example
- 5= Other

ITEM 13: OATH

- 1= Swear on Bible to tell the truth to the court.
- 2= A Promise to Tell the Truth
- 3= Other

ITEM 14: PROMISE

- 1= Example (eg. promise to go to cinema etc)
- 2= Personal commitment to another to do something.
- 3= Other

ITEM 15: EVIDENCE

- 1= Outline in court your understanding of what happened.
- 2= Provision of material evidence eg. weapon
- 3= Other

ITEM 16: PROSECUTION

- 1= Brought to trial for alleged crime.
- 2= Go to jail
- 3= To be Killed
- 4= Other

APPENDIX IV (b)

