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**Tesi di Laurea:**

**CHILDREN'S TESTIMONY  
LA TESTIMONIANZA DEL MINORE**

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## **ABSTRACT**

Studying criminal processes requires careful consideration of many aspects, all contributing to their complexity. This essay examines the significance of raising attention to the various problems regarding eyewitness testimony, with a particular emphasis on children's testimony offering statistical consideration that helps to understand the importance of the topic. It is estimated that there are over 4250 wrongful convictions yearly in the US due to sincere, yet inaccurate, eyewitness identification (Bennett, 2015). This issue deserves attention to prevent similar situations and enhance a better way of collecting precious witnesses' information. An analysis of memory's functions is essential for comprehending the treated topic: memory processes have been studied in each passage to understand how memory works and how this can impact how individuals remember and express their testimonies during court proceedings. A review of interview and interrogation techniques is suggested to thoroughly examine the topic, and the phenomenon of false confessions is also taken into account. Moreover, an analysis of cases involving repeated events is provided.

## SOMMARIO

Studiare i processi criminali richiede una considerazione attenta di molteplici aspetti, ognuno dei quali contribuisce alla complessità dei diversi casi. Questo lavoro si è posto in primo luogo l'obiettivo di portare attenzione sull'importanza delle diverse problematiche riguardanti le testimonianze degli spettatori oculari. Ciò è stato realizzato ponendo particolare enfasi sulle testimonianze dei bambini e offrendo considerazioni statistiche che hanno il fine di comprendere, nel miglior modo possibile, la rilevanza di questo tema. È infatti stimato che ci siano ogni anno, negli Stati Uniti d'America, più di 4250 convinzioni errate causate da sincere ma inaccurate identificazioni da parte di testimoni oculari (Bennet, 2015). La ragione per cui questo tema necessita di essere attenzionato è proprio quella di prevenire altre situazioni simili tramite lo studio di nuove e più adeguate modalità di raccolta delle testimonianze. Ma affinché questo argomento possa essere compreso a pieno è necessaria un'estensiva analisi delle funzioni della memoria: per questo, nello studio in questione, i processi della memoria sono stati analizzati in ogni passaggio per renderne chiaro il funzionamento e il conseguente impatto che essa può avere nelle modalità tramite cui gli individui ricordano ed esprimono le proprie testimonianze durante i processi giuridici. È stata inoltre proposta una riesamina delle modalità di interrogatorio, oltre che esaminato il fenomeno delle false confessioni. A conclusione, è stata proposta un'analisi sistematica di casi coinvolgenti eventi ripetuti.

## **CHAPTER 1:**

### **WITNESSES' TESTIMONY RELEVANCE**

Firstly, it is important to remember what is considered as eyewitness testimony: evidence of events that occurred actions that were performed, or words that were spoken, given in court by a person who observed the events or actions first-hand or heard words be spoken (Colman, 2015).

In order for a judge and a jury to determine a defendant's guilt, witness evidence is essential to criminal investigations and court proceedings since it offers a first-hand account of a criminal incident (Kebbell & Milne, 1998). Eyewitnesses are critical in solving crimes, and sometimes their testimony is the only evidence available to determine the culprit's identity. But even though there were concerns about the accuracy of eyewitness identification, only around the 1990s criminal justice personnel started taking this research seriously into consideration (Wells & Olson, 2003). The shift in perspective on psychological studies of eyewitness identification was mainly brought about by the advancement of forensic DNA testing. It has cleared more than one hundred people who were convicted before the discovery of forensic DNA, and more than 75% of these individuals were victims of incorrect eyewitness identification (Wells et al., 1998; Scheck et al., 2000). It is estimated that there are over 4250 wrongful convictions yearly in the United States due to sincere yet inaccurate eyewitness identification (Bennett, 2015).

The University of Exeter Law School's Dr. Rebeca Helm has handled the examination of more than 250 instances of injustice that have taken place in England and Wales during the last fifty years. As a result of her extensive research between 1970 and 2016, she created a public database detailing more than 350 convictions that were overturned owing to factual errors. The study determined that inadequate disclosure, incorrect or misleading forensic science, and unreliable confessions were the four main causes of factual mistakes and miscarriages of justice in England and Wales. In 41% of the cases that were found, that was untrustworthy witness testimony. Among all the cases, 26% had a false or insecure confession, 21% involved false or deceptive forensic science, and 18% involved inappropriate disclosure (Criminal Law Review, 2021) (University of Exeter, 2021).

Assessing a witness's credibility in a court of law is a normal and crucial step in assessing the evidence and reaching a verdict. The juror frequently has to evaluate the witness's authenticity, recollection, and level of focus on the offence in order to decide the legitimacy of the message. This is particularly valid in cases where there are contradictory testimonies. Shedler and Manis (1986) discovered that the persuasiveness of the arguments affected the conclusions made by the mock judges both immediately, after the case was read, and two days later. Bell and Loftus (1989) referred to the persuasive impact of trivial details on decisions as 'trivial persuasion'. According to the phenomenon, communicators should exercise extreme caution while selecting their words because even seemingly insignificant facts can have the same impact as substantial information. Why does trivial persuasion occur? This question has been the subject of several investigations. One possibility is that information is easier to recall when it contains trivial details, and this might be because details make information more vivid. In line with Nisbett and Ross (1980), because vivid information is easier to remember, it has a stronger influence on judgments than pallidly presented information. Furthermore, Bell and Loftus' study conducted in 1988 suggests that the persuasive impact of highly detailed testimony on judgments of a defendant's responsibility was due to inferences about the credibility of the witnesses. Fundamentally, witnesses were generally perceived as more reliable when they dispensed more trivial details. However, a good memory for details does not always indicate greater credibility or a good recollection of the face of the offender. In Wells & Leippe's (1981) experiment, participants witnessed a simulated theft and were then asked to identify the perpetrator. Individuals who were more likely to have correctly identified the object were those who were less likely to recall peripheral details (such as wall pictures). The hypothesis that assumptions about the eyewitnesses played a role in the effects of detail specificity on guilt assessments has been supported also by a mediational analysis presented by Bell & Loftus (1988). The results of their previous study suggest that the influence of detail may have been mediated by evaluations on the accuracy of the eyewitness. While the study extends this finding by showing specifically that inferences about the attention an eyewitness paid to the culprit and an eyewitness's memory of the face of the culprit contributed to the persuasive impact of detailed testimony on judgments of guilt. In conclusion, when witnesses provided more details, they were often judged as having paid more attention to the offender and as having a better recollection of the



offender's face. At this point, it is clear how assessments of the eyewitnesses' memory and attention span were impacted by unrelated information.

Moreover, the accuracy of children's testimony has been a topic of discussion in both professional and popular areas due to the growing engagement of children in the legal system. This discussion mostly centers on several issues pertaining to children's suggestibility, such as the following: are kids really so simple to manipulate into saying something they do not believe? What impact does the type of information presented in leading questions have on children's suggestibility? Do young people who witness an event first-hand recall it more vividly or are more reluctant to advise than children who only observe it? (Rudy and Goodman, 1991).

## **1.1 IMPORTANCE OF CHILDREN'S SAFETY PROMOTION**

Primarily, it is important to remember that interviewing children as witnesses is significantly different than interviewing adults: their brain functions and their cognitive development are not complete, as well as their memory and speech comprehension are still immature. For these reasons, it is cardinal to relate to them as vulnerable witnesses, organizing and building the relationship in a more protective way compared to the one with mature-age persons.

Approximately 19% of the EU population (95 million) is under the age of 18. Adoption proceedings, witnessing or being the victim of crimes, committing the crime themselves, seeking asylum, and parental disputes over custody are just a few of the ways in which minors can encounter the legal systems of Member States, either directly or indirectly. Minors may experience significant effects from court procedures, and their rights may be restricted or violated if there is no child-friendly response. In addition, particularly vulnerable children, such as those with disabilities or those who are immigrants, face additional obstacles in exercising their rights when the national legal system does not follow child-friendly policies and procedures. All minors should be able to access the court system without restriction and children should also be treated with respect for their age, special needs, maturity, and comprehension level throughout their interactions with

the legal system. Additionally, any communication issues they may have should be taken into account (European Commission, 2019).

Furthermore, young people are not the only vulnerable witnesses, several categories are included in this term. But what do we mean by the words 'vulnerable witness'? Up to 24% percent of witnesses could be considered vulnerable (Burton, Evans & Sanders, 2006) and in this category are enclosed: children (especially sexual abuse cases), traumatized crime victims, elderly people, individuals suffering from mental health disorders, and persons with physical, cognitive or learning disabilities. These categories are referred to as 'vulnerable' because they might require additional care in this kind of circumstance. For instance, vulnerable witnesses may include those who are mute due to brain damage or who struggle with articulation or language barriers.

These people, as well as all the others, need to be protected in court proceedings. Everyone has the right to be listened to and, for this reason, forensic psychology strives to develop new and improved strategies.

## **CHAPTER 2:**

### **INTERVIEW AND INTERROGATION METHODS**

How the information is gathered during a witness interview is central in order to collect the most accurate data. Several important factors may positively or negatively influence the relationship between witnesses and victims, which may, in turn, impact their testimony. Some of them are the relationships built between the interviewer and the witness, the way through which the information is collected (e.g. how the questions are asked if they are open-ended or not), the setting of the interview, etc.

Respondents, witnesses, and victims may all be questioned during an investigation using Investigative Interviews, which are non-coercive techniques. One type of investigative interview is the P.A.C.E. model (Preparation and Planning, Engage and Explain, Account, Closure and Evaluate) used in the United Kingdom in response to a large number of documented forced confessions and following wrongful convictions during the 1980s and 1990s (Powell, Martine, Fisher & Wright, 2005; Milne, Rebecca and Rull, Ray, 1999; Gudjons, Gisli, 2007). Also, to facilitate decision-making, investigative interviews often require a person to provide an extensive and precise account of an incident or a circumstance.

In the UK, the field of investigative interviewing was established in the early 1990s as a reaction to several studies and legal cases; and it reflected a shift, in police questioning practices, away from an emphasis on getting confessions in order to obtain evidence. Conventionally, the primary goal of an interview (sometimes referred to as 'interrogation') was to get a confession from the person being investigated. Therefore, investigative questioning differs from common interrogation methods since it is not oriented to force an individual to confess, but rather to collect factual, comprehensive, and impartial accounts of their involvement in an incident.

Much of the scientific base of investigative interviewing comes from the fields of social psychology and cognitive psychology, including studies on human memory. This technique seeks to decrease the impact of cognitive biases and innate human misconceptions such as confirmation bias, suggestibility, priming, and false memories. A fundamental factor is that the interviewer must be able to establish a strong connection with the interviewee; explain the aim of the interrogation; ask open-ended questions; and

be willing to consider various theories to conduct a successful interview. Those who are interviewed are invited to provide their free, undisturbed narrative before any probing questions are asked (PICA, 2020).

A set of principles has been created to serve as an authoritative guide for conducting ethical interviews. These principles of Investigative Interviewing are rooted in the first guidelines introduced to UK policing in 1992 (Home Office Circular 22/92), which established ethical standards for police officers interviewing witnesses, victims, and suspects.

Investigative interviewing aims to gather accurate and reliable information from victims, witnesses, or suspects to uncover the truth of the matter under investigation. Accuracy means completeness without distortion, and reliability means the information can withstand scrutiny, such as in court. This information helps advance investigations by opening new lines of inquiry and providing a basis for questioning others. Investigators must act fairly, complying with the Equality Act 2010 and the Human Rights Act 1998, approaching interviews without prejudice, and using common sense to assess accuracy. An investigative mindset is crucial, testing accounts against known facts and planning interviews to corroborate or disprove information, aiming to fill gaps in the investigation. Interviewers can ask a wide range of questions to obtain information or proofs. Still, they also have to abide by applicable laws and codes of practice and refrain from using unfair or oppressive methods. Investigators can help with victim compensation, give courts accurate sentence information, give defendants credit for early admissions, improve agency intelligence, and maximize resource efficacy by realizing the benefits of early admissions. Persistent questioning is acceptable only when investigators believe it is necessary and useful, but always within the ethical confines. Finally, even in cases where suspects exercise their right to remain silent, investigators are allowed to ask probing inquiries in order to get the whole story, although they must advise suspects that in some jurisdictions their silence may be interpreted negatively and use them in court.

Even if eyewitness information is crucial in criminal investigations, police officers often do not receive enough training on how to properly interview willing witnesses. As a result, they make mistakes that reduce the amount of information they can gather and lead to inaccuracies about what witnesses remember. According to a study conducted by Fisher in 1995, despite how crucial eyewitness information is, police receive surprisingly little

training in interviewing cooperative witnesses. Based on a 1975 Rand Corporation survey, over half of the police departments reported having no formal training for new investigators. While larger departments and major training centers like the FBI and the Federal Law Enforcement Training Center offer adequate training, many smaller departments provide little to no useful training, and most police science textbooks either skip effective interviewing techniques or cover them superficially.

Due to this lack of formal training, many police officers tend to have similar interviewing styles, suggesting shared intuitions about what makes an effective interview.

A typical police interview, as analyzed by Fisher, Geislman, & Raymond (1987), follows a common structure. After a brief introduction, the witness is asked to narrate what happened; and, following this, the interviewer asks direct questions about the crime and the perpetrator's description. These questions require brief and elicit short answers, covering details such as height, weight, build, ethnic provenance, facial hair, and clothing. The timing of those questions varies widely and doesn't always correlate with eyewitnesses' comments. Interviewers often end with a general request for any additional information and a brief 'thank you' (Fisher, 1995). The most notable aspects of the interviews were (a) the lack of structure; (b) the directedness with which almost all pertinent facts were questioned (e.g. 'Was he wearing jeans?'); and (c) the minimal or absent assistance provided to improve the witnesses' recall. Three mistakes were consistently made: interrupting the witness, presenting an excessive number of closed-ended questions, and inappropriate sequencing of questions (Fisher, Geiselman & Raymond, 1987).

### **2.0.1 COERCIVE INTERVIEW: THE REID TECHNIQUE**

Before the mid-1930s, police interrogations in the United States were notorious for employing brutal tactics collectively known as the Third Degree. These methods included blatant physical abuse such as beating, kicking, and cigarette burns, as well as less detectable forms of mistreatment like beating with rubber hoses and sandbags, and various forms of psychological and physical deprivation. The Supreme Court had condemned such tactics as early as 1897, but police continued to use them secretly, aided by the complicity of various criminal justice officials.

The Wickersham Commission Report of 1931, which revealed the pervasive use of the Third Degree and other forms of police brutality, marked a turning point. A public uproar followed by a gradual change in sentiment saw juries becoming wary of confessions obtained in this way.

John Reid, a former Chicago street cop and polygraph examiner, developed in the 1950s a new interrogation technique that became known as the Reid Technique. This approach relied more on psychological manipulation rather than physical violence to coerce confessions. The Reid Technique consists of three main steps: Factual Analysis, Behavioral Analysis Interview (BAI), and Interrogation. Officers use behavioral signals to determine a suspect's veracity during the BAI, although research has called into question the accuracy of these indicators.

The Reid Method's questioning phase uses a confrontational method in which the suspect is placed in isolation, isn't allowed to contact legal representation or other support, and is put through a series of psychological stresses. To get a confession, interrogators are taught to convince the suspects they are positive about their guilt, downplay the moral gravity of the crime, and exaggerate the evidence against them. They frequently create false evidence to support their claims, convincing the suspect that confessing is in their best interest. The Reid Method is still often applied even after the 1966 Miranda warning, which mandates that police advise suspects of their rights, was implemented. Critics contend that the Reid Technique is excessively strong and has the potential to induce false confessions, especially in susceptible groups such as children and those with intellectual disabilities. False confessions collected by the Reid method can result in unjust convictions, letting the genuine offenders remain at large and possibly commit other crimes, as studies and high-profile instances have demonstrated (Kozinki & Wyatt, 2017).

The Reid Method's reliance on psychological pressure and manipulation, akin to modern psychological torture, has raised significant ethical and legal concerns. The broader issue highlighted by these practices is a policing philosophy that prioritizes obtaining confessions over uncovering the truth, undermining public trust in the justice system (Kozinki & Wyatt, 2017).

The Reid Technique's guilt-presumptive and coercive approach runs counter to many key tenets of the U.S. criminal justice system. First of all, "*the tactics used by police to*

*steamroll a child into confessing to a crime can offend our most basic notions of fairness and justice, not to mention the presumption of innocence that our criminal justice system is supposed to provide” (see Crane, Nirider, & Steven, 2016).* Children are especially vulnerable to the built-in pressures that characterize American interrogations and the idea that children need to be handled differently in different criminal circumstances is supported by social research, academic literature, and the Supreme Court’s Eighth Amendment jurisprudence. The Reid Technique is an unlawful method of questioning a juvenile suspect because of vulnerabilities specific to children. The Supreme Court should declare that any interrogation method that relies on deceit and presumes guilt is unconstitutional. The only way to fully protect children’s Fifth Amendment rights and remove the increased possibility of juvenile false confession is through a categorical constitutional rule that forbids the use of the Reid Technique in any juvenile interrogation (Spierer & Ariel, 2017).

## **2.0.2 NON-COERCIVE INVESTIGATION: THE P.E.A.C.E. MODEL**

In 1998, the UK Labour Government stepped up its attempts to prosecute social security fraud, especially for small-scale frauds, and concentrated more on looking into past benefit abuse. In the past, the focus was mostly on eliminating false claims that were still pending, paying little attention to earlier abnormalities and resulting in few arrests. Laws about benefit fraud were amended in 1999 to include financial penalties, cautions, and prosecutions. As a result, the Police and Criminal Evidence Act of 1984 (PACE) required additional interviews under caution (IUC).

PACE, introduced to address miscarriages of justice, required taped interviews, enhancing scrutiny on police interview standards. The research highlighted issues with police interviews, including poor planning, poor questioning strategies, and confession-focused approaches that frequently originate from presumptions of guilt. Studies found similar problems in benefit fraud investigations, where interviews aimed primarily at securing confessions.

To improve interviewing skills, the Home Office introduced the P.E.A.C.E. model in 1993, which emphasized ethical interviewing and truth-seeking. This model was later, in

1999, adopted by the Department of Social Security (now Department of Work and Pensions, DWP).

This framework known as the P.E.A.C.E. Model has been widely praised and adopted by numerous law enforcement, regulatory agencies, and private and public sectors throughout the world in conducting investigative interviews. The abbreviation P.E.A.C.E. helps to remember and summarizes the five steps involved in managing the interview process: Preparation and Planning which consists of the creation and recording of the interview; Engage and Explain, phase in which it is fundamental to elucidate to the witness the reasons (objectives) why the interview is important for understanding the incident and the routines (expectations), or rather what the individual may expect in those situations (such as which questions may be treated and in which way) to avoid triggering the witness of a traumatic event of which they have difficulties speaking about. The followings steps are: Account and challenge, which consists of taking and developing the account and introducing the investigator topics through the use of appropriate questioning; Closure and Evaluation which is the step in which the information is evaluated and investigated.

While the P.E.A.C.E. Model made improvements in several areas of interviewing, research by Clarke and Milne (2001) revealed that there were still major flaws, particularly in preparation, questioning, strategies, and interview closing. Furthermore, despite training, a lot of investigators went back to their old practices and frequently assumed guilt prior to interviews.

All things considered, the P.E.A.C.E Model was well-received and promised to enhance the quality of interviews; nonetheless, its implementation had been hampered by profound prejudices and irregular utilization by investigators (Walsh & Milne, 2008).

### **2.0.3 COGNITIVE INTERVIEW (CI) IN FORENSIC PSYCHOLOGY**

The Cognitive Interview (CI) (Fisher & Geiselman, 1992) was initially mostly based on cognitive concepts but ultimately grew to include many social communication components. It is very well-liked in the UK and is utilized globally. Since some of the cognitive components of the CI are considered less appropriate to use with children, it is



primarily used with cooperative adult witnesses (reviews available for Fisher, Ross, & Cahill, 2010; Memon, Meissner, & Fraser, 2010) but there is no complete agreement on this topic. The Cognitive Interview is defined as “*one of the most exciting developments in forensic psychology in the last 30 years*” (Memon & Gawrylowicz, 2019). Recalling experiences in detail is challenging, especially after delays. Both children and adults report new details with additional interviews (La Rooy, Pipe, & Murray, 2005; Odinet, Memon, La Rooy, & Millen, 2013). The Cognitive Interview (CI) aims to minimize memory limitations using techniques such as multiple and varied retrieval, context reinstatement, and minimizing guessing and reconstructive recall. Multiple witnesses may recollect the same events differently and from various points of view (Anderson & Pichert, 1978; Smith & Vela, 2001).

The set of memory recovery procedures contained in the Cognitive Interviewing (CI) method is used to extract more information from eyewitnesses, providing investigators with more complete and precise accounts from respondents. The psychologists Fisher of Florida International University and Geiselman of the University of California (Los Angeles) first created the CI in 1984 in response to the numerous requests they received from law enforcement and other legal professionals seeking enhanced witness interviewing techniques. This new technique is based on pre-existing and widely accepted theories of retaining and recalling information. When police detectives apply this technique, witnesses are found to provide over 40% more reliable information than when detectives utilize traditional interrogation procedures (for a recent meta-analysis of data, see Memon, Meissner, & Fraser, 2010). Additionally, compared to experienced police officers who conducted interviews traditionally, university students conducting research employing this new method were able to gain more information from witnesses (see Fisher & Geiselman, 1992; Memon & Koehnken, 1992; Memon & Higham, 1999, for reviews). Memon et al. (2010) found 65 studies in their meta-analysis enclosing an extensive examination of the previous literature including field studies carried out with real witnesses and police officers who had received CI training and laboratory-based experimental investigations.

The main key points of the Cognitive Interview are context reinstatement, reporting everything, changing order, and changing perspective.

One of the strategies of CI consists of asking the interviewees to reconstruct in their minds the context, both physical (environmental) and personal (e.g. how they felt at the time in which the event occurred). Reinstating the physical context is important as demonstrated by Godden and Baddeley (1975). They highlighted that recall is improved if the original learning context is restored. In a free recall experiment, divers learned lists of words on dry land and underwater, then recalled them in either the same or a different environment. Recall was best in the original learning environment, supporting context-dependent memory. Notwithstanding experimental restrictions and possible outside distractions during the session, this context-dependent memory effect remained. Locke also noted a similar effect in a dancer who could only perform well in the presence of a specific trunk (Locke, cited in Dennis, 1948). An additional experiment indicated that moving between environments did not disrupt memory, despite the concept's popularity in detective fiction, there is conflicting empirical data. Jensen et al. (1971) observed the context-dependent memory effect, although studies by Farnsworth (1934) and Pessin (1932) did not; and Strand (1970) proposed that disruption resulted from traveling across environments rather than from various contexts. The ecological validity of numerous research that have used artificial habitats has been questioned, though they lacked adequate controls. Egstbom et al. (1972) hypothesized that context-dependent effects were the cause of divers' memory problems underwater.

Overall, the results of the finding verify the existence of context-dependent memory and show that it is strong enough to influence performance outside of the lab.

It was also studied by Bower (1981) the importance of restoring the emotional setting of the event to recall it better, he treated this argument as spoken about state-dependent learning. In his study, he describes two phenomena: the mood-congruity effect, which means that people tend to learn more about events that match their emotional state, and second, the mood-state-dependent retention, which means that people recall an event better if they somehow reinstate during recall the original emotion they experienced during learning. The CI has as its main goal the purpose of finding in which situation people can remember better and with more precision what has happened in a crucial and specific moment, and it is clear at this point that reinstating the context of the incident can help to recall more effectively.

The second approach of the Cognitive Interview is asking the witnesses to tell the interviewers all they remember about the event, reminding them that everything could be useful to know for the investigators even if they think it is not relevant or if they can remember it only partially. Every single account can help the police piece together the reports.

It is fundamental to use a heterogeneity of approaches, which means using a variety of retrieval strategies and probing different senses, because this may help victims and witnesses to recall more details and in a more specific way and it is also vital to relieve any fears of the interview not being believed.

A third technique proposed in CI consists of reversing the order of what happened in the incident: an example may be to speak about the facts starting from the end until arriving at the start point. One of the sentence formulations that is possible to be used by the interviewer for introducing this may be “We are going to try something which sometimes helps people to remember more. What I am going to ask you to do is to tell me what happened but this time backward. What was the last thing you can remember? What happened just before that?”.

Asking for recollection from several viewpoints, such as the victim’s or another witness’, is a fourth method. Once again, the goal is to elicit more details. However, this “change of perspective” technique raises concerns about potential fabrication and confusion, such as shown in Memon et al.’s (1993) study with child witnesses. In the study, a child struggled to provide coherent details when asked to imagine the perspective of a nurse during an eye test. This technique may not be well-received in legal contexts, as it can be seen as promoting speculation (Memon and Koehnken, 1992). Additionally, police officers using the CI often avoid this instruction, fearing it may mislead witnesses (Kebbell and Wagstaff, 1996).

### **2.0.3.1 INTERVIEWING CHILDREN**

It has been suggested by researchers (e.g. Bull, 1996; Poole & Lamb, 1998) and legal professionals (e.g. Memorandum of GoodPractice, Home Office and Department of Health, 1992) that the phased interviewing approach can be used for investigative interviews with children. However, there are limitations to this interviewing technique.

For example, the free report provided by young children is frequently inadequate, leaving the interviewers with little information on which to base their follow-up questions (Davies, Wilson, Mitchell, & Milsom, 1995). Therefore, memory-enhancing strategies need to be developed to assist professionals in getting the best information possible from children, especially before they are questioned in court (Milne & Bull, 2003).

The goal of the CI is to improve memory retrieval and dyadic communication through a variety of strategies that are intended to increase both the quantity and quality of information collected from cooperative witnesses, victims, and suspects of crime. For adult witnesses, it has been demonstrated that it improves memory of accurate information by about 35-45% (for a meta-analysis, see Kohnken, Milne, Memon & Bull, 1999). As of right now, 14 studies – both published and unpublished – have examined the use of the CI with children starting at the age of 6 (for a detailed summary, see Milne & Bull, 1999). Only two of these investigations (Memon, Cronin, Eaves, & Bull 1993; Memon, Wark, Holley, Bull & Kohnken, 1996) examined memory performance after longer delays and found no effect on the CI. However, no study has discovered that the CI leads to fewer details being recounted, regardless of the type of respondent. In three studies (Finger, Nitschke, & Kohnken, 1992; McCauley & Fisher, 1995; Memon, Wark, Bull & Kohnken, 1997) there were significantly more incorrect details reported and in two studies more confabulations were noted in children interviewed with a CI (Finger et al., 1992; Hayes & Delamothe, 1997). Nevertheless, all studies have indicated that the percentage accuracy of the information retrieved from children interviewed with a CI is high (ranging from 81 to 93%). In the study conducted by Milne and Bull (2003) as predicted, it was found that the children who were interviewed using a CI recalled significantly more correct information than those interviewed using an SI (Standard Interview). The research found that using the Cognitive Interview (CI) technique enhances the correct recall of information by children, with a 21% improvement, similar to previous findings (Geiselman & Padilla, 1998; Saywitz et al., 1992). The accuracy of information obtained with CI was above 80%, consistent with other research. The CI particularly increased the reporting of people's details, which children typically struggle with. Though the most trustworthy information was obtained during the free report phase of the interview, the questioning phase of the interview was primarily responsible for the enhanced effect of the CI. The results of the study also demonstrated that further recall

attempts, such as a second retrieval attempt, increased the amount of accurate information without significantly increasing the number of inaccurate details. When appropriately guided, children responded well with the CI approach, and reverse order recall did not result in additional errors. Despite taking longer to perform, it was discovered that the CI elicited more information than the standard interview employed in the UK.

The studies made clear how important it is to use CI techniques, particularly for child witnesses since they help children avoid inaccurate questioning and do not contribute to an increase in false information. When the material matched their preexisting accounts of events, children were less likely to include inaccurate details in their interviews. Overall, the CI increased correct information reporting and helped children resist misleading questions which is critical for legal interviews. Future research should further explore these effects, particularly in more ecologically valid settings (Milne & Bull, 2003).

## **2.1 RAPPORT-BUILDING'S SIGNIFICANCE**

Several studies focused their attention on the importance of building a good relationship with the eyewitnesses and one of these was the one conducted by Vallano & Compo in 2011. Their study investigated whether verbal rapport-building techniques increase adult witness report accuracy and decrease their susceptibility to post-event misinformation. Following the view of a videotaped mock crime, one hundred and eleven participants in the study received post-event information about the crime after it had happened. A research assistant then interviewed those involved, regardless of whether they had a relationship before recalling the mock-crime. The findings showed that building a bond improved the recall quality of witnesses by reducing the rate of false and misleading information provided, especially when answering open-ended questions.

But what about children?

Before asking children about significant subjects, forensic interviewers are widely recommended to build a relationship with them (e.g. Fisher & Geiselman, 1992; Home Office, 2002; Lamb, Sternberg, & Esplin, 1998; Yuille, Joffe & Zaparniuk, 1993). Although many forensic interviewers only make sporadic attempts to establish a rapport, few studies have investigated the consequences of systematic rapport building. The study

goal of Roberts, Lamb & Sternberg (2004) was built to investigate how two different rapport-building strategies affected children's narrative of experienced events in terms of length, accuracy, and informativeness.

Developing rapport has various advantages. At first glance, some kids can be reluctant to talk about embarrassing or private experiences they had first-hand (e.g. Saywitz, Goodman, Nicholas & Moan, 1991); to gain more accurate reports, rapport can reduce tension or pain (Siegman & Reynolds, 1984). Second, a mutual understanding may decrease children's anxiety and increase their accuracy because young individuals tend to give more erroneous details and are more susceptible when questioned by a perceived authority figure (e.g. Tobey & Goodman, 1992). Additionally, children should be able to reject advice even from someone who seems friendly and approachable (e.g. Goodman, Bottoms, Schwartz-Kenney & Rudy, 1991). Third, developing rapport enables interviewers to evaluate children's verbal skills, cognitive functioning, and emotional state before looking into significant topics in developmentally appropriate ways (Poole & Lamb, 1998). Lastly, through the application of the rapport-building phase, forensic interviews can be made more informative to clarify the goals and ground rules (Orbach et al., 2000).

Roberts, Lamb & Sternberg (2004), under controlled circumstances, tried to duplicate in their study the Sternberg et al.'s (1997) findings. Children aged three to nine participated in a staged activity that included forensically significant elements of comprehending dressing, undressing, and snapping pictures. A week or a month later, the children were re-interviewed to evaluate the impact of rapport building following short delays contrasted to longer ones. The interviews were fully written down to allow an analysis of rapport-building impacts on responses to a range of topics. The interviewers started with rapport-building stages were either open-ended or direct in style. After building rapport with an open-ended rather than direct style, the researchers anticipated that the children would share more detailed and exhaustive accounts of a staged event. The studies could also investigate the theory that with an open-ended approach to rapport-building, children are more capable of rejecting misleading suggestions. Additionally, in comparison to kids who received a direct type of rapport-building, the ones who participated in the open-ended establishing connections condition were generally more accurate when answering

questions concerning made-up details. The recall-open questions elicited more precise and in-depth answers than the focused questions.

In conclusion, the accuracy rates of older children were more substantial than those of younger children, even though they reported more erroneous evidence.

## 2.2 EVENTS' RECONSTRUCTION

Before starting to deal with the factors that may influence children's testimonies during court proceedings, it is important to understand how memory works, and which are the variables that can affect the recalling of events.

How good is memory? Eyewitness memory errors are arguably one of the leading causes of false imprisonment in the UK and Ireland and this occurs because people tend to give too much credit to eyewitness evidence even though it is not always accurate or infallible. Regarding this theme, in the last years of the 19th century Albert Von Schrenk-Notzing, who acted as an expert witness during court processes, introduced the term 'Retroactive/Retrospective Memory Falsification'. This expression indicates '*the addition of false details to the memory of past experiences*' (American Psychology Association, 2018). In his work, he used this knowledge to demonstrate that witnesses are prone to confuse real-life events with knowledge of events they acquire through other means.

Another important figure dealing with this argument was H. Munsterberg in his work 'On The Witness Stand' (1923) in which he focused the attention on eyewitness testimony as inherently susceptible to what he called 'illusions'. For these, the subject's perceptions are influenced by the situation resulting in an erroneous recollection of events. This indicates how eyewitness evidence is naturally vulnerable to these kinds of situations. In identical circumstances, the testimonies of two distinct, yet sincere individuals, can differ substantially.

Many people probably believe if someone saw an individual who committed a crime, he or she would never forget the face of the criminal and would be accurate in the identification. But it is known from real cases, that eyewitnesses routinely make mistakes in their identification decisions, and this occurs because human memory is malleable. It

may be contaminated over time from photographs, videos or even talking to other people, and it also may be affected by imagination. This is not a problem in everyday life because individuals usually deal with personal and positive memories, but when it comes to eye-witnessing a crime this can be extremely detrimental for an innocent suspect (Dysart, 2018). For these reasons, is fundamental to keep in mind that human memory is imperfect and reconstructive.

By analyzing how memory works, it is possible to distinguish three main stages: encoding, storage, and retrieval (Melton, 1963). Encoding is defined as the initial learning of information; storage refers to maintaining information over time; and retrieval is the ability to access information when the individual needs it. An example of these processes may be found when two people meet for the first time at a party. Person A needs to encode the name of person B (Juliet) and associate Juliet's name with her face, and vice versa. Then person A needs to maintain the information over time. If the same individual (A) sees Juliet a week later, he needs to recognize her face and have it serve as a cue to retrieve her name. All three phases need to be present for memory to be effective. But, as it is known, two types of errors may occur. Forgetting is one type — when a person sees someone at a party, and she/he can't remember his/her name — a blank has been left drawn. Misremembering (false recall or false recognition) is the other possible mistake. It is possible to erroneously call someone that person A encounters who resembles Juliet by using her name. Alternatively, it is possible to see the real Juliet, identify her by sight, but refer to her by the name of another woman that was met previously at the party (whose name is not remembered).

Understanding how people remember crimes is mostly dependent on the three stages of memory mentioned above, but it is also critical to consider how real crimes differ from the events that psychologists analyze in the laboratory to draw conclusions about authentic eyewitnesses.

As part of eyewitness experiments, participants frequently watch crime footage due to ethical and practical concerns, and their recollection of the incident in the video is later examined. Nonetheless, the singular experience of being there at the real crime scene may have an impact on the recall of events (Davies & Beech, 2017). Regarding this, the memory accuracy of witnesses to a fatal shooting event in Canada was examined by Yullie and Cutshall (1986), in one of the few studies existing on assessing recollections from a



real crime event. Four to five months after the incident, they evaluated the accuracy rate of responses recorded during the first police interviews. The witnesses' memories were not only generally quite precise, but they also remained accurate throughout the retention period. Given some of the experiments discussed in this essay, these results may appear surprising, thus it is crucial to consider the chance that people may remember crimes from real life more vividly than they would believe from laboratory studies (Koriat & Goldsmith, 1994). It is certainly important to exercise caution before automatically assuming that findings can be generalized from the lab to the real world (Wagstaff et al., 2003).

### **2.2.1 Encoding**

The encoding stage refers to the initial experience of perceiving, learning events, and creating memories. Although real-life encoding is more complex, psychologists frequently research this by having individuals memorize lists of words or pictures. As people are unable to focus on everything at once, this selectivity is partially a reflection of the limited attentional resources. According to Baddeley (1997), because of the limitations of the human cognitive system, individuals typically selectively pay attention to specific parts of events ignoring the others. For these reasons, not all the information experienced is encoded. For example, during a walk across campus, numerous sights and sounds are encountered, but only some of them are attended to and encoded. This selectivity in encoding means that individuals remember some details and ignore others (Hunt, 2003). Distinctive events, such as seeing a giraffe on campus, are more likely to be remembered due to their uniqueness and the emotional responses they evoke. Such memories, known as *flashbulb memories*, are vivid and detailed, capturing the moment of learning important news with photographic clarity. However, confidence in these memories does not always equate to accuracy (Talarico & Rubin, 2003).

Encoding involves not just perception but also recording – transforming information into a form that makes sense to the individual, such as using acronyms. Recording can improve retention but can also introduce errors, leading to false memories. For instance, in a study by Deese (1959) and Roediger & McDermott (1995), participants falsely remembered words associated with those they had studied. Moreover, humans tend to make inferences

and form associations, which can result in remembering inferred details as actual experiences. Brewer (1977) showed that people often remember pragmatic inferences as if they were factual, such as interpreting ‘The baby stayed awake all night’ as ‘The baby cried all night’.

Thus, while encoding is essential for memory, it is inherently selective and reconstructive, involving both accurate recall and potential distortions. Effective encoding strategies, like forming distinctive memories and associations, enhance learning and retention (Hunt & McDaniel, 1993), but one must be mindful of the possibility of false memories due to the reconstructive nature of encoding.

Furthermore, several variables could impact the information that makes it into the memory system and, in turn, the degree to which a trace is encoded. Among these, it is possible to find: the interest value or salience of the events, the repetition of the original event, the stress level, the time of encoding of original events, weapons’ presence, and the effects of drugs and alcohol (Larsson, 2005), which might alter the encoding process creating ‘imperfect memories’.

One of the factors that may influence the encoding process is the level of stress perceived. During a crime, witnesses often experience high levels of stress, which can negatively impact the accuracy of their memory recall. Studies generally show that stress impairs memory accuracy (Deffenbacher et al., 2004). This phenomenon is explained by the Yerkes-Dodson Law (1908), which describes an inverted U-shaped relationship between stress and memory performance: moderate stress enhances memory, but extreme stress impairs it. Researchers employ inventive techniques since it is difficult to duplicate the extreme stress of seeing a crime in a lab setting due to ethical considerations. For example, Valentine and Mesout (2009) investigated guests visiting a horror attraction and they discovered a correlation between higher levels of self-reported stress and more inaccurate memories. Likewise, Morgan et al. (2013) found that under intense stress in a simulated prisoner-of-war camp, military personnel’s recollections were susceptible to false information. Despite these findings, stress does not always degrade memory accuracy. Yuille and Cutshall (1986) recognize that highly stressed witnesses of a real crime recalled events more accurately than less stressed witnesses, possibly because they were closer to the crime scene. Additionally, traumatic memories can be particularly accurate due to narrowed attention to central details during high-stress moments (Christianson, 1992).

However, Hope et al. (2015) provided evidence that high stress in a simulated police scenario resulted in poorer recall of central details, supporting the inverted U-shaped curve theory. Notably, some officers in this study incorrectly remembered an assailant drawing a weapon, which never happened.

Overall, high stress usually deteriorates memory, although moderate stress can sometimes improve it. The accuracy of recollections also depends on whether the information was crucial or incidental to the stressful experience.

A knife or a gun is frequently used in crimes involving violence or the threat of violence. Fear or surprise makes people focus intently on the weapon, which can cause them to miss other crucial information. Known as the 'weapon focus effect' investigations conducted in the lab have confirmed this phenomenon (Pickel, 1998; Hope & Wright, 2007). Its effect on real offenses is less evident, though, presumably because real-world situations are more difficult to regulate and contrast the environments (Behrman & Davey, 2001; Davis & Valentine, 2009). A review of existing literature supports the notion that weapon focus significantly affects eyewitness memory accuracy, although this effect decreases with longer exposure to the perpetrator (Fawcett, Russell, Peace, & Christie, 2013). Two main explanations have been proposed for weapon focus. The first, the cue utilization hypothesis (Easterbrook, 1959), suggests that people narrow their attention to the weapon due to its threat. Supporting this, research with children showed they remembered less about a researcher's appearance when a frightening object was present (Davies, Smith, & Blincoe, 2008). However, this threat explanation alone doesn't fully account for weapon focus, as the effect doesn't always correlate with the level of threat (Pickel, 1998, 1999). The second explanation is that, because weapons are uncommon in everyday life, people are drawn to them. According to studies, odd objects can also cause memory loss (Hope & Wright, 2007). Based on Fawcett et al. (2013), there is no discernible difference in memory impairment between weapons and odd objects. It is interesting to keep in mind that being conscious of the weapon focus effect can lessen its consequences. When it comes to an incident with a weapon, participants who were educated about the phenomenon remembered more accurate information and less inaccurate details than those who were not (Pickel, Ross, & Truelove, 2006).

When observing a crime, people might shift their attention around trying to understand what is happening. Research shows that if a change occurs during a brief moment when

the individual is not looking, he might not notice it when he refocuses. Surprisingly, this can apply to significant changes as well. In one study, 61% of participants did not notice that a burglar's identity changed when the camera angle switched mid-video (Davies & Hine, 2007). Those who detected the change had better recall accuracy. Even police officers, who are trained observers, are just as prone to change blindness as the general public (Smart, Berry, & Rodriguez, 2014). Perception errors are the cause of this phenomenon. According to Levin et al. (2002), a fresh mental picture of an object or a person can replace an old one if there is not a well-established version. When witnesses presume continuity, they are more inclined to become change blind. For example, when an 'innocent' individual moved behind a pile of boxes and the offender appeared on the other side, participants frequently failed to recognize identification changes (Davis et al., 2008). Change blindness in forensic settings has not received much attention in the literature, suggesting that further research is necessary to determine when witnesses are most susceptible to these perceptual errors (Laney & Loftus, 2010).

Moreover, because crime scenes are intricate and frequently overwhelming, encoding them requires a high cognitive load. People may utilize schemas and scripts unknowingly to form a cohesive memory. To fill in memory gaps, most individuals have a mental representation of what happens in a shoplifting episode from films, television shows, and novels (Tuckey & Brewer, 2003b). When faced with a heavy cognitive load, people often tend to interpret events through stereotypes. Research by Van Knippenberg et al. (1999) demonstrated that when participants were informed that a suspect was either a drug addict or a bank worker, those in the negative stereotype condition (drug addict) remembered more incriminating data under high cognitive load. Information conformity to stereotypes and schema affects how well it is remembered.

Interestingly, stereotypes can also enhance memory. Information consistent with a stereotype or schema is often well-preserved (Tuckey & Brewer, 2003). Conversely, attempting to suppress stereotypical thinking can lead to memory errors. Peters et al. (2006) found that participants instructed to avoid stereotypical responses made more recognition errors when primed with a foreign group photograph, compared to those given a neutral prime.

When a crime occurs, witnesses or victims may be intoxicated, especially in cases of sexual or violent assaults, which typically happen at night (Evans et al., 2009; Palmer et

al. 2013; Office of National Statistics, 2011/2012). Early research by Yuille and Tollestrup (1990) showed that alcohol impairs the detail of immediate recall for a staged theft, and intoxicated participants remembered less and were less accurate after a week than sober ones. The alcohol myopia framework (Steele & Josephs, 1990; Steele & Southwick, 1985) suggests intoxication narrows the focus to central details, neglecting peripheral ones. Schreiber Compo et al. (2011) found that intoxicated participants recalled central details (like a bartender's hair) but missed peripheral ones (like a dartboard). However, some studies, such as Harvey, Kneller, and Campbell (2013), did not support this hypothesis, finding no difference in memory between intoxicated and sober participants. Clifasefi, Takarangi, and Bergman (2006) refuted Assefi and Garry's (2003) research, which showed that ideas about alcohol's effects might be more harmful than the alcohol itself. While drunk participants remembered fewer details about sexual assault scenarios overall, Flowe et al. (2015) showed that one day and four months later, their recall accuracy was comparable to that of sober participants. This suggests that even though their reports are less comprehensive, witnesses who are intoxicated can still give trustworthy testimony.

So far, temporary factors and how they influence witnesses' memory accuracy have been discussed; however, stable characteristics, like age, also play a significant role. According to research, young adults typically have the most reliable memories, instead older adults may be less accurate due to age-related declines in encoding quality and make it harder for them to retain new information (Li, Naveh-Benjamin, & Lindenberger, 2005). In line with studies conducted by Aizpurua, García-Bajos, & Migueles (2009) and Searcy, Barlett, Memon, & Swanson (2001), older witnesses tend to recall fewer and less precise details. Even though their recall accuracy increases with age, children are also frequently less reliable witnesses (Lamb, Orbach, Warren, Esplin, & Hershkowitz, 2007). Because they lack the life experience necessary to employ the scripts and schemas that help in recalling events, young children's recollections may be less accurate (Baker-Ward, Gordon, Ornstein, Larus, & Clubb, 1993).

### 2.2.2 Storage

The following stage is the storage process, in which memory is stored to be accessible for later retrieval. Every experience an individual lives changes his brain. This theory may sound outlandish at first, yet it is accurate in that the nervous system has been modified by encoding experiences and representing them therein. These alterations are referred to as *memory traces* or *engrams* by neurobiologists and psychologists. Consolidation, the process by which brain alterations occur over time to establish a memory trace, is how events turn memories into engrams. Even if the precise nature of this change is difficult to determine by psychological means alone, psychologists refer to the change in the nervous system encoding our experience as a 'memory trace' (Tulving & Bower, 1975). Although the idea of memory traces is essential, it shouldn't be overused. Memory traces are not exact information packets that are waiting to be totally recalled. Memory is often imprecise and prone to error, and remembering involves reconstructing past events with the help of memory traces and current knowledge rather than perfectly reproducing them. This process is called 'reconstructive memory'. The time between learning and testing, known as retention interval, allows memories to solidify and improve retention. However, events during this period can potentially cause interference with memory. Proactive interference develops when experiences from the past interfere with as the retention of new information, whereas retroactive interference happens when new activities during the retention interval disturb older memories. According to McGeoch (1932), interference of both kinds plays a major role in forgetting, with retroactive interference being especially important. E. Loftus's studies on eyewitness memory demonstrate how false information given during the retention interval might distort memories. A type of retroactive interference known as the misinformation effect occurs when false information is disseminated after an incident and alters a witness's recollection of it (Loftus, 2005). It is possible to improve memory during the retention interval by giving accurate information. Interference is always manifested during memory retrieval (McDermott & Roediger, 2018).

Witnesses' memory of criminal events is influenced by various factors. Key influences on memory storage include post-event information, the creation of false memories, the delay between the event and testimony, and emotional or traumatic memories.

a. Post-event information

To avoid memory contamination and social conformity, police frequently separate witnesses. However, witnesses talk often about the events, which contributes to the misinformation effect – a condition in which false information taints memory accuracy (Loftus & Hoffman, 1989). This was shown by Loftus et al. (1978), who demonstrated that participants' memories of a simulated accident may be changed by false post-event facts. According to Loftus (1979) and Wright & Loftus (1998), the “update memory hypothesis” postulates that false memories can overwrite true memories, resulting in reconstructed memories. Hypotheses, task pressures (McCloskey & Zaragoza, 1985), or source monitoring errors (Lindsay & Johnson, 1987) caused by misinformation may impact memory reports.

b. False memories

Debates continue over whatever significant emotional events, like childhood sexual abuse, can be suppressed and later recovered if false memories are implanted (Blass & Davies, 1994; Ofshe & Watters, 1994). Loftus and Pickrell (1995) showed that suggestive interviews could lead to false memories of childhood events, a phenomenon supported by similar studies (Wade et al., 2002; Berkowitz et al., 2002). False memories may arise from source monitoring errors, where elements of true and false events become intertwined (Hyman & Loftus, 2002). Factors influencing false memory formation include the plausibility of the false event and individual differences in susceptibility (Pezdek & Hodge, 1999; Watson et al., 2005).

c. Delay

Memory accuracy is affected by the amount of time that passes between witnessing a crime and testifying; longer intervals typically result in a higher chance of forgetting details or events (Van Koppen & Lochun, 1977). After a first quick memory decline, it then deteriorates at a slower pace (Tuckey & Brewer, 2003a). Accuracy can be maintained by repeatedly assessing memory during the retention period (Ebbesen & Reinick, 1998). However, due to the influence of crime schemas, repeated interviews may also result in inconsistencies and memory inaccuracies (Tuckey & Brewer, 2003b).

d. Emotional and traumatic memories

Research on flashbulb memories explores the durability of memories for significant and unexpected events. According to Brown and Kulik (1977), these memories arise from a special mechanism that creates vivid, detailed, and long-lasting memory traces. Emotional events are often recalled with high vividness and accuracy (Porter & Birt, 2001), as demonstrated by studies of children who survived a traumatic kidnapping (Terr, 1979, 1983) and concentration camp survivors (Wagenaar & Groeneweg, 1990). These memories are better remembered partially due to frequent rehearsal (Tinti et al., 2014). However, memories of significant emotional moments are not always reliable. Reconstruction strategies may be applied to them, and they may evolve as the experiences take on greater emotional personal value (Christianson, 1989; Neisser, 1982). The forgetting patterns of conventional autobiographical memories and flashbulb memories are similar (Curci & Lanciano, 2009). For instance, research on 9/11 reveals that although people do not forget the event, external factors like media exposure cause memory reports to become less accurate over time, especially when it comes to non-critical details (Hirst et al., 2015).

### **2.2.3 Retrieval**

Retrieval is crucial for using stored information, as without it, the information is useless (Tulving, 1991). Despite successful remembering involving encoding, storage, and retrieval, the bottleneck is often retrieval. Individuals encode and store vast amounts of information daily, but only a small fraction is ever retrieved consciously. Psychologists distinguish between available information (stored) and accessible information (retrievable) (Tulving & Pearlstone, 1966). Retrieval cues, which match encoded memory traces, significantly enhance recall (Tulving & Thomson, 1973). However, overly general cues are less effective (Watkins, 1975).

The type of test determines how well a person performs on memory: production tests require recall, whereas recognition tests require choosing the right answer from a list of possible ones. Though recall can occasionally be more successful due to encoding specificity, recognition tests frequently produce better results (Muter, 1984; Watkins & Tulving, 1975). Retrieval alters memory, this process is known as the “testing effect” or “retrieval practice effect”. It can lead to retrieval-induced forgetting, but it can also



improve recall in the future (Pyc & Rawson, 2009; Roediger & Karpicke, 2006; Anderson, Bjork, 1994).

Retrieval is reconstructive; over time it may add errors or false memories by piecing together frames of memory into a cohesive narrative (Barlett, 1932; McDermott, 2006). This tendency is demonstrated by Jean Piaget's account of a staged kidnapping attempt (Piaget, 1962). Repeated retelling can cement false memories, making them seem real (Norman & Schacter, 1997).

There are several factors which may impact on the retrieval phase. One of them is the format of the questions, which can significantly influence the accuracy of witness responses. Open-response questions (e.g., "Describe the attacker") allow for more accurate and complete answers compared to closed-response (e.g., "What color was the attacker's shirt?") or yes/no questions, as supported by research (Clifford & George, 1996; Davies, Westcott, & Horan, 2000; Fisher, Geiselman & Raymond, 1987; Memon & Vartoukian, 1996; Kebbell & Wagstaff, 1999). Complex questions, including double negatives and compound questions, are difficult for witnesses to answer (Kebbell & Gilchrist, 2010). It is important to remember also that suggestive questioning and particularly leading questions, can alter witnesses' memories. Loftus and Palmer (1974) demonstrated this with varying descriptions of a car collision, where wording influenced speed estimates and the recall of broken glasses.

Accuracy is increased by retrieval improvement procedures such as the self-administered interview (SAI) and the cognitive interview (CI). While the SAI helps witnesses document their testimony quickly after the occurrence, boosting recall accuracy, the cognitive interview employs mnemonics to improve recollection (Fisher & Geiselman, 1992; Gabbert, Hope & Fisher, 2009; Hope, Gabbert, Fisher & Jamieson, 2014). The temporal context of the events is established by other methods such as timelines (Hope, Mullis & Gabbert, 2013).

Although witness confidence and accuracy are not necessarily correlated, they can be predicted in some situations (Wixted, Mickes, Clark, Gronlund & Roediger, 2015). According to Bradfield, Wells, and Olson (2002), confidence is most predictive when is evaluated shortly after testimony without inaccurate feedback. Repeated questioning can also boost confidence (Poole & White, 1991). The balance witnesses have to maintain

between giving precise and comprehensive information is referred to as the accuracy-informativeness trade-off. According with research by Weber and Brewer (2008), witnesses only provide detailed information when they are certain of its reliability, indicating that confidence affects the amount of detail they disclose.

### **2.3 CHILDREN'S TESTIMONY INFLUENCING FACTORS**

Investigative interviewers deal with a variety of witnesses and victims daily, many of whom are seen as “vulnerable”. These include underage people, the elderly, those suffering from mental health disorders, and those with physical, intellectual and developmental disabilities, all of whom may be more susceptible to suggestibility, miscommunication, or other communication difficulties in legal settings.

Although children are less frequently involved in legal matters than adults, their testimony is often crucial, especially in cases of child sexual abuse, where external evidence may be lacking. Children's statements can be the primary or only evidence available for prosecution and ensuring that child victims receive necessary services. While there is skepticism about the accuracy of children's eyewitness accounts (Quas, Thompson, & Clarke-Stewart, 2005), research shows that children can provide reliable and accurate testimony when questioned under developmentally appropriate conditions (Peterson, 2012). Therefore, interviewers must consider children's cognitive and social limitations when eliciting their testimony (Davies & Beech, 2017).

It is important to keep in mind that there are cognitive and social factors that affect children's interview performance, such as the age of the child, the cognitive and emotional development, previous experience, the family's background, the parental influence, the setting in which the testimony is collected, the modality in which the interview is conducted, and social pressure and suggestibility. Considering all these can help the interviewers gather more detailed and reliable information from young witnesses.

### 2.3.1 Age of the child

According to psychological studies, the degree to which different people's recollections of witnessed events can be affected by false post-event information and the precision with which they can be recalled vary greatly, (e.g., Wells and Loftus, 1984). Age is one demographic factor that is a reliable general indication of an eyewitness's credibility. It has been observed that young adults tend to be more dependable witnesses than young children and the elderly, however, this is not always the case (e.g., Ceci & Bruck, 1993).

Coxon & Valentine (1997) conducted research exploring how age impacts the accuracy and reliability of eyewitness testimony. Participants divided into children (ages 7-9), young adults (ages 16-19), and elderly adults (ages 60-85), were randomly assigned to either a control or a misinformed condition. After watching a video depicting a baby being abducted, subjects answered a series of questions, some of which included misleading information depending on their experimental condition. The study aimed to not only assess the accuracy of participants' recall but also their susceptibility to misleading post-event suggestions.

The findings indicated that recollection accuracy varied significantly with age. In comparison to older respondents and children, young adults outperformed them by correctly answering more questions and wrongly answering fewer. Young individuals answered 63.1% of the questions correctly, senior adults 40.3%, and children 48.1%. In contrast, young adults made fewer mistakes than children and the elderly; children were more likely to give the wrong answer when unsure, while the elderly were more willing to acknowledge that they did not know the answer.

Both young adults and older adults were impacted, though in different ways, by false information. Compared to young people and older individuals, children were more susceptible to misleading data especially when it came to enquires about incidental facts. When it comes to the important specifics of the event, they exhibited resiliency comparable to that of adults. Contrary to some previous studies (e.g., Loftus et al., 1992) elderly people were no more susceptible to information, while generally being less accurate.

The study concluded that both children and elderly people are less reliable as eyewitnesses compared to young adults, with children being more prone to

misinformation. However, while elderly participants recalled less information overall, what they did remember was more accurate than children's responses, particularly in avoiding incorrect or misleading answers.

### **2.3.2 Cognitive and emotional development**

When dealing with children, it is vital to keep in mind that they are still in a developmental phase in which both the brain and the cognitive functions are not fully developed, and emotional intelligence is not fully reached.

Children's normal cognitive development allows them to thrive and succeed in a wide variety of contexts, particularly those well suited to their emerging abilities. However, there are domains in which children are forced to participate that are not necessarily well adapted to their cognitive skills and abilities, and one of these is the legal system. Designed to operate with adults in mind, children are often poorly equipped to cope with its demands and rigors (Malloy, Mitchell, Block, Quas, & Goodman, 2007), and their performance in these contexts is often evaluated in ways that might under- or overestimate their contributions (Bottoms, Golding, Stevenson, Wiley, & Yozwiak, 2007). Hence, examining children's cognitive abilities in forensic contexts can be an important means of helping calibrate the usefulness of their contributions (Segovia & Crossman, 2012).

Although children's involvement in the legal system can take many forms, for them to testify in court, they must possess several fundamental cognitive skills, including the ability to recognize, retain, and convey pertinent information clearly and accurately (Federal Rules of Evidence 601, 602). In order to avoid having their evidence rejected, discounted, or taken in a different light, they must be able to comprehend the questions being asked, reply effectively, and do so without giving in to pressure from the interviewer or suggestions (Ruva & Bryant, 2004). The most critical for child witnesses is memory development. Although the ability to create memories seems to be present from birth, lasting autobiographical memories that a child can report of an experienced event are rare until approximately 3 years of age (Fivush, 1997; Jack, Simcock & Hayne, 2012), likely facilitated and organized by language development (Simcock & Hayne, 2002). Nevertheless, once developed, children's memory can be highly accurate. In terms of

eyewitness identifications, child witnesses can be as accurate in identifying a culprit as adult witnesses (Humphries, Holliday, & Flowe, 2012).

Hobbs, Johnson, Goodmann, Bederian-Gardner, Lawler, Vargas & Mendoza (2013) discussed the impact of traumatic and stressful events that may emotionally impact children's memory, which is crucial for understanding their testimony. According to research, children can frequently recollect traumatic events with accuracy, but they can also make mistakes, forget things, or distort them, similarly to how adults can.

Overall, it is fundamental to find a positive channel through which is possible to communicate with them without influencing what they remember about an event and not let them feel judged by the interviewers.

### **2.3.3 Previous experience and cultural background**

The Payir et al. (2021) study explores how children's cultural background – especially their religious upbringing – as well as their prior experiences impact how they perceive the world and how they testify. The study examined how children from diverse religious and secular backgrounds, ranging in age from 5 to 11, evaluate the credibility of stories that fall into four categories: magical, religious, unusual, and realistic. The study aimed to explore the extent to which children believe that such events could actually happen in real life and how their cultural context influences these beliefs.

The results show that children's perceptions of the plausibility of events are significantly shaped by their cultural background, particularly the religious homes were more inclined than the secular counterparts to accept religious events as possibly genuine, even if children overall were skeptical about the probability of happening in magical and religious stories compared to atypical and realist ones. This shows that children's ideas about reality can be greatly influenced by religious teachings and the community's acceptance of particular narratives, especially when it comes to events that have elements of the supernatural or miraculous.

The study underscores that children's judgments about what can happen in real life are not formed in isolation but are heavily influenced by the testimony they receive from adults and the broader cultural and religious context they are part of. Religious children,

for example, are more likely to accept the believability of stories about miracles and supernatural interventions because they are exposed to them regularly. This is consistent with other research that demonstrates how cultural and religious environments shape children's conceptions of reality and fantasy.

Furthermore, the study shows that although children use causal regularities to support their beliefs about reality, their cultural background influences the kinds of causal elements that they find acceptable. Religious children are more likely to endorse causal explanations that align with their religious teachings, suggesting that their upbringing not only affects what they believe can happen but also how they reason about such possibilities.

Cultural influences are, once again, very important in determining how parent-child conversations affect memory. Certain cultures instill in their youngsters politeness and refusal to disagree with adults, which can make them more suggestible during interviews. In others, the focus might be on recalling details accurately, which could support resistance to deceptive advice. These parenting styles and societal norms have a big impact on how children recall and report events (Chae, Hartman & Goodman, 2022).

In essence, these studies illustrate that cultural background and previous experiences, particularly those shaped by religious teachings, significantly impact how children perceive the world and evaluate the reality of events. This has important implications for understanding children's testimony, especially in legal or forensic settings, where their beliefs about what is possible could influence the accuracy and nature of their accounts. Overall, the findings emphasize the need to consider the cultural and experimental background of children when assessing their testimony for a better understanding of the potential biases and influences that may shape their perceptions and recollections.

#### **2.3.4 Parental influence**

Parental involvement has a significant and complex impact on children's testimony, particularly when it comes to forensic interviews and conversations concerning child sexual abuse (CSA). A parent's discussion of an event with their children can have a substantial impact on children's memory and later testimonies. Depending on several

conditions, this can result in both correct recalls and inaccurate evidence. Chae, Hartman, and Goodman (2022) discussed this topic raising several important conclusions to consider when dealing with children and court proceedings.

The significance of the child's age is one of the important points made in the research. Younger children, especially those under three, are more vulnerable to their parents' suggestive influences, which can result in distorted or false memories. Children typically become less suggestible as they get older, especially when it comes to delicate subjects like CSA. Individual variations are significant though, and in some circumstances, even older kids can be impacted.

Parental influence is notably evident in how different events are discussed with children. Conversations about negative or stressful experiences, such as CSA, often involve more detailed discussions that include references to time and causality. This detailed approach can significantly affect a child's memory, potentially creating a stronger, more accurate memory that is less prone to distortion. However, the child's recall accuracy heavily depends on how the parent guides these discussions – whether they are supportive, encourage elaboration, or are more controlling.

The nature of the attachment relationship between parent and child adds another layer of complexity. Securely attached parents tend to be more supportive and encouraging in discussions, which can enhance the child's ability to remember events accurately. On the other hand, insecurely attached parents or parents who exert high levels of control might unintentionally cause their children to provide inaccurate testimonies by limiting their autonomy or introducing their own biases into the conversation.

In summary, while parental involvement is crucial in the initial disclosure and subsequent discussions about events like CSA, it is a double-edged sword. The nature of this involvement – shaped by factors such as the child's age, the type of event, the parent's attachment style, and cultural norms – can either support accurate testimony or contribute to memory distortion. This underscores the importance of carefully considering parental influence in forensic settings to ensure that children's testimonies are as accurate and reliable as possible (Chae, Hartman & Goodman, 2022).

### **2.3.5 Interview's setting**

Perry & McAuliff's (2012) study offers a critical analysis of the effects a courtroom's physical and psychological setting can have on children's capacity to give truthful and trustworthy testimony. Given the growing number of children involved in the legal system as a result of obligatory reporting regulations about child abuse, this research is especially important for finding a more functional way of interviewing children that may be more precise and less suggestive. With an increasing number of children testifying or being injured in court (such as cases of children's physical, psychological, and sexual abuse), the typical adult-focused courtroom environment is frequently inadequate for the developmental requirements of younger people, the quality of children's testimony and their overall perception of the legal system may both be significantly impacted by this imbalance.

The study in question involved 81 children aged 8 to 10, who participated in a structured classroom activity. Two weeks later, were asked to recall the event in one of the two settings: a formal courtroom or a smaller, more private room. This experimental design allowed the researchers to investigate how different environments influence children's memory performance, level of anxiety, perceptions of stress related to the courtroom environment, and psychological stress responses, such as changes in heart rate. The study's findings were revealing: when compared to the children who were interviewed in the more private area, the children interviewed in the courtroom setting showed noticeably worse recollection of the event. Furthermore, a higher rate of reactivity was linked to a higher stress level in the courtroom scenario.

These findings imply that a child's capacity to precisely remember and explain his experiences may be affected by the formal and frequently frightening ambiance of a typical courtroom. The importance of the setting in a forensic interview with children cannot be overstated. The intimidating nature of a courtroom, with its formal procedures, unfamiliar language, and often imposing architecture, can exacerbate the stress that children already feel in such situations. This stress, in turn, can compromise the accuracy of their testimony, which is of particular concern in cases where the child's account may be a critical piece of evidence (Perry & McAuliff, 2012).

In light of these findings, it is important to advocate for significant changes in how forensic interviews with children are conducted. A suggestion may be to use more child-



friendly settings for questioning to reduce stress and enhance children's recall accuracy. This may involve adjusting the courtroom itself or using different, less frightening spaces for kids. Additionally, the studies suggest the need for innovative methods in preparing children to testify, such as mock trials or the use of intermediaries who can help bridge the gap between the child's developmental level and the demands of the legal system.

In 1989, was established in Italy 'The Italian Code of Criminal Procedures' (*Codice di Procedura Penale*), which is an important document containing the rules governing criminal procedure in every court in Italy. A fundamental article regarding the subject treated above is contained in it: article 398 comma 5 bis c.p.p., which aims to regulate the *Audizione Protetta* (Protect Audition). The Protect Audition refers to the removal of a child – an alleged victim of sexual abuse or mistreatment – at the stage of the evidentiary incident that may be requested during the conduct of the preliminary investigation or the preliminary hearing by the prosecutor (*Pubblico Ministero*) or suspect/defendant.

*Art. 398 comma 5 bis c.p.p.:*

*“Nel caso di indagini che riguardano ipotesi di reato previste dagli articoli 572, 600, 600-bis, 600-ter, anche se relativo al materiale pornografico di cui all’articolo 600-quater.1, 600-quinquies, 601, 602, 609-bis, 609-ter, 609-quater, 609-octies e 612-bis del codice penale, il giudice, ove fra le persone interessate all’assunzione della prova vi siano minorenni, con l’ordinanza di cui al comma 2, stabilisce il luogo, il tempo e le modalità attraverso cui procedere all’incidente probatorio, quando le esigenze di tutela delle persone lo rendono necessario od opportuno.*

*A tal fine l’udienza può svolgersi anche in luogo diverso dal tribunale, avvalendosi il giudice, ove esistano, di strutture specializzate di assistenza o, in mancanza, presso l’abitazione della persona interessata all’assunzione della prova. Le dichiarazioni testimoniali debbono essere documentate integralmente con mezzi di riproduzione fonografica o audiovisiva. [...]”<sup>1</sup> (Articolo 398 comma 5 bis c.p.p.).*

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<sup>1</sup> See translation:

“In the case of investigations concerning offenses provided for in Articles 572, 600, 600-bis, 600-ter, even if relating to pornographic material referred to in article 600-quater.1, 600-quinquies, 601, 602, 609-bis, 609-ter, 609-quater, 609-octies and 612-bis of the Penal Code, the judge, where the persons concerned by the taking of evidence include are minors, in the order referred to in paragraph 2, shall determine the

This article is an important application of what is studied above, and it highlights the significance of the interview's setting when dealing with children. Vital to consider regarding the topic of children's protection is also article 498 comma 4 bis c.p.p., saying that in order to prevent the child from being placed in the presence of the offender, the examination may be carried out with the use of a mirrored glass together with an intercom system (Articolo 498, comma 4 bis c.p.p., Codice Penale).

Overall, considering the rights of children to express their testimonies in the best possible way, is fundamental in a legal context to ensure the right to speak for every citizen, including vulnerable people, among whom children are included.

### **2.3.6 Social pressure and suggestibility**

Lepore and SESCO (1994) studied the relevant phenomenon of suggestion in children's testimony through an experiment conducted among fifty-four children (33 girls and 21 boys) aged 4 to 6 years old. Their work explores the vulnerability of children's testimonies to distortion through suggestibility and social pressure, with a focus on the implications for legal and investigative settings. Due to their developmental stage, children are particularly susceptible to external influences that can shape their recollections and interpretations of events, and this is particularly problematic when dealing with children aged 3- to 5-years old (see Ceci & Bruck, 1993). The study highlights how suggestibility, that is defined as the degree to which a person's memory or reporting of events can be influenced by external factors, plays a crucial role in the accuracy of children's testimonies.

The experiment conducted with fifty-four children aimed to find out how children's testimonies are impacted by suggestibility and social pressure. Children were asked to recollect an incident they had seen in the experiment. By carefully inserting incorrect material into questions, the researchers employed suggestive questioning strategies to determine if the children would incorporate these suggestions into their memories. For

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place, time and particular modalities through which to proceed evidentiary proceedings when the needs for the protection of persons make it necessary or appropriate.

For this purpose, the hearing may take place also in a setting other than the court, the judge making use, where existing, of specialized assistance facilities or, failing that at the home of the evidence. Witness statements shall be documented in full by phonographic or audiovisual means of reproduction [...]"

instance, the interviewer can enquire, “Did the man with the red hat say anything?” if the child saw a man wearing a blue hat. Even though the interviewer made up this detail, many children began recognizing the man with the red hat.

During the experiment, children were placed in situations either alone or with classmates primed to offer specific replies to assess the impacts of social pressure. The results showed that they were far more inclined to follow the group’s response, even if it went against their own memory when they were alongside peers who all provided the same (erroneous) response. This demonstrated how a child’s testimony could be drastically impacted by the desire to blend in or not stand out.

Children often rely on adults for guidance, resulting in them being more prone to incorporating suggested details into their memories, especially when those suggestions come from trusted authority figures. The concept of suggestibility refers, though, to the extent to which a person’s memory can be altered by external factors or the introduction of new information. Children are especially prone to suggestibility because of their developmental stage (cognitive and emotional) and because they often look to adults for guidance and validation. This reliance on adults can lead to a scenario where children unintentionally incorporate suggested details into their memories, believing the details to be true.

In addition to suggestibility, it is important to examine how social pressure can further distort children's testimonies. The effect of other people’s expectations, attitudes, and behaviors – referred to as social pressure – can cause children to conform to what they think is expected from them. Peer pressure, as well as pressure from adults (such as parents, teachers, and other authority figures), can have a significant impact on how kids report facts. For example, if children fears punishment or rejection, they could alter their testimony to fit with what they believe an adult wants to hear. Because of this social conformity, the youngsters may give false information to live up to others’ expectations – not because they mean to lie.

Overall, the experiment’s findings highlight the profound impact that suggestibility and social pressure can have on the accuracy of children’s testimonies. The results showed that children are prone to incorporating suggested information into their memories and are highly susceptible to altering their reports to align with social cues from others. This

has serious implications for situations where children's testimonies are used as evidence, such as in legal settings. The study stresses that without proper techniques to mitigate these influences, there is a significant risk that children's accounts could be distorted, leading to wrongful outcomes in legal proceedings.

## **2.4 VULNERABLE WITNESSES' SUPPORT**

Protecting the vulnerable testimonies is one of the most important roles of the law system in every country, for giving everyone the fundamental right to speak. There are different kinds of vulnerable witnesses such as those who may experience fear or distress due to giving evidence, those with mental disorders or learning difficulties, those under 18 years of age, the victims of cases of domestic abuse, sexual crimes, stalking, and human trafficking, those who could suffer harm because their testimony. For these categories, it is vital to study different methods of gathering information more compatible and understandable for them, an example may be to find a different way of communicating with children who are cognitively and emotionally less developed than adults by using simple words and place them in an environment they can feel more comfortable in.

In the late 1980s and early 1990s, the UK underwent significant changes on how to address children's involvement in legal proceedings. This shift was driven by advancements in digital technology, a deeper understanding of children's eyewitness capabilities, and a growing legal and political commitment to reshape the criminal justice system to accommodate children's needs better. The goal was to create a legal framework that was fairer and more supportive of children, acknowledging that the existing system was not designed with them in mind.

To conduct interviews with children, a formal consensus known as the Memorandum of Good Practice (MOGP) was developed. The MOGP offered recommendations to guarantee that children's testimonies were solicited in a way that minimized distortion, as it was developed by international specialists on children's memory. The MOGP placed a strong emphasis on using open-ended questions to encourage children to share narratives that jurors would find convincing, and it was advised that interviews be carried out in stages by experts with specialized training. To obtain information, this method started with building rapport and outlining ground rules before switching to open-ended

questions. It was necessary to utilize focused questions only after using open-ended prompts to prevent contaminating the evidence. However, studies showed that many interviewers found it difficult to follow these guidelines and frequently fell back on closed-questioning methods (Davies & Beech, 2017).

The Achieving Best Evidence (ABE) guidelines (Home Office, 2002, 2007; Ministry of Justice, 2011), which succeeded the MOGP, expanded on these principles and incorporated updates based on new research and legal developments. The ABE rules are considered a comprehensive, evidence-based method for interviewing children and other vulnerable individuals, even though they are not legally enforceable. They place a strong emphasis on the necessity of treating each victim as an individual with specific needs, consulting with pertinent professionals, and conducting extensive planning and preparation before interviewing. ABE guidelines, like the MOGP, support a phased interview method, emphasizing open-ended questions and advising against the use of other strategies, including props, because there is disagreement about their efficacy. ABE methods have not been subjected to official scientific evaluation; however, evaluations have revealed problems such as inadequate interviewer training, poor documentation, and standards violations.

The National Institute of Child Health and Human Development (NICHD) in the United States, created the Investigative Interview Protocol to rectify the inadequacies of previous recommendations such as ABE and MOPG. The two primary parts of the NICHD Protocol include a pre-substantive phase that focuses on developing rapport, setting ground rules, and practicing narrative recall, and a substantive phase that uses open-ended prompts to move the attention to the target event. This modality started to be used with children because they often provide less information than adults in response to invitations, however, their responses tend to be more accurate than the adults to more focused or close-ended questions (Lamb, Orbach, Hershkowitz, & Abbott, 2007). The NICHD Protocol helps interviewers follow best practices and lower the risk of contamination from suggestive asking, which is why research supports its efficacy in boosting the quality and quantity of information provided by children. Research indicates that children tend to answer open-ended prompts with more precise details than other kinds of queries. The NICHD Protocol is particularly effective because it caters to children's cognitive and social limitations, making it easier for them to provide accurate testimony. However, its

success depends on regular training and supervision to ensure interviews maintain the best practices. Recognizing that some children may be reluctant to disclose abuse, a revised version of the NICHD Protocol has been developed. This version places greater emphasis on rapport-building and interviewer supportiveness, showing promise in encouraging reluctant children to disclose abuse, although further research is needed to fully validate its effectiveness (Davies & Beech, 2017).

## **CHAPTER 3:**

### **THE PROBLEM OF FALSE CONFESSIONS IN CRIMINAL PROSECUTIONS**

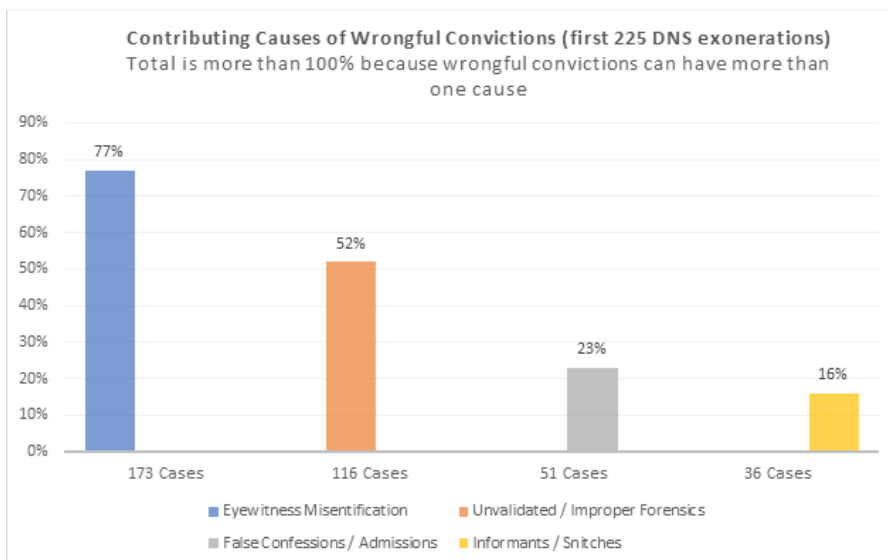
*In recent years, numerous individuals who confessed and were convicted of serious felony crimes have been released from prison – some after many years of incarceration- and declared factually innocent, often as a result of DNA tests that were not possible at the time of arrest, prosecution, and conviction. DNA testing has also exonerated numerous individuals who confessed to serious crimes before their cases went to trial. Numerous others have been released from prison and declared factually innocent in cases that did not involve DNA tests, but instead may have occurred because authorities discovered that the crime never occurred or that it was physically impossible for the (wrongly) convicted defendant to have committed the crime, or because the true perpetrator of the crime was identified, apprehended, and convicted (Drizin & Leo, 2003).*

#### **3.1 ANALYSIS OF THE FALSE CONFESSIONS PHENOMENA**

Empirical research on suspect interviewing has focused heavily on the problem of false confessions, which has significantly shaped interview techniques (Meissner et al., 2014). A false confession is an admission to a criminal act – usually accompanied by a narrative of how and why the crime occurred – that the confessor did not commit. Jurors, judges, and prosecutors must be willing to accept the fact that under the right circumstances anyone naïve to the criminal justice system can be victimized into a false confession (McGrath, 2014).

#### STATISTICAL DATA

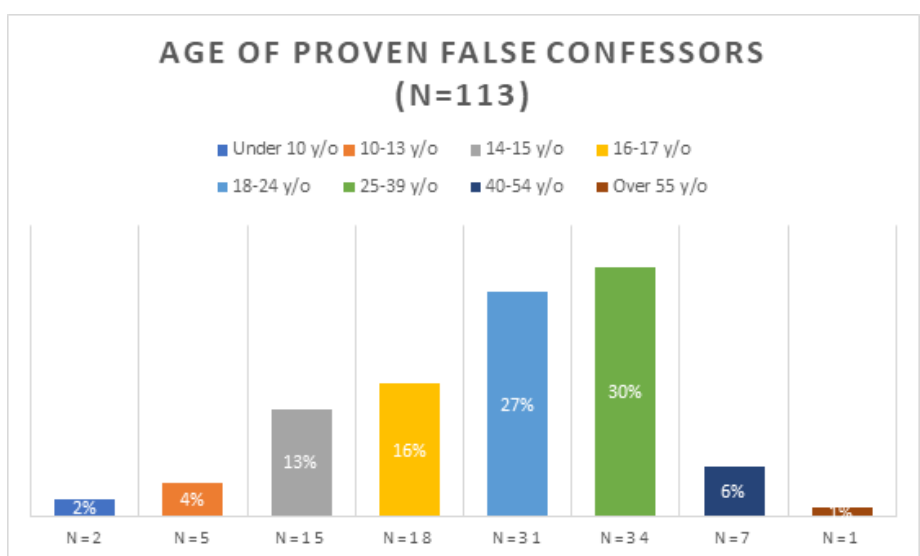
The Innocence Project documents wrongful conviction cases in which the defendant was later exonerated by DNA evidence. Of the first 225 exonerations, 23% of the underlying wrongful convictions were based on false confessions or admissions (<http://www.innocenceproject.org/>).



(<http://www.innocenceproject.org/understand/#> )

Certain suspects are more susceptible to falsely confessing due to various factors identified by social scientists. Age, particularly juvenile status, plays a significant role in this vulnerability. Research strongly indicates that young people are especially prone to providing false or involuntary confessions during police interrogations.

For example, a study by Drizin and Leo (2003) examined 125 proven false confession cases from 1971 to 2002 and found that juveniles were disproportionately represented, comprising about 33% of the sample.



<sup>2</sup> Researchers were unable to obtain the age of the defendant for twelve false confessors, approximately 10% of the sample.



Of the 40 juvenile false confessors identified, 22 were 15 years old or younger, which suggests that younger individuals are more likely to confess under police pressure, especially when subjected to coercive techniques. At the same time, the vast majority of juvenile false confessors in the sample (33/40) are ages fourteen to seventeen, the age range at which many alleged juvenile offenders are tried as adults.

Juveniles are particularly susceptible to police pressure during interrogations due to their immaturity and limited life experience. This lack of maturity makes them more naïve and easily intimidated by the authority and police's tactics, whether persuasive or coercive. As a result, juveniles often struggle to handle the stress of police questioning and are less likely to have the psychological strength to resist the pressures of accusatory interrogation. The United States Supreme Court has recognized that children and teenagers, due to their immaturity, lack of knowledge, and lack of experience, are more vulnerable to coercive police interrogation tactics (See, e.g., *In re Gault*, 387 U.S. 1, 55, 1967).

In the sample studied, most false confessions came from younger individuals, with the majority being adults in their twenties or thirties. It was rare to find false confessions from middle-aged individuals. Over half of the false confessors were under the age of twenty-five (63%), and nearly the entire problem of false confessions was confined to those under forty (92%). This data suggests a strong correlation between a suspect's age and the likelihood of a false confession (Drizin & Leo, 2003).

Similarly, individuals with cognitive or intellectual disabilities are also at a heightened risk for false confessions. In a survey of 1,249 people with mental illness, 22% reported they had falsely confessed to crimes they did not commit, and 36.5% had entered false guilty pleas. This high rate of false confessions is believed to stem from the increased levels of compliance and suggestibility found in this population (Pickersgill, 2012).

Personality disorders or other forms of psychopathology can also increase the likelihood of false confessions. For instance, a study of 90 male prisoners in Iceland revealed that 41% of those diagnosed with ADHD had falsely confessed to a crime, compared to 18% of participants without ADHD symptoms. This significant disparity highlights the vulnerability of individuals with ADHD during police interrogations, suggesting that such disorders can make people more susceptible to falsely admitting guilt (Gudjonsson et al., 2008).

These findings underscore the need to recognize and address the specific vulnerabilities of different populations to prevent the occurrence of false confessions.

Interrogation processes are designed to legally persuade suspects, especially perpetrators, to admit their crimes. However, there are cases where innocent individuals are also coaxed to confess to crimes they did not commit. According to data from the Innocence Project in the United States, over 20% of cases involving post-conviction DNA exonerations involved false confessions (<http://www.innocenceproject.org/>). This statistic underrepresents the full scope of the problem, as it does not account for false confessions dismissed by police or prosecutors, cases lacking DNA evidence, or confessions to minor crimes that receive less scrutiny after conviction (Drizin & Leo, 2004; Gross et al., 2005).

Additional evidence from other studies supports these findings. For example, in Iceland, self-report studies have revealed that 12% of prisoners, 3-4% of college students, and 1-2% of older university students admit to having falsely confessed to a crime (Gudjonsson, 2003). In a recent survey of juveniles across seven European countries, 11.5% reported being interrogated by police, and of those, 14% confessed to crimes they did not commit (Gudjonsson et al., 2011). Similarly, a survey of 631 police investigators in North America found that they estimated an average of 4.78% of innocent people confess during interrogations (Kassin et al., 2007)

The two types of research on false confessions are laboratory and field investigations, especially in forensic psychology. In a seminal lab study, Kassin & Kiechel (1996) established the “crashed-computer paradigm”, in which subjects were misattributed with initiating a computer crash. According to the study, a sizable majority of individuals signed fraudulent confessions, particularly when confronted with ambiguous or incorrect information. Numerous replications and extensions of this experiment have demonstrated that variables such as the age of the accused can influence the probability of a false confession (Redlich & Goodman, 2003).

Further research has created more plausible experimental conditions with both guilty and innocent individuals (e.g. Russano et al., 2005), which repeatedly demonstrate the ease with which false confessions can be obtained. Additionally, characteristics including suggestibility (Gudjonsson, 1991), age, and mental capacity (Kassin & Gudjonsson, 2004) have been linked to an increased chance of false confessions. Long sessions,

isolation, presentation of false evidence, and minimization of the interrogation strategies increase the danger (Dizin & Leo, 2004; Redlich & Goodman, 2003).

These findings have prompted calls for reform, including mandatory recording of interviews, banning coercive techniques, and protecting vulnerable suspects (Kassin et al., 2010). However, some researchers argue that it is not enough to identify harmful practices; research should also explore alternative interview methods. Meissner, Hartwig, and Russano (2010) emphasized the need to inform police on effective practices, and a meta-analysis by Meissner et al. (2014) compared information-gathering and accusatorial methods showing that the former led to more true confessions and fewer false ones, thus offering a promising alternative to accusatorial methods.

A study conducted by Kassin, Meissner & Norwick (2005) explored whether college students and police investigators could accurately distinguish between true and false confessions. This research was driven by the growing concern over wrongful convictions, particularly those involving false confessions, as highlighted by high-profile DNA exonerations like the Central Park jogger case (1989).

There were two main stages of the investigation. In the first phase, prisoners were requested to provide a false confession about a crime they did not commit, as well as a truthful confession about a crime they had actually committed. Two types of recordings were made of these confessions: audio and video. Given that the confessors were acquainted with the criminal court system, this method guaranteed that the confessions were truthful. The researchers investigated if the presentation media of a confession affected the assessments of its veracity by employing two distinct recording formats.

College students and police investigators were the two participant groups entrusted with judging the truthfulness of the confessions in the second phase. These participants had to base their decisions simply on the substance and delivery of the confessions because they were only given the recordings and no extra content about the cases. Some participants were told that half of the confessions were true, while the other half were false in order to test the possible impact of responses bias.

The results of the study were surprising. College students outperformed police investigators in accurately distinguishing between true and false confessions, despite the expectation that the investigators' professional experience would give them an advantage. The study also found that participants were more accurate when judging audiotaped

confessions compared to videotaped ones, suggesting that visual cues might have been misleading or distracting, thereby reducing accuracy in the video condition.

A particularly concerning finding was that police investigators, despite their lower accuracy, were significantly more confident in their judgments than college students. In the case of criminal investigations, this overconfidence combined with a known tendency towards accepting confessions as true presents a severe risk because mistakes of this kind could result in false convictions. Interestingly, the accuracy of the judgments did not significantly increase even after the response bias was neutralized by telling participants that half of the confessions were false, suggesting that this prejudice is firmly built (Kassin, Meissner & Norwick, 2005).

In general, the research casts doubt on the notion that those with formal training are naturally more skilled at identifying dishonesty in admissions. The results highlight the necessity of better training for investigators and a thorough review of the use of confessions as evidence and its analysis in court to avoid injustices.

### **3.2 FALSE CONFESSIONS IN CHILDREN'S CASES**

Juveniles sometimes give false confessions voluntarily, without being coerced (Kassin & Wrightsman, 1985). For instance, a study by Mallow et al. (2014) involving interviews with 193 incarcerated juveniles found that many who admitted giving false confessions did so to protect someone else (52%) or because they believed it would lead to a lighter punishment (15%). Similarly in an experiment conducted by Pimental, Arndorfer, and Malloy (2015), adolescents who observed confederate cheating were more likely to falsely take the blame than college students (59% vs. 39%, respectively), with 69% of those adolescents citing a desire to protect the confederate as their motivation.

On the other hand, juveniles may also falsely confess due to coercive interrogation techniques. In the study by Malloy et al. (2014), 33% of juveniles who reported making a false confession stated they did so under pressure, with many indicating they were threatened, befriended, or deceived by their interrogators (see also Redlich, Silverman, Chen & Steiner, 2004). While such tactics can lead to false confessions in adults (Kassin et al., 2010), juveniles are particularly susceptible due to their cognitive and psychosocial immaturity. For example, temporal discounting – where immediate consequences weigh

more heavily than future ones – has been linked to confession decisions in adults (Madon, Gyll, Scherr, Greathouse, & Wells, 2012) and this tendency is even more pronounced in adolescents (Whelan & McHugh, 2009). Additionally, youth are highly influenced by rewards; a study found that young children who received positive social reinforcement from their interviewer were three times more likely to falsely confess a theft (Billings et al., 2007). Furthermore, Redlich & Goodman (2003) observed that adolescents were more likely than college students to falsely confess to causing a computer crash, especially when confronted with false evidence of their guilt (Grove & Kukucka, 2020).

Juvenile brains are less developed compared to adult brains, particularly in the prefrontal cortex, which is responsible for decision-making, planning, and personality expression. This part of the brain develops last, well beyond childhood, and its late development plays a crucial role in adolescents' decision-making process (Blakemore & Choudhury, 2006). During adolescence, processes like myelination and synaptic pruning occur, which enhance the brain's efficiency and control over thoughts and behaviors. However, because these processes are still ongoing, teenagers often exhibit impulsive behaviors, struggle with self-control, and are more prone to taking risks than adults (Aronson, 2007; Aronson, 2009).

These developmental immaturities make juveniles especially vulnerable to external influences and pressures, such as those encountered during police interrogations. Juveniles are more likely to act impulsively, prioritizing immediate outcomes over long-term consequences. This impulsiveness makes them more likely to falsely confess during interrogations, as they may see confession as a quick way to escape a stressful situation (Weinstock & Thompson, 2009; Kassin, 2008). Additionally, many youths in the juvenile justice system have psychological disorders or developmental disabilities, further exacerbating their vulnerability during interrogations (Alisson, 2007).

The Supreme Court acknowledged in *Roper v. Simmons* (2004) that juveniles have a diminished capacity and are susceptible to immature behavior due to their undeveloped sense of responsibility and susceptibility to external pressure, and therefore ruled that the imposition of capital punishment for crimes committed under the age of eighteen was unconstitutional. Despite this recognition, courts have not consistently applied this understanding to the waiver of Miranda Rights and the interrogation process for juveniles

(Roper, 2005). This highlights the importance of considering the unique developmental stage of adolescents when assessing their testimonies during interrogations.

### EXPERIMENTAL DATA

Experimental psychology has shown that false confessions can be induced in a laboratory setting, offering valuable insights into the dynamics of police interrogations. One of the key studies in this area was conducted in 1996 by Saul Kassin and Katerina Kiechel. In their experiment, college students were asked to participate in a reaction-time study, during which they were instructed not to press the ALT-key on a computer, as doing so would cause the system to crash and lead the data loss. The experiment was designed with two variations: in one scenario, the students had to type at a rapid pace, while in another, they typed at a more reasonable speed.

Additionally, the researchers added a layer of false incriminating evidence by having a confederate – an actor collaborating with the experiment – claiming to have seen the participant push the banned key. The confederate claimed not to have observed anything in one condition and falsely reported seeing the participant press the ALT key in another. The results were unexpected: when the experimenter questioned the students in the fast-paced typing condition when the confederate presented false evidence, every single student admitted to pressing ALT key. 69% of participants were willing to sign a statement accepting responsibility for the data loss and the computer breakdown under all circumstances. This study demonstrated how stress and misleading evidence can greatly raise the probability of false admissions even in a controlled setting.

Building on this, another study by Redlich & Goodman (1996) explored how age influences the likelihood of false confessions. They replicated Kassin & Kiechel's (1996) experimental setup but included participants of different ages: 12-13-year-olds, 15-16-year-olds, and college students. To support the assumption that the subject had pressed the restricted key, the experimenter returned to the room in half of the cases carrying a printout that appeared to display every key the subject had pressed. The results revealed a defined age-related trend: younger individuals were more likely to sign a fake confession. Specifically, 59% of college students, 78% of 12-13-year-olds, and 72% of the 15-16-year-olds signed the confession. When fake proof was offered, the effect was

much more noticeable: where 50% of college students signed the false confession, 88% of the 15-16-year-olds, and 73% of the 12-13-year-olds did so.

Horselenberg, Merckelbach, and Josephs raised the stakes in another study they conducted in 1996 by imposing a monetary penalty on the participants. Students were wrongly accused in this version of the experiment of pushing the SHIFT key, which allegedly resulted in the loss of crucial data. The students were informed that they would waste 80% of the money they had been paid to participate in the study because of this error. 82% of the students signed a handwritten confession acknowledging they were responsible for the data loss and the associated financial penalty. Furthermore, 58% of these individuals went above and beyond by providing thorough, yet fake, explanations for how and why they pressed the key, illustrating how coercion and incorrect information can result in confabulation or the creation of false memories or details.

In 2004 researchers applied a similar experimental design to an even younger group – primary school children. These children were instructed to perform tasks on the computer and were warned not to press the SHIFT-key. After a few minutes, the experimenter intentionally crashed the computer and accused the child of pressing the key. Children who denied the accusation were allowed to leave, but those who falsely confessed were asked to continue the study. A confederate then entered the room and asked the child what had happened, recording their response to see if they had internalized the blame. The results showed that 36% of the children falsely confessed to pressing the key, and of those, 89% internalized responsibility, saying things like “I hit the SHIFT-key, and then the computer crashed”. This study underscored the high level of suggestibility among young children and their vulnerability to authority figures.

Collectively, these studies reveal that false confessions can be easily elicited, especially among younger individuals and in situations where false evidence or pressure is applied. They also demonstrated that even in a non-criminal, laboratory setting, participants – mainly juveniles – can be manipulated into falsely confessing to actions they did not commit, highlighting the significant implications for real-world interrogations (LaMontagne, Laurel, 2013).

### 3.3 REAL CASES OF FALSE CONFESSIONS

#### 3.3.1 Michael Crowe's case

This real-life case is set in Escondido, California. Steve and Cheryl Crowe thought their lives couldn't get any worse after finding their 12-year-old daughter Stephanie stabbed to death in her room on January 21<sup>st</sup>, 1998. However, this took an even darker turn. Despite neighbors reporting a suspicious stranger in the area the day before, the police focus solely on the Crowe family. Just a few weeks later, their 14-year-old son, Michael, was arrested for his sister's murder, and to their utter disbelief, he confessed.

The Crowes were barred from seeing Michael and informed that he and their other daughter, Shannon, were placed in protective custody pending the investigation. Unbeknownst to them, Michael was being interrogated about Stephanie's death. He endured multiple interrogations, including one lasting over three hours. During these sessions, detectives insisted that they knew Michael had killed his sister and pressured him to confess, threatening severe punishment if he wouldn't cooperate. Michael initially denied any wrongdoing but eventually confessed, convinced by detectives' claims of overwhelming evidence, including a supposed failed lie-detector test, the Computer Voice Stress Analyzer (or CVSA)<sup>3</sup> (Tony, 1999).

During pre-trial hearings, Judge John M. Thompson determined that the police had coerced Michael into confessing by making illegal promises of leniency, such as offering help in a discount of penalty if he admitted to the crime. Eventually, Michael's confession was deemed inadmissible. The court didn't address whether Michael had been informed of his Miranda Rights meant to protect the suspect during questioning, but it was clear there was no evidence connecting him to the murder. The landmark Supreme Court case, *Miranda v Arizona* (1996), established that suspects must be informed of their right to remain silent, that anything they say can be used against them, and that they have the right to a lawyer. These rights, now known as "Miranda Rights", must be clearly communicated, and any waiver of them must be made voluntarily and with full

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<sup>3</sup> VSA and CVSA are collectively a pseudoscientific technology that aims to infer deception from stress measured in the voice. The CVSA records the human voice using a microphone, and the technology is based on the tenet that the non-verbal, low-frequency content of the voice conveys information about the physiological and psychological state of the speaker. Typically utilized in investigative settings, the technology aims to differentiate between stressed and non-stressed outputs in response to stimuli, with high stress seen as indication of deception.



understanding (Boyd, 2004). The case against Michael fell apart when DNA evidence implicated a stranger seen in the neighborhood around the time of the murder.

This is one of the most famous cases of false confession in which the confession was coerced from a young individual by the police. This confession can be considered as a persuaded false confession, which means that the police interviews' tactics result in a confession, where an innocent person is convinced to have broken the law and, in Michael Crowe's Case, to have murdered his sister.

This is a short piece of Michael's confession from the video registration of his interrogation in 1998, a few days after the death of his sister where he was considered the first suspect.

Michael: "[...] *If I tell you a story the evidence is going to be completely...*

*Well, it won't... I'll lie. I'll have to make it up.*

*Do you want me to tell you a little story?*

*Ok, I'm just going to warn you right now. It's a complete lie.*

*Ok, here's the part where I'll start lying.*

*That night, I was pissed off at her. I couldn't take it anymore, ok? So, I went and got a knife. I went into her room and I stabbed her. [...]"*

Studying these cases is fundamental to avoid committing the same mistakes as the past years. In this proceeding, a 14-year-old child was treated as an adult when instead, he should have been treated as a vulnerable individual, given his age, and cognitive and emotional development. Dr. Saul Kassin, a social psychologist at Williams College in Williamstown, Mass., who specializes in the dynamics of police interrogations, states that the average person tends to think they would never confess to a crime they didn't commit. But the average person doesn't understand how stressful a police interrogation can be. "*We all have our breaking point,*" Kassin notes. "*When somebody reaches his or her breaking point, all he or she wants to do is escape. And the quickest means of escaping a police interrogation is to tell interrogators what they want to hear.*" (Aba Journal, 1999)

### 3.3.2 “Diavoli della Bassa Modenese” ’s case

Another impressive case that can help to better understand the importance of good interviewing practices is the one referred to as “Diavoli della Bassa Modenese” (“*Lower Modenese’s Devils*”).

Specifically, the case began when social services decided to remove “Child 0” aged 7, from the home of the neighbors, where his biological family had temporarily placed him. Without any apparent reason, the child was transferred to the Cenacolo Francese which is a host and educational community and, after going back home a few times, the child started telling his foster mother and the social services’ psychologists about episodes suggesting abuse by his father and brother in May 1997. The child spoke of abuse, violence, and child pornography and, consequently, charges were brought against several people.

Therefore, “Diavoli o Pedofili della Bassa Modenese” (*Devils or Phedophiles of the Lower Modena area*) is a journalistic expression referring to an alleged sect that, between 1997 and 19998 in the lower Modena area, in the towns of Mirandola and Massa Finalese, allegedly organized satanic rites in which children were molested and murdered. Following the denunciation from one of the children (“Child Zero”), an extensive investigation followed, with the definitive removal of sixteen children from their families. More than 20 adults were accused of being members of a sect of pedophiles and Satanists, who allegedly sexually, physically, and psychologically abused 16 children, aged between 0 and 12, both within the walls of their homes and through satanic rituals in local cemeteries (Quotidiano Nazionale, 2018). All the children were removed from their families and none of them ever returned, staying with foster families, sometimes growing up in the belief that they had indeed been sexually abused while, in other cases, some of the claimed victims later recanted the allegations (Trincia & Rafanelli, 2017).

Four separate criminal trials originated from the incident, which had different outcomes: allegations of abuse and satanic rituals in cemeteries were dismissed due to lack of evidence, while allegations of domestic abuse were confirmed for some of the defendants (Trincia & Rafanelli, 2017). Some of the people involved in the affair died as a result of their involvement (a few of them suicide), others were convicted, and others were completely cleared. Eventually, all initial allegations of abuses and rituals were disproved, and all defendants were cleared of the charges (Bellaspiga, 2018). The truth of the case

established that there were no satanic rituals, let alone that the murders were committed, and it was also suggested that the techniques used by psychologists to interrogate the children had led them to elaborate false memories (Cerasa, 2007; Boffi, 2014).

In 2000, all 15 defendants were convicted at first instance; in 2001, the appeal sentence differentiated the trial positions by acquitting eight defendants for ‘non-substance of the fact’, while reformulating the sentence for seven others with milder punishments, holding them guilty of domestic abuse but without any ritual imprint; the sentence was confirmed in 2002 on the Court of Cassation, dismantling the Satanic track and explicitly speaking of ‘collective false memory’. On the other hand, the Court of Cassation annulled two of eight acquittals and sent the case back to the Court of Appeal, which in 2013 acquitted the defendants again blaming the investigators and, above all, those who interrogated the children such as the psychologists, who were defined as ‘*objectively inexperienced*’ and their approach ‘*absolutely censurable (...) because it completely improperly conveys data and information into the minds of the children that can contaminate any subsequent narrative*’ (Bui, 2018).

In 2018, one of the victims admitted to inventing the abuse under the pressure of the psychologists, and in 2021, another key child in the investigation confessed to having made everything up, stating that he had been manipulated during the long interrogations. Here are his words cited in *La Repubblica* (2021):

*“Nè abusi nè riti satanici, 16 bimbi tolti ai genitori per le mie accuse inventate”*,  
(Neither abuse nor satanic rites, 16 children taken away from their parents on my trumped-up charges)

*“Ricordo diversi colloqui anche di otto ore. Psicologa e assistenti sociali non smettevano finché non dicevo quello che volevano loro. Mi dicevano che ero coraggioso”*

(I remember several interviews lasting up to eight hours. Psychologists and social workers would not stop until I said what they wanted. They told me I was brave.)

(La Repubblica, 2021)

### 3.4 PREVENTION OF FALSE CONFESSIONS

Understanding the causes of false confessions is fundamental to preventing them. Leo (2009) studied the phenomenon and the complex process by which police-induced false confessions occur, emphasizing that there is no singular cause or type of false confession. Instead, these confessions result from a series of psychological processes that unfold during police interrogations, often involving coercion and leading to wrongful convictions. It is crucial to understand the mechanism of police interrogation and the psychological influences on suspects during and after these interrogations to comprehend why false confessions happen.

Different types of errors may occur during an interview and each of them plays a significant role in the wrongful conviction of innocent individuals.

#### Misclassification Error:

The first step leading to false confessions occurs when police detectives wrongly declare an innocent person guilty. Poor investigative methods and cognitive biases are frequently the cause of this misclassification. Research indicates that people, including trained detectives, are no more accurate at detecting lies than chance. For example, police officers are sometimes mistakenly trained to believe that they can detect lies accurately based on nonverbal cues like body language. This misplaced confidence may cause investigators to single out people exhibiting behaviors that don't always point to guilt. The mistake is exacerbated when someone innocent is picked out merely for fitting a vague description or due to inaccurate eyewitness identification. The suspect is mistakenly placed at the centre of a guilt-presumptive interrogation, which creates the conditions for other mistakes (Leo, 2009).

#### Coercion Error:

After misclassification, the second error occurs when the misclassified suspect is subjected to a coercive interrogation. This is particularly problematic when there is little or no evidence against the suspect, as the police may feel increased pressure to obtain a confession, especially in high-profile cases. Psychological coercion during interrogation can take many forms, from the use of threats and promises to creating an environment where the suspects feel they have no choice but to confess. Modern interrogation techniques often rely on psychological pressure rather than physical force, but these

methods can still be extremely coercive. The suspect may be isolated, deprived of basic needs, or subjected to intense psychological stress, leading him to perceive that the only way to escape the situation is by complying with the interrogators' demands, even if that means making a false confession. Certain individuals, such as those who are highly suggestible, compliant, developmentally disabled, children, or mentally ill are particularly vulnerable to these coercive tactics (Leo, 2009).

#### Contamination Error:

After a suspect has initially admitted guilt, the contamination error takes place, which is the last mistake in the process of extracting a false confession. By giving information about the crime that the suspect would not have otherwise known, police frequently influence the suspect's story. The poisoning of the suspect's post-admission story can turn a seemingly insignificant remark into an extensive confession that is likely to be used as evidence in court. The appearance of guilt may be reinforced if the suspect – especially if they are vulnerable – accepts and repeats the details that the interrogators suggested. It is more difficult to determine how the suspect was persuaded to give these facts if the questioning is not properly recorded, which makes it challenging to later demonstrate that the confession was fraudulent (Leo, 2009).

These three errors – misclassification, coercion, and contamination – form a sequence that can lead to the wrongful conviction of innocent individuals.

A solution that is being implemented in certain states to prevent false confessions is to record the entire interview of a suspect. This allows investigators to go back and discover where details from the confession came from to determine if they were truly provided by the confessor. While this is a great improvement, it is not the entire solution because it is not possible to videotape every moment of the confessor's life. For example, there may be unofficial interrogations that affect their mental state, such as comments made by prison guards.

One approach to lowering the chances of wrongful convictions based solely on confessions is to mandate that such confessions be supported by corroborating evidence, similar to the requirement when accomplices are implicated in crimes. Whether the requirement of corroboration has been met may determine whether statements are to be admitted for the jury's consideration; this is a question for the judge. Corroborative

evidence, as it affects credibility, may determine what weight the jury will place on the statements of the accused. In many cases, the same independent evidence will serve to make the extrajudicial statements competent and will also satisfy the requirement as to sufficiency of proof. It is difficult to offer a wholly satisfactory rationale as to why a requirement of corroboration exists in order to make extrajudicial statements competent as evidence when their voluntary nature has been established and when corroboration will be required if the evidence is to be sufficient to convict. Perhaps it is desirable to exclude uncorroborated statements at the earliest possible time (*see Opper v. United States*, 1954)<sup>4</sup>. As DNA evidence continues to exonerate more individuals, flaws in the criminal justice system are becoming more apparent. It is crucial to conduct further research on the nature of false confessions and for courts to recognize that false confessions do occur. Although false confessors have been later exonerated, such as Ada JoAnn Taylor and the other members of the Beatrice 6<sup>5</sup>, they continue to suffer from the long-term effects of police interrogations and their time in prison. Another method that the *Nebraska Innocence Project* (<https://innocenceproject.org/states/nebraska/>) has promoted is preventing interviewing from threatening suspects with the death penalty, which can coerce innocent suspects to confess in exchange for a minor sentence.

### **3.4.1 Lowering false confessions: non-coercive practices**

There are circumstances where the terms “interviewing” and “interrogation” are carelessly used interchangeably. Sometimes, however, courtroom lawyers carefully select their terminology as they engage in a semantic war for the hearts and minds of juries and judges. In this dispute, state prosecutors refer to the previous exchanges between the police and the defendant as an “interview” (implying a dialogue, meeting, or debate), while defense lawyers use the term “interrogation” (implying a more biased examination). The practical implication is evident: although interrogations appear to indicate potential

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<sup>4</sup> In the *Opper* case, the additional question of competency was also raised. The requirement of corroboration may come into play at two different stages of a criminal prosecution; first as a prerequisite to the admission of the statements into evidence, and later as a requirement to be met if the prosecution's proof is to be sufficient to sustain a conviction.

<sup>5</sup> The Beatrice Six are Joseph White, Thomas Winslow, Ada JoAnn Taylor, Debra Shelden, James Dean and Kathy Gonzalez, who were falsely found guilty in 1989 of the 1985 rape and murder of Helen Wilson in Beatrice, Nebraska and served prison terms before being exonerated in 2009.

coercion, interviews provide accounts that are given voluntarily. From a historical standpoint, it is important to remember that police in the US frequently used physically uncomfortable “third-degree” tactics of questioning to coerce confessions from criminal defendants until the 1930s. These techniques were replaced by a more psychologically oriented approach that relies on a combination of behavioral lie-detection methods used to distinguish between truth-tellers and liars (an interview), and social influence techniques meant to elicit confessions from the latter (an interrogation) as a result of various US Supreme Court rulings and reforms (Inbau, Reid, Buckley, & Jayne, 2001). In contrast, interrogation practices in England are less confrontational and more transparent (Williamson, 2006). Before 1992, there was no official training for investigators in the UK, and the main goal of interviewing suspects was to get confessions. A new approach (P.E.A.C.E.) was developed by police officers, psychologists, and lawyers in response to severe high-profile confession cases that were thoroughly examined by Gudjonsson (2003). Consistent with the purpose and methods used within this approach, British investigators typically refer to the process as an investigative interview, not as an interrogation (Kassin, Appleby & Perillo, 2010).

The study conducted by Meissner, Redlich, Bhatt & Brandon (2012) emphasizes that non-coercive, information-gathering interview methods can significantly reduce the incidence of false confessions. Unlike accusatorial approaches, which often involve confrontation and psychological pressure, the information-gathering approach is centered around building rapport, active listening, and prioritizing the truth rather than merely securing a confession. This approach not only increases the likelihood of obtaining true confessions but also significantly decreases the risk of eliciting false ones. The review highlights that these non-coercive techniques create a more conducive environment for truthful disclosures, as suspects are less likely to feel threatened or pressured into making admissions, they might later regret.

The findings, from the meta-analysis of both field and experimental studies, strongly supported the effectiveness of these methods in reducing false confessions. Anyway, further research is needed, as the existing body of studies is relatively limited (Meissner, Redlich, Bhatt & Brandon, 2012).

### 3.5 JURIDICAL MISTAKES AND CONSEQUENCES

False confessions are among the most compelling yet misleading forms of evidence in the legal system. When a person confesses to a crime, it is often seen as the ultimate proof of guilt, leading to a near-automatic presumption of culpability (Kassin & Wrightsman, 1985). This perception makes false confessions incredibly dangerous, as they can easily overshadow other evidence and lead to wrongful convictions (Connery, 1996).

False confessions are not simply unfortunate anomalies; they are symptomatic of deeper, systemic issues with the criminal justice system. These confessions are frequently the product of psychologically coercive interrogation techniques that can manipulate, confuse, and pressure individuals – sometimes to the point where they believe that confessing is their only option, even if they are innocent. Once a false confession is obtained, it typically becomes the centerpiece of the prosecution's case, often overshadowing the individual's guilt (Leo & Ofshe, 1998).

The consequences of these juridical errors are profound and multifaceted. First and foremost, the individual who falsely confesses is likely to face severe deprivation of liberty. They may be sentenced to lengthy prison terms, or in some countries, even to death, for crimes they did not commit. The personal devastation this causes cannot be overstated. Innocent individuals lose years of their lives to incarceration, endure the psychological and physical hardships of prison, and suffer irreparable damage to their reputations and relationships. This wrongful deprivation of freedom represents a significant moral and ethical failure of the justice system.

The effects go beyond the micro-level and affect society as a whole. The true criminals remain at large when fake confessions result in incorrect convictions, endangering public safety. Moreover, the public's confidence and trust in the juridical system may be severely damaged by these mistakes. A general feeling of disappointment towards legal institutions and a reduction in cooperation with law enforcement are only two examples of the many ramifications that might result from this loss of faith (Leo & Ofshe, 1998).

Leo & Ofshe (1998) also highlight that false confessions have a cascading effect within the juridical process. Once a confession is introduced, it can bias the entire case against the defendant. Judges and juries may disregard other evidence that contradicts the confession, assuming that the confession itself is irrefutable. This can lead to a tunnel



vision effect, where the focus on securing a conviction blinds all parties to the possibility of innocence. Introducing a false confession can thus set off a chain reaction that culminates in a wrongful conviction, perpetuating injustice at multiple levels of the legal process (Wallace & Kassin, 2012).

For these multiple reasons, there is an urgent need for legal reforms to prevent such tragic outcomes. Some steps have been taken by introducing non-coercive interviewing techniques that have the aim of not suggesting suspects and obtaining the most reliable events, such as Cognitive Interviews (CI). Measures, like the mandatory recording of all interrogations, would provide a clear and objective record of the methods used by police and the statements made by suspects. This would help ensure the risk of false confessions and the juridical errors that follow.

Overall, it is evident that the consequences of juridical mistakes in cases involving false confessions are far-reaching and severe. These mistakes not only lead to the wrongful deprivation of liberty for innocent individuals but also damage the integrity of the criminal justice system. It is important to call for a heightened awareness of these issues and for the implementation of safeguards to protect innocent people against the devastating impact of false confessions, thereby preventing future miscarriages of justice.

## **CHAPTER 4:**

### **REVIEW OF REPEATED EVENTS CASES**

#### **4.1 REVIEW'S INTRODUCTION**

This chapter aims to analyze the repeated phenomenon of false confession among children comprehensively and to find which are the recurrent patterns among some cases of children's false admissions. One of the subjects of the study is gender and its relationship with suggestibility which is in turn related to false confessions. Being aware of a possible relationship might be useful during court proceedings in order to pay more attention to a major vulnerable section of the population. The question that arises is if suggestibility could be slightly related to genetic traits.

Another factor that is taken into consideration is the socioeconomic status (SES) of the false confessors, including religion, tradition, and cultural background with the hypothesis that a poorer context offers limited opportunities in terms of school, university, information, jobs, and leisure and that usually, a lower socioeconomic context is associated with a higher level of stress (Reiss et al., 2019). Thus, it can be hypothesized that an individual coming from a low socioeconomic background may feel more stressed and easier to suggest relating to a law setting.

#### **4.2 METHODOLOGY**

Two main hypotheses have been considered as the basis for the analysis in question and two different real cases previously analyzed (see Chapter 3), Michael Crowe's case and "Diavoli della Bassa Modenese" case, have been taken into consideration for finding the hypothetical applicability of what considered before in a more theoretic way. It is important to remind the readers that this chapter consists of an analysis and not a laboratory or a natural study that have been conducted on a large scale through the population, and it cannot give the possibility of drawing conclusions with general applicability. But here are enclosed some precious considerations and their applicability to a few cases.

In conclusion to the analysis, the previous literature has been presented to give support to the research.

### 4.3 RECURRING PATTERNS AND ANALYSIS' RESULTS

#### **Coercive interviews techniques**

A recurrent pattern when dealing with the false confession phenomenon is coercive techniques of interrogation. Indeed, by analyzing the two real cases of confession above, it results clarify the role that the police and the psychologists have in extorting false confessions and subsequently causing distress in the people involved.

In the first case, during the initial interviews with Michael, it is evident his effort in trying to prove his innocence in the murder of his sister, but he would be later convinced by police that admitting guilt would be his best option. His interview is impressive because of the great number of times he said that he was lying: “(...) *it's a complete lie*”, and “*Ok, here's the part where I'll start lying (...)*”.

In the second case, the situation was a bit different because the child was coerced in a way that might be defined as less evident and it was only 20 years later, that he confessed his lie and told the truth. Thus, does this mean that before he actually believed his own lie? It would be because, in that type of false confession, coerced-internalized, innocent suspects not only confess the crime but incorrectly believe that they are guilty of it. This may be considered the most dangerous confession because it can create confusion and false memories in the individual who might start believing they have committed the crime.

#### **SES, previous life experiences, and cultural background**

The choice to start analyzing the socioeconomic status of the children who give false confessions and their families was made while studying the “Diavoli della Bassa Modenese” case. The “Child 0” was, indeed, a member of a family that was defined as “*one of the poorer families of Massa*”, which “*in the 80s barely survived thanks to beneficent's associations*” (Trincia & Rafanelli, 2017). When the third son (the “Child Zero”) was born, the economic situation of the family in question started to steeply decline. For this reason, to give a better future and more opportunities to the child, the family entrusted him to neighbors for a while. This is an evident signal of a low socioeconomic background with fewer opportunities and a greater amount of stress compared to other families.

Another case corroborating this evidence is the “Grangegorman Murders”. On the morning of 7<sup>th</sup> March 1997, Sylvia Shields and Mary Callinan were found dead in No.1 Orchard View, Grangegorman, Dublin 7. The house was owned by the Eastern Health Board, and it was used to provide sheltered accommodation for outpatients of the nearby St Brendan’s Psychiatric Hospital. The two women had been repeatedly stabbed, and their throats and faces had been cut open. One of the women had been extensively mutilated, and both women were partially undressed, the level of mutilation had never been encountered before in a murder investigation in Ireland. The killings were described as: *“the most brutal murders in Irish criminal history”* (Irish Examiner, 1997). Dean Lyons, who was a homeless man and a chronic heroin user, was accused of the murder even if some members of the Gardaí (Irish Police) had expressed doubts about him while he was being interviewed at the Bridewell Garda Station. Dr Charles Smith, a Forensic Psychiatrist, found his confession unconvincing as well, and at the same time Dr Gisli Gudjonsson, a forensic clinical psychologist engaged by Lyons' solicitors, found that he was very suggestible and susceptible to leading questions. The Commission of Investigation (Birmingham, 2006) pointed also out the following exchange as an example of Lyons changing his position in response to a question:

Dean Lyons (DL): *“I met two women at the top of the stairs and I went mad because they started screaming and I stabbed them.”*

Detective 1: *“I have to put it to you that you are not telling the truth at this stage, is that correct.”*

DL: *“It’s months ago and it is not easy to remember when you are on gear because it fucks your head up.”*

Detective: *“Is it that you don’t remember or is it that you don’t want to remember.”*

DL: *No reply.*

Detective 1: *“Can you describe the first woman that you met and what room she came out of.”*

DL: *“It was the second room from the top of the stairs and she was stout about one or two inches smaller than me and she had grey shoulder-length hair. She was wearing a very light nightdress.”*

Detective 2: *“What happened when you met her.”*

DL: *“I stabbed her a few times to stop her screaming.”*

Detective 1: *“I put it to you that this did not happen in the hallway but happened in the bedroom, would you agree.”*

DL: *“Yes.”*

Lyons died in 2000 of a heroin overdose (Kennedy, 2006) and in 2005, the Garda Síochána published an apology to the Lyons family for Dean Lyons' arrest and detention in national newspapers (Laffey, 2005).

In conclusion, may it be possible to say that in some cases vulnerable people as young children coming from low socioeconomic status and, in general, adults with low SES and lower opportunities (such as respectively “Child Zero” and Lyons) may be more susceptible and malleable, and in turn more prone to give a false confession?

### **Gender differences in false confessions**

A recent study conducted by Redlich (2000) in a non-forensic context stated that females were generally less likely to sign a false confession. This information may mirror the real cases considered in this analysis. Indeed, in all three cases cited above the false confessors were people coming from different countries, different backgrounds and with different life experiences, but all males. However, there are no studies in the present day that find a connection between genetics, interpreted as being born as a male (XY) or a female (XX), and the likelihood of giving false confessions, suggesting that further studies in this field need to be done.

Moreover, the few studies on this topic found different results, for example, research using the Kassin and Kiechel (1996) paradigm with undergraduate students (cited on page 48), found a tendency for females to falsely confess more often than males, although this difference was not significant (Klaver et al., 2008).

### **Police confidence**

It is a common misconception among police officers that they can reliably identify lies from nonverbal indicators like body language. This misguided confidence could lead investigators to focus on individuals displaying behaviors that don't necessarily indicate guilt. The error is exacerbated when an innocent person is singled out based only on an insufficient description or erroneous identification by an eyewitness. At that point, the suspect is mistakenly placed at the center of a guilt-presumptive interrogation, which creates the conditions for further mistakes (Leo, 2009). This was evident during the interrogatory of both Michael Crowe and Dean Lyon where the police assumed from the beginning their culpability and the aim of the interrogation was only to extrapolate their confession and not really to discover the truth. The investigators did it also using fake

evidence such as saying to Micheal that in his room was present the blood of his dead sister and changing the suspect's words like in Dean's case.

In conclusion, having the presumption of knowing from the beginning who is the suspect may be dangerous for the investigations and bring misleading conceptions.

#### **4.3.1 Strengths, limitations and methodological problems**

For this analysis, different studies conducted in different countries throughout the years have been taken into consideration for strengthening the conclusions giving them more reliability. For the same reasons, people of different ages have been compared, through studies considering both adolescents and children, but also adults.

Moreover, the analysis has focused on the memory function and its role in recalling witnessed events, and on the best practices that may be enrolled when relating to the general public and vulnerable individuals such as children. The review tried to take in consideration all the possible biases that can occur during a criminal investigation and how psychology (specifically forensic psychology) can reduce the probability of collecting unreliable testimonies and confessions.

Drawing conclusions from this analysis is challenging because it is limited to a very small sample size and therefore not applicable to the general population of children, which is a limiting factor. Another methodological problem found is the difficulty in finding public law cases in which testimonies or confessions are not trustable or even false and this is for several reasons, among which: a) recognizing a juridical error for a state or a police department is like admitting defeat and b) there are cases around the world in which the culprit was never found because of multiple individuals' confessions or trials' inconsistency.

However, it is useful also to only analyze real cases to not commit the same mistakes in the future.

#### 4.4 COMPARATIVE ANALYSIS WITH PRE-EXISTING LITERATURE

##### Gender Differences in False Confessions and Suggestibility

Does gender have implications on the number of false confessions given both by children and adults?

While no research has specifically explored gender differences in false confessions among juveniles in forensic settings, a recent study involving adolescents and young adults in non-forensic contexts found that females were generally less likely to provide false confessions than males (Redlich, 2000).

Instead, in research utilizing the Kassin and Kiechel paradigm (1996) with undergraduate students, it was observed that females tended to falsely confess more often than males, though this difference was not statistically significant (Klaver et al., 2008). However, when the alleged error seemed more plausible, females were much more likely to falsely confess than males – 65% versus 31% respectively (Klaver et al, 2008). The authors propose that these differences might be due to gender differences in coping strategies during stressful situations, suggesting that the relationship between gender and false confessions is complex and may involve interactions with factors such as the gender of the interrogator and personality traits.

Studies conducted in forensic settings focusing on adult offenders revealed that females appeared more likely to give false confessions (Gudjonsson & Sigurdsson, 1994). In one study, 11% of male participants reported having made a false confession at some point, compared to 31% of females. Despite the stark difference in percentages, the number of female participants was too small (N male = 216; N female = 13) to yield statistically significant results. Similarly, another study found that adult female inmates were more prone to false confessions, but the results were not statistically significant due to the small sample size (N male = 466; N female = 43) (Sigurdsson & Gudjonsson, 1996). Although these studies focused on gender differences in forensic populations, they involved adults, and there is still a lack of research on false confessions among juvenile forensic populations (Mesiarik, 2008).

Gender variations in interrogative suggestibility with adult or adolescent populations have not been extensively studied (Calicchia & Santostefano, 2004). Furthermore, the little

research on gender differences in suggestibility has produced contradictory findings. When it came to remembering events in the context of eyewitnesses, females were shown to be more accurate and less suggestible than males in an adult population (Lipton, 1977). There may be context-dependent variations in suggestibility between genders, according to other research including an adult population (Mesjarik, 2008). According to Powers, Andriks, & Loftus (1979), females were less suggestible about “female-oriented” details such as women’s clothing, and males were less suggestible about “male-oriented” details, such as the surroundings of the offense, a preliminary approach was used to identify the gender orientation details by determining which details were more likely to be noticed by men and women.

Early research investigating differences in children’s suggestibility in non-interrogative settings suggested that females were more suggestible than males (Stern, 1910). A study involving preschool-age children found that boys exhibited more aggressive and oppositional behaviors compared to girls. These researchers suggested that these behaviors might make boys less likely to cooperate or seek to please authority figures compared to girls (McFarlane, Powell, & Dudgeon, 2002).

Moreover, in a more recent study, Calicchia & Santostefano (2004) explored gender differences in suggestibility by altering the modes of perception (auditory, visual, and multimodal) of a stimulus. They found that girls were more suggestible than boys only when the 10- to 12-year-old participants were shown a video (multimodal perception). On the other hand, other research indicates that girls are less suggestible than boys. For instance, Redlich (2000) discovered that females (ages 12-13, 15-16, and 18-26) were generally less suggestible than males in an experiment where participants were accused of crashing a computer. These findings are particularly notable given the previous research that found neither gender differences in suggestibility nor that females were more suggestible than males.

Anyway, it is important to highlight that none of these studies, whether involving adults or children, examined individuals within a forensic or correctional population (Mesjarik, 2008).

#### Socioeconomic Status’ Influence on Children’s False Confessions

A study conducted by Gudjonsson et al. (2009) examines the phenomenon of false confessions among adolescents across seven European countries (Iceland, Norway,



Finland, Latvia, Lithuania, Russia, and Bulgaria). The participants were 24,627 students at the end of their compulsory education, they were 48% males and 52% females. 23,771 (96.5%) answered questions about interrogation and confessions. Of these, 2,726 (11.5%) reported being questioned by police as suspects. A significant gender difference was observed, with 16% of boys and 7% of girls having been interrogated. The majority (72%) had been interrogated only once, with smaller proportions experiencing multiple interrogations. Boys were more likely than girls to be interrogated more than once. Interrogation rates varied by country, with Lithuania (14.6%) and Norway (13.3%) having the highest rates, and Russia (6.4%) and Finland (8.3%) the lowest.

Among the 2,726 interrogated participants, 375 (13.8%) admitted to making a false confession, representing 1.6% of the total sample. Of the 1,788 boys interrogated, 15.8% reported false confessions, compared to 11.6% of the 880 girls. False confession rates were higher among those interrogated more than once (20.2%) compared to those interrogated only once (11.5%).

The rate of false confessions also varied by country, with Russia (19.0%) and Bulgaria (18.6%) showing the highest rates, and Lithuania (10.6%), Iceland (12.1%), and Latvia (12.1%) showing the lowest.

Some differences in background life events between non-false confessors and false confessors have been found, with significant variables identified through statistical analysis. For boys, key predictors of false confessions included experiences of severe family disruption, violence, and substance abuse (e.g., sexual abuse by adults outside the family; and use of anabolic steroids). For girls, significant predictors included experiences of sexual abuse, and engagement in various delinquent behaviors (e.g., using heroin).

Explanatory variable	Non-false confessors N (%)	False confessors N (%)
<i>Negative life events – chronic strain</i>		
Experienced serious accident	159 (20.4)	27 (26.5)
Experienced severe illness	156 (20.1)	29 (28.4)
Experienced separation or divorce of parents	159 (20.4)	31 (30.4)
Experienced serious argument with parents	337 (43.3)	51 (50.0)
Witnessed serious argument by parents	204 (26.2)	32 (31.4)
Witnessed physical violence at home where adult was involved	103 (13.2)	22 (21.6)
Involved in physical violence at home where adult was involved	76 (9.8)	18 (17.6)
Death of parent or sibling	45 (5.8)	11 (10.8)
Death of friend	132 (17.0)	26 (25.5)
Break up with girl- or boyfriend	286 (36.8)	40 (39.2)
Rejected by friends	170 (21.9)	22 (21.6)
Separation from friend	287 (36.9)	35 (34.3)
Father or mother lost job	66 (8.5)	10 (9.8)
Sexual abuse by adult within family	15 (1.9)	9 (8.8)
Sexual abuse by adult outside family	35 (4.5)	12 (11.8)
Been individually teased by a group of people	168 (21.9)	37 (36.3)
Group attacked you and hurt when you were alone	59 (7.7)	26 (25.5)
Been in group attacked by another group	135 (17.7)	40 (39.6)
<i>Academic performance – behaviour at school</i>		
Satisfied with academic achievement	349 (45.0)	46 (45.5)
School performance average or above	613 (79.4)	82 (80.4)
Not intending on further education	38 (5.0)	8 (8.2)
Received exceptionally low grade	434 (55.8)	50 (49.0)
Truancy	341 (50.6)	52 (57.8)
Dismissed from class or sent to principal's office	113 (14.5)	18 (17.6)
Expelled from school	29 (3.7)	10 (9.8)
<i>Alcohol and drug use</i>		
Alcohol	748 (96.8)	96 (95.0)
Illegal sleeping pills or tranquilizers	217 (28.2)	29 (29.9)
Cannabis (hashish or marijuana)	320 (41.3)	42 (43.8)
Amphetamines (speed)	103 (13.3)	22 (22.4)
LSD (acid)	30 (3.9)	14 (14.4)
Ecstasy (E-tablets)	78 (10.1)	16 (16.3)
Cocaine	42 (5.4)	13 (13.3)
Heroin	17 (2.2)	9 (9.4)
Mushrooms	38 (4.9)	11 (11.3)
Sniffing (e.g. glue)	126 (16.3)	17 (17.3)
Anabolic steroids	21 (2.7)	10 (10.4)
Ritalin (prescribed)	26 (3.9)	6 (7.3)
Ritalin (illegally obtained)	22 (3.3)	8 (9.6)
<i>Therapy – help-seeking behaviour</i>		
Personal help/support from psychiatrist	65 (8.5)	22 (21.8)
Personal help/support from psychologist	134 (17.5)	33 (33.0)
Personal help/support from social worker	165 (21.5)	35 (34.7)
Attended substance abuse therapy	31 (4.0)	16 (15.8)
<i>Delinquency</i>		
Participated in group teasing individual	317 (41.3)	44 (43.6)
Participated in group hurting individual	170 (22.1)	41 (40.6)
Participated in group starting fight with individual	219 (28.6)	51 (50.0)
Stolen something worth <i>less</i> than three movie tickets	167 (21.5)	29 (28.7)
Stolen something worth <i>more</i> than three movie tickets	91 (11.7)	27 (26.7)
Used physical violence to rob/steal	14 (1.8)	16 (15.8)
Broken into building or car to steal	22 (2.8)	17 (16.8)
Damaged or vandalized things not belonging to you	171 (22.0)	39 (39.0)
Interrogated by police more than once	152 (19.5)	35 (34.3)
<i>Mental health</i>		
Ever thought about committing suicide	416 (56.9)	54 (56.3)
Ever seriously considered committing suicide	197 (32.8)	45 (56.3)
Ever attempted committing suicide	157 (21.3)	30 (31.3)

(Gudjonsson et al., 2009)

Logistic regression analyses were conducted to identify the most influential variables predicting false confessions. Variables from the background life events, including SES-related factors and cultural context, were examined. The results reinforced that lower SES and adverse life experiences were strong predictors of false confessions, emphasizing the role of economic and cultural conditions in shaping these outcomes.

In conclusion, both socioeconomic status and cultural background play significant roles in influencing children's likelihood of making false confessions. The data indicates that children from lower SES backgrounds and those exposed to adverse conditions are more prone to false confessions, and cultural differences further modulate these effects (Gudjonsson et al., 2009).

The study also identified several significant life events that differentiated false confessors from non-false confessors. For both boys and girls, factors such as attending substance abuse therapy, being attacked or bullied, and committing a burglary were significant predictors of false confessions. Additionally, for boys, being abused by an adult outside the family was a key predictor, while for girls, having seriously considered suicide was another important factor. Those who made false confessions were more likely to be sentenced than those who did not.

These findings highlight the role of socio-economic status (SES) and cultural background in shaping the vulnerability of young people to false confessions. The study suggests that false confessions are not merely a consequence of delinquent behavior but are closely linked to broader socio-economic and psychological factors. For instance, the association between false confessions and a history of substance abuse or victimization suggests that these confessions may be a coping mechanism for dealing with strain rather than an intrinsic part of a delinquent lifestyle.

For example, Steingrimsdottir et al. (2007) discussed how variations in police practices and the complexities of comparing countries with different cultural backgrounds could influence these rates. This highlights the need for further research to explore these factors in greater detail.

The study in question (Gudjonsson et al., 2009) raises important concerns about the high rates of reported false confessions across different European countries, with an average rate of 13.8% (range 10.9%-19.0%) among those interrogated. The implications for society and the individuals involved are profound, as false confessions can lead to

wrongful convictions and significant personal consequences. Future research should investigate how many of those who falsely confessed were convicted and what sentences were imposed, as well as the circumstances and motivations surrounding the false confessions.

In conclusion, the study adds to the growing body of evidence that young people are frequently questioned as suspects and that many give false confessions (Gudjonsson, 2003). The findings that frequent police contact increases the risk of false confessions are consistent with previous research among young people, prison inmates, and suspects detained at police stations (Gudjonsson et al., 2006; Sigurdsson & Gudjonsson, 2001; Sigurdsson et al., 2006). While repeated police contact may exacerbate the risk of false confessions, it is also possible that making false confessions is part of a broader delinquent lifestyle among some youths. However, the study also suggests that for many young people, false confessions are a response to pressure rather than a deliberate choice, particularly for those who have experienced multiple victimizations or have insecure attachments due to a history of bullying (Gudjonsson, Sigurdsson, Asgeirsdottir, & Sigfusdottir, 2007).

#### **4.5 CRITICAL CONSIDERATIONS AND IMPLICATIONS**

It is fundamental to continue studying and researching not only about memory functions but how to improve the states' jurisdictions as well. It is important to study individuals' fragilities to understand the most critical aspects to take into consideration while collecting testimonies, in order to comprehend what to pay more attention to in different individuals with different needs. For example, knowing that elderly people, as well as people with learning disabilities, need more care because of their cognitive structures, may help to create a more comfortable environment for them and collect more reliable testimonies.

At the same time, preventing false confession is fundamental for discovering the real culprit in law cases, and being aware of children's vulnerabilities and their nature of being usually more prone to be suggested, may have a positive impact on the conduction of an interview. If the police, the psychologists, or whoever supervises an interrogation are aware of the risks, they can prevent negative outcomes.

Even if not perfect, the USA, the UK, and Italy, which are the countries mostly analyzed in this research, have made considerable progress over the years, and their development of better interview methods, children's protective laws, and juridical procedures have improved the quality of interviewing both testimonies and suspects.

## **CHAPTER 5:**

### **CONCLUSIONS AND FUTURE PERSPECTIVES**

#### **5.1 FINAL CONCLUSIONS**

Criminal proceedings are complex and, to study and understand them, many different aspects need to be taken into consideration. This is because even minor mistakes when relating to a victim or a witness are not uncommon, and they may bring serious consequences such as a false accusation or a false confession. Witnesses are fundamental when speaking about criminal proceedings and they are usually listened to in each court judgment. For these reasons, witness protection laws are fundamental to guarantee their rights and their best testimonies.

It is crucial to understand why testimonies are cardinal during court proceedings and which are the best methods to achieve a good witness testimony with the least number of biases and many studies have been done starting from the 1990s to improve the states' law systems. Indeed, in some accidents, eyewitness testimonies are the only available sources, and in order for a jury or a judge to determine a suspect's guilt, witness evidence is essential to criminal investigations since it offers a first-hand account. But it is crucial to remember that eyewitness testimonies are not infallible, and many unreliable confessions are yearly listened to causing innocent people to serve a sentence for which they are not guilty.

Important to remember it is also that approximately 19% of the EU population (95 million) is under the age of eighteen and falls under the category of "vulnerable population". This term includes all the people needing more attention and care while being interviewed because of their not completely developed emotional and cognitive systems and this is particularly relevant to know while conducting a criminal proceeding.

A review of different methods is provided in the analysis with experiments testing their application (e.g. Memon et al., 2010). The work studied different methods of interviewing witnesses dividing them into two categories: coercive interview, which includes the Reid Technique (Kozinski & Wyatt, 2017) and the Third Degree, and non-coercive interview such as the Cognitive Interview (CI) (Fisher & Geiselman, 1992).

The Reid Technique, a strategy based on psychological pressure and manipulation including the creation of false trials to induce the individual to confess, was considered, in the first moment, the best methodology for interviewing because, while interrogating suspects, it offered a larger amount of data and multiple confessions. The problem was, as demonstrated by Kozinski & Wyatt (2017), that false confessions collected by the Reid method resulted in more than one unjust conviction, letting the genuine offenders remain at large and possibly commit other crimes, also, the Reid Technique's guilt-presumptive and coercive approach runs counter to many key tenets of the U.S. criminal justice system. CI is today the most reliable source of data collected during an investigation, and it is a non-coercive method that arrives more often with trustable information. It aims to minimize memory limitations using techniques such as multiple and varied retrieval, context reinstatement, and minimizing reconstructive recall (Anderson & Pichert, 1978; Smith & Vela, 2001).

Memory processes have been analyzed in the analysis for a better understanding of the reasons why it is impossible to fully trust individuals' memory even if speaking of the witness of an incident that is thought to be unforgettable as a murder or a sexual assault. Memory is malleable and reconstructive so past, present, and future events can influence a person's memory of the episode investigated. Thus, while encoding is essential for memory, it is inherently selective and reconstructive, involving both accurate recall and potential distortions; effective encoding strategies, such as forming distinctive memories and associations, can enhance learning and retention (Hunt & McDaniel, 1993). Memory is also prone to errors and it can be influenced by factors such as post-event information, delays, and emotional experiences (Loftus, 2005). False memories can be created through misinformation, particularly during retention intervals (Loftus et al., 1978). Retrieval processes, like open-response questioning and cognitive interviews, can enhance accuracy but remain vulnerable to suggestive influences (Fisher & Geiselman, 1992; Loftus & Palmer, 1974) and confidence in memory does not always correlate with accuracy, complicating its role in legal settings (Wixted et al., 2015).

It is vital to pay major attention when dealing with underaged individuals since they may have more issues when relating to the law systems that are usually studied for adults. Children as well as all the other vulnerable witnesses need more care because they are not completely cognitively and emotionally developed and for these reasons, they have more

troubles when situated in a stressful environment such as a courtroom. Several aspects may influence a child's testimony: the age of the child, the cognitive and emotional development, the previous experiences and cultural background, the parental influence, the setting of the interview, and the social pressure and suggestibility (Davies & Beech, 2018). But while there is skepticism about the accuracy of children's eyewitness accounts (Quas, Thompson, & Clarke-Stewart, 2005), research shows that children can provide reliable and accurate testimony when questioned under developmentally appropriate conditions (Peterson, 2012), and therefore, some protective practices (such as the MOGP) have been developed.

The phenomenon of false confession has been analyzed in the light of the fact that the human mind is not infallible and sometimes it may be influenced also by external factors such as social pressure, suggestibility, or by a coercive interrogation method. For solving this problem, the implementation of non-coercive techniques such as the Cognitive Interview (CI) is fundamental (Fisher & Geiselman, 1992).

Concerning this, studies demonstrate that younger individuals are especially prone to falsely confessing, raising concerns about the reliability of juvenile confessions in legal settings (Drizin & Leo, 2003). False confessions are among the most dangerous and misleading forms of evidence in the legal system because when a person confesses to a crime, it is often seen as the ultimate proof of guilt, leading to a near-automatic presumption of culpability (Kassin & Wrightsman, 1985).

Finally, to corroborate all the analysis a review of repeated events has been offered to understand the possible common patterns that characterize the false confession phenomenon among children.

## **5.2 PROPOSALS FOR FUTURE DEVELOPMENTS**

This work highlights the need for new practices and new methods of interviewing in order to achieve more accurate witnesses' testimonies and to elicit the least number of false confessions possible. To achieve this goal, further research needs to be conducted on the workings of children's memory, effective interrogation techniques, and the development of new protection policies against justice miscarriages. However, children can be listened



to and trusted if the interviews are done congruently with their age and cognitive and emotional development.

A deeper exploration into the cognitive and psychological factors that make children particularly vulnerable to distortion and false confessions is needed, and this should include how age, cognitive development, and the emotional states of both the moment of the accident and the testimonies affect their ability to accurately recall and testify. It may also be useful to study if the parent's presence has an impact on the level of stress that children experience during an incident and on the event's vividness of later recalls.

The findings also emphasize the importance of considering socio-economic and cultural backgrounds in understanding and addressing the issue of false confessions among youths. Further research is needed to fully understand these dynamics and to develop interventions that protect vulnerable individuals from the risks associated with police interrogations.

It is important to conduct future studies on the long-term psychological impact on children who have given false testimonies or confessions. Understanding these impacts can inform legal practices and provide better support for affected individuals.

Moreover, the collaboration between psychologists, legal professionals, educators, and policymakers should be encouraged more and more to achieve a comprehensive understanding of the issues and implement more effective solutions.

In conclusion, obtaining evidence in a criminal proceeding is the most important step to achieving a conclusion but at the same time, it is crucial to be aware that obtaining false confessions or false witnesses' evidence can have severe consequences on innocent people's lives specifically when appointed a life-long sentence for a crime that they never committed. For these reasons, it is important to keep studying human memory and how malleable it is to find new interviewing modalities. New investigation strategies that are applicable to both adults and children need to be developed, keeping in mind that while dealing with adults, it is difficult to attain testimonies or confessions without errors. This task is usually even more challenging with children.

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