



## THE FORENSIC INTERVIEW: OBTAINING COGNITIVE INDICIA IN CHILDREN WHO ARE THE ALLEGED VICTIMS OF SEXUAL ABUSE

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*Las características que rodean a los delitos de abuso sexual infantil (ASI), puesto que muchos se cometen en la clandestinidad, sin testigos, y sin evidencias físicas que los corroboren, dificultan el enjuiciamiento de los mismos. El análisis y valoración del indicio cognitivo (huella de memoria) se convierte así en el principal medio de prueba con el que cuenta el juez. La entrevista forense es el instrumento mediante el cual el perito psicólogo obtiene este indicio cognitivo para su posterior análisis y valoración en términos de credibilidad. En el presente artículo se alerta sobre los posibles sesgos en el entrevistador y errores procedimentales que pueden contaminar la obtención del relato del menor, y se propone un diseño del proceso de entrevista forense con el objetivo de facilitar la labor pericial y minimizar esos posibles sesgos. Se hace hincapié en la necesidad de que el evaluador cuente con formación y entrenamiento especializado en esta técnica.*

**Palabras clave:** Entrevista forense, Abuso sexual infantil, Memoria de testigos, Evaluación de credibilidad.

*The characteristics surrounding child sexual abuse (CSA), which is committed in secret without witnesses or corroborating physical evidence, make it difficult to prosecute. The analysis and assessment of the cognitive indicia (memory trace) thus becomes the primary documentary evidence on which the judge relies. The forensic interview is the instrument by which the forensic psychologist obtains the cognitive indicia for further analysis and assessment with regards to credibility. The present article warns of the potential interviewer biases and procedural errors that can contaminate the child's narrative production, and proposes a design for the forensic interview process that aims to facilitate the evaluator's task and minimize the potential biases. The need is emphasized for the evaluator to have knowledge and specialized training in this technique.*

**Key words:** Forensic interview, Child sexual abuse, Eyewitness testimony, Credibility assessment.

**I**t seems that the greater social awareness, the legal framework, both nationally and internationally, and the development of prevention and detection programs in the field of the protection of minors are not enough to stop child sexual abuse (CSA). A recent meta-analysis on the prevalence of this casuistry internationally noted a huge variability in the data presented, ranging between 4/1000 and 127/1000, depending on the research methodology used (Stoltenborgh, Van IJzendoorn, Euser & Bakermans-Kranenburg, 2011). One fact that is repeated in all the research is the over-representation of females among the victims (180/1000) in comparison with males (76/1000). In Spain most of the studies to determine the extent of this phenomenon are carried out based on the data obtained from the child protection services of various autonomous regions, which severely limits the results as only the more serious cases are recorded (De Paúl, Arruabarrena & Indias, 2015; Pereda, Guilera & Abad, 2014). Not all cases of

CSA reach the judicial system. Many of these cases may remain unreported, usually due to the young age of the child and the limitations that this involves in the access of the protection systems, due to shame (sex remains a taboo in our society), for fear of the consequences (reprisals from the aggressor, court trial, family breakdown, etc.), or simply because the children are unaware that they have suffered victimization. Sometimes when the victims communicate with the adults in their environment, especially in the case of domestic sexual abuse, their reaction is to hide the revelation (González, 2011). Barriers from the judicial system have also been identified as reasons for not reporting among victims of CSA, including the fear of not being believed, the lack of the immediate arrest of the offender or having to face a long and difficult judicial process (Hattem, 2000; Lievore, 2003). A study conducted in Australia, through in-depth interviews with 63 children who had gone through a legal process after filing a complaint for CSA, revealed that less than half would go through this process again. Only in one of the states was there a majority of children who were motivated to repeat the judicial experience, a fact that the author associated with the existence of more protective measures for children in that state (Eastwood & Patton, 2002). Overall, the study indicated that the victims of sexual offences are often less satisfied with the judicial process than other kinds of victim (Felson & Pare, 2008).

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Furthermore, in cases where a complaint is filed, the judicial investigation usually comes up against significant limitations due to the absence of physical or biological evidence proving the incident, and the lack of witnesses corroborating the versions of the parties involved (Echeburúa & Subijama, 2008), so the scientific expert evidence is of particular relevance (Vázquez-Rojas, 2014; González, 2015). A recent study of judgments in cases of sexual victimization of children indicates the difficulty that the judicial system has in minor intra-family cases, suggesting the need to improve the functioning of the means of evidence (Tamarit, Guardiola, Hernández-Hidalgo & Padró-Solanet, 2014).

Normally, in the absence of physical or objective indicia, the judge will have two other types of more subjective evidence to assess the occurrence of the events being reported: the testimony of the child (memory trace), and the possible associated psychological damage (psychopathological imprint). The latter is not the subject of this paper; we only point out that there is no single psychopathological profile associated with CSA, which makes it risky to accredit an alleged experience of sexual victimization based on clinical indicators (Scott, Manzanero, Muñoz, & Köhnken, 2014).

The memory trace, meanwhile, is extremely fragile and sensitive to the methods used to obtain it, especially in the case of minors of a young age (González, Muñoz, Sotoca & Manzanero, 2013). Today, modern proceedings in the criminal investigation pay close attention to good practices in forensics or criminology, attaching great importance to the processes carried out at the physical crime scene: the scene is preserved with a fence, objects are handled with gloves, agents are clothed in overalls to prevent contamination, access to non-specialist personnel is restricted, and special instruments and equipment are used, etc. As regards the *mental* scene, such a strict tradition does not yet exist with regards to how important it is to correctly process the indicia or traces of every mental scene of the crime (one for each person involved), in the same way as it is done with the physical scene. We must therefore emphasize again the existence of these mental scenarios; where the same physical scene is related to as many mental scenes as there are victims, witnesses, suspects, perpetrators and people involved; and in that prior to delimiting these, it is also essential to recognize, preserve, collect, store and analyse the subjective evidence appropriately: the testimonies (González, 2015).

Although the Criminal Procedure Law indicates the way one must question the witness (Arts. 435 et seq.) and the questions that should not be asked (trick questions and leading questions, Arts. 439 and 709), the reality is that there is a serious oversight when handling these psychological indicia (Manzanero, 2015), unlike physical evidence which has protocols for preparation and submission to forensics teams in order to avoid alterations, substitutions, contamination or destruction (González et al, 2013; González, 2015). However, in Spain, recent legal initiatives have focused attention on the need to protect the memory trace of particularly vulnerable victims, as well as trying to avoid secondary victimization (Circular 3/2009 of the Attorney General or the reform of Art. 433 of the Criminal

Procedure Act of October 6, 2015). Thus, the new Art. 433 of the Criminal Procedure Act says: *In the case of child witnesses or persons with modified judicial capacity, the examining magistrate may decide, when in view of the lack of maturity of the victim it is necessary to avoid causing them serious damage, that their declaration is taken by experts and with the intervention of the prosecution. To this end, it may also be agreed that the victim is asked the questions directly by the experts or even excluding or limiting the presence of the parties at the site of the examination of the victim. In these cases, the judge will arrange to provide the parties with the possibility to ask questions or seek clarification from the victim, whenever this is possible. The judge will order the recording of the statement by audio-visual media.*

In this paper we will focus on the forensic interview as the main technique for obtaining information relevant to the case, and for obtaining the child's version of the events, under the holistic approach to the assessment of testimony (HELPT) (Manzanero & González, 2013, 2015) and then, depending on the quality and extent of the testimony obtained, analyse it in order to assist the judge in the assessment of its credibility (Köhnken, Manzanero & Scott, 2015). These guidelines will be especially useful in cases of school-age children, because adolescents have a cognitive development and life experiences similar to those of an adult, and preschool children have cognitive limitations, especially in the area of understanding and linguistic expression.

### COMMON ERRORS IN OBTAINING TESTIMONY

If the psychologists who evaluate cases of CSA have not received specialized training, it can generate starting biases (anchoring values) that will affect the entire interview process, and obtain incomplete or incorrect information, which will in turn vitiate any subsequent analysis of the testimony that is obtained. This can be explained, according to the model developed by Kahneman (2011), by the preponderance of the evaluator in processing the information and making decisions based on intuition rather than reasoning based on evidence. These biases can be divided into two closely-related groups: a) cognitive biases, and b) procedural biases. Understanding the potential biases of the interviewer is the first step in minimizing the probability of their occurrence.

#### *Cognitive biases*

The lack of specialist knowledge regarding CSA leaves the assessor exposed to the beliefs of the social moment in time. On this note, particular attention and sensitivity towards some victim phenomena has been observed (Pereda, 2013), especially those affecting children, with feelings of outrage being developed at these cases (Masip & Garrido, 2007). This facilitates the appearance of bias in the evaluator, if they have not had specialized training, leading them to accept any allegation of CSA uncritically, designing an interview process conditioned by the sole hypothesis of the occurrence of the alleged facts (a self-fulfilling prophecy or Pygmalion effect). This tendency to prove a hypothesis rather than to test it means in practice that the only thing that is done is to seek the "proof" to confirm this hypothesis



(the occurrence of the alleged sexual abuse). In short, one can only see what one is looking for. Thus, it is easy for illusory correlations and other *post hoc ergo propter hoc* type fallacies to occur. This Latin expression meaning “after this, therefore, as a result of this” is sometimes simplified as “post hoc” and referred to the false causality that assumes that if one event happens after another, the second is a consequence of the first, leading to a conclusion based only on the order of events (for example, if a child is sad and quiet after being with their father, it is assumed that the origin of their state of mind can be found within what happened during that meeting, without regard to other possible variables at the time of the evaluation).

Linked with the above is the bias that results from being sensitized to signs of emotional distress in the child without contemplating the etiological alternatives (ambiguous clinical indicators of sexual abuse) or from being sensitized to information appearing in the court file (e.g., if the accused has a criminal history of crimes of the same type, ambiguous clinical reports, etc.), assuming preconceived beliefs as valid (if the defendant was sexually abused as a child, they are probably repeating the abusive pattern), which again jeopardizes the scientific process of testing alternative hypotheses, focusing solely on the hypothesis of the occurrence of the acts. This bias is more likely when the roles of expert and therapist are carried out by the same person. This duality is inadvisable in the practice of forensic psychology (American Psychological Association, 2013). Key in the psychotherapeutic process, the “therapeutic alliance” is incompatible with the evaluating distance or objectivity that is required in forensic activity. Furthermore, the therapist’s information usually comes exclusively from the patient (whose reality is the only one that interests the psychotherapeutic process), without having been checked across various sources or having integrated all of the data in the testimony, tasks that the expert however must perform.

Neither is it uncommon to see the trap of the “availability heuristic”, a name proposed by Tversky and Kahneman (1974) to describe the tendency of the human mind to use the most prominent information and experience in our memory, which is therefore more easy to recover. Heuristic rules are those cognitive rules that, unconsciously, every human being applies when processing information received from outside, and that reduce the complex tasks of assigning probability and predicting values to simpler judgment operations by simplification procedures. Heuristics explains how new information tends to be associated with existing patterns or thoughts rather than creating new patterns for each new experience. Thus, there is a tendency to overestimate the frequency of events coinciding with what is more available in the memory and daily practice, and this bias may influence decision-making regarding the event to be evaluated. As an ancient Chinese proverb explains: “Two-thirds of what we see is behind our eyes,” or put another way the anticipation of what we expect to see influences what we actually see, constituting an authentic form of selective perception. A study by Herman, Leiblum, Cohen and Melendez (1998), showed that professionals working as specialists in cases of sexual abuse

tended to interpret some sexual behaviour observed in children as more “abnormal” than it was interpreted by others healthcare professionals.

The above example enables us to illustrate the availability heuristic and also to introduce another important source of error: misinformation on child sexual development, its manifestations and determinants, which increases the likelihood of inappropriately interpreting the expression of sexualized behaviours in the child, assigning too much significance to them. Children of three or four years old may be curious about exploring their own bodies and may start to self-stimulate as a standard expression of their psychosexual development (Gómez, 2013; Scott et al, 2014).

### **Procedural bias**

The lack of knowledge and experience in managing protocols for obtaining and assessing witness evidence increases the likelihood of its improper use, in particular the lack of a rigorous hypothesis approach regarding the origin of the memory of the child, which should be the starting point for these investigations (Köhnken et al., 2015). Ignorance may make the evaluator conceive the statements dichotomously, as if their only source were experience (true declaration) or intentional falsehood (false declaration), which prevents the contemplation and testing of other hypotheses on the origin of the declaration, such as unintentional errors (limitations in the competence of the witness, alterations in the coding phase or the withholding of information or suggestive procedures; Köhnken et al, 2015.) For this reason, it is essential to have specific training on the functioning of memory in order to carry out these expert activities (Manzanero, 2010).

This lack of training is also the basis of using strategies that can contaminate the memory of the child and invalidate the cognitive indicia (Hritz, Royer, Helm, Burd, Ojeda & Ceci, 2015). For example, the use of an authoritative style of interview, carrying out tendentious, captious, or leading questions, ones of forced choice or yes/no answers, repetition of the same question, the symbolic interpretation of real elements, the misuse of projective tests or the use of anatomical dolls. The use of specific interview protocols has shown benefits in obtaining statements that are free of bias, minimizing the negative impact of variables such as conducting repeat interviews (La Rooy, Katz, Malloy & Lamb, 2010).

In short, specialized training is essential for the forensic psychologists responsible for addressing cases of CSA (Manzanero & Muñoz, 2011). The consequences of malpractice in these cases can have serious consequences for the parties involved (the complainant and defendant), given the central role that the psychological test has in making judicial decisions. A recent study from the European Union Agency for Fundamental Rights (FRA) has found a high disparity in the educational level of the forensic technicians responsible for interviewing children. Johnson et al (2015) have recently shown the widespread application of forensic interview malpractices in cases of CSA. On the scientific level a lack of evidence-based practice has also been detected in dealing with cases of CSA (Pelisoli, Herman & Dell’Aglia, 2015).



## DESIGN OF THE FORENSIC INTERVIEW PROCESS WITH MINORS

### *Preliminary basics*

First, it must be borne in mind that, in general, a forensic examination can be a stressful situation for a child, since it is an unusual experience in an overly formalistic context (Caso, Arch, Jarne & Molina, 2011). This stress will be higher or lower depending on the child's cognitive development, since this determines the strategies that the child can implement in order to deal with it, and the stress will also vary depending on the child's emotional state. Therefore, the forensic psychologist must prepare the interview meticulously to avoid oversights that may require a repeat interview with the child, or to prevent the interview from being prolonged excessively. It is not recommended to last more than an hour, even under ideal circumstances. In any case, it is important to be alert to signs of fatigue and loss of concentration, because if the child shows these signs, it is better to end the interview (Carrasco, 2012). If it is necessary to interview the child once more (to check information, or due to a lack of time, etc.), at the end of the session the reasons for having to interview them again, when the next interview will be, and what will be covered will all be explained to the child, and they will be advised not to think about it much in the meantime (Caso et al., 2011).

The waiting time until the child's examination should be minimized as much as possible, since it has been consistently demonstrated that delay impairs the memory in general (Manzanero & Álvarez, 2015) and especially that of witnesses, which will have an important impact on the accuracy of the statements of the minors and the success of the forensic interviews (Andrews & Lamb, 2014). All too often it is seen that once there is knowledge of CSA, whether in the family, school or healthcare environment, and regardless of whether it is reported to the police or judicial authorities, the child is submitted to repeated interviews (if not actual interrogation) about what happened, by family, police, prosecutors, doctors, which although they may be well-intentioned still decisively influence the memory trace, usually distorting it, if it is not carried out appropriately. It cannot be reiterated enough that this process must be avoided in the case of such events, and that it should be a duly qualified professional who deals with the first interviews with the children from the outset, recording their intervention and submitting it to the judicial procedure for subsequent assessment. It is desirable, in order to gain as reliable a testimony as possible, that when the judge knows of the existence of alleged CSA that they immediately delegate the obtaining of the child's statement to specialized professionals accredited for this (criminal psychologists belonging to the police and security forces, psychologists in specialized CSA teams, and forensic psychologists, both those working for the parties and court-appointed ones). Only then, can the subsequent valuation of the testimony be carried out with maximum guarantees. In any case, in the court of law the court-assigned forensic psychologist is in charge, if deemed by the judge, of conducting the expert assessment of the case. If other professionals have intervened previously, a recording of the interview should be supplied so they can work with it, thus

avoiding a further examination of the child, and therefore a possible secondary victimization.

Despite all the above regarding the importance of minimizing the time from the revealing of the alleged abuses to the interview with the child, it should also be noted that under certain circumstances (i.e., illness, exhaustion, situation of shock, etc.), the child may not be able to provide an account in a forensic interview in moments that are close to the alleged victimizing experience (American Professional Society on the Abuse of Children, 2012; Myers, 2005).

Once in court, it is also important not to delay the waiting time for children because often there are no spaces that are appropriate for them and they may be exposed to inappropriate situations that may increase their anxiety (police presence, legal workers in their robes, arguments, etc.) (Caso et al., 2011).

### *Collection and analysis of all of the information available on the case: hypothesis generation*

There is agreement in considering that the interview process should begin with the collection and analysis of all of the information available on the case. In the forensic context this means the study of the case file (Muñoz & Echeburúa, 2013). Once this information has been analysed we will begin to gather information to generate and test the hypotheses about the origin of the memory for the specific case to be evaluated (Scott & Manzanero, 2015).

During the prior study of the case and development of the interview, the expert psychologist will always work with a hypothesis and its opposite, i.e.: H<sub>1</sub>: the account provided by the minor comes from an event they have experienced; H<sub>2</sub>: the account provided by the minor has its origin in different source other than the direct experience (Köhnken et al, 2015). The problem in these cases is to define the data adequately to support or rule out each of the hypotheses, and the method of obtaining and weighting these data (Scott & Manzanero, 2015).

Once these two hypotheses have been tested, one or the other will have more weight in the initial assessment of the expert. Sometimes although the set of analysed data indicate that the account of the child corresponds to an event they have experienced (H<sub>1</sub>), we may find conflicting information. In this case, the evaluator must provide explanatory theories regarding the factors that may be affecting the accuracy of the memory, analysing at least three sources of influence: the cognitive abilities of the child to testify (for example, lack of episodic memory due to their young age), alterations in the processes of encoding, storing and retrieving information (requiring special attention are the number and type of discussions that the child has had on the subject since the revelation of the alleged abuses), and finally, the type of victimization situation reported, whether it is a single episode, or a chronic situation over time. Sometimes the explanation given for the contradictory data is that it is due to *the complex interaction of various factors influencing the memory*.

In the event that testing the hypothesis suggests that the child's story is not due to a directly experienced event (H<sub>2</sub>), the expert psychologist will propose alternative hypotheses to the origin of



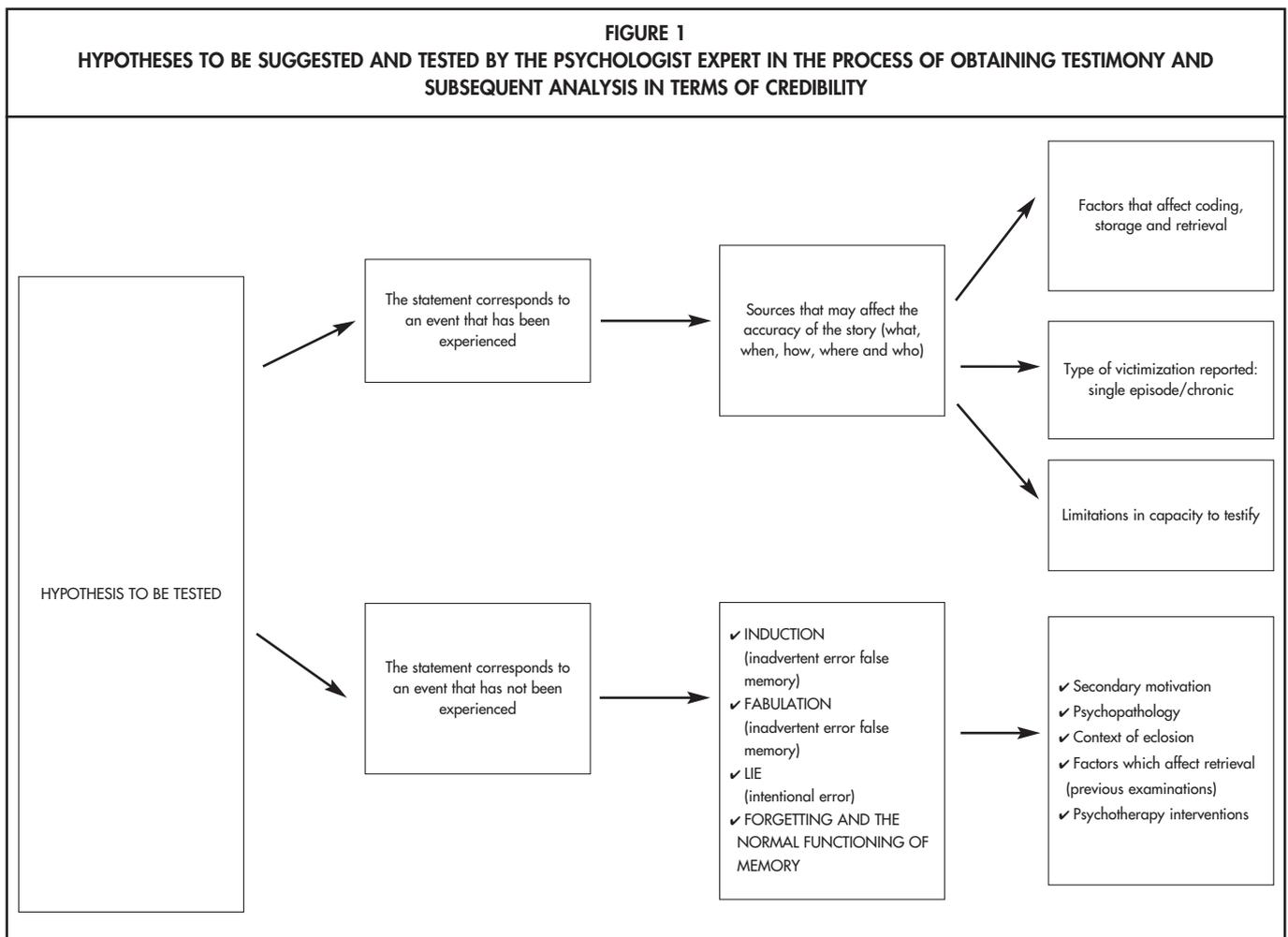
that memory, seeking to compare them with the analysis of all of the rest of the information and, necessarily, throughout the interview. At least four possibilities are suggested. In the first, H<sub>2.1</sub>: the memory has been *induced* in the child, who is not aware of its inaccuracy, whereby the degree of precision and certainty that will manifest is full (*suggested memory*). This mnemonic manipulation of the child may be intentional (an adult who wishes to harm the accused, for example, in divorce cases), or it may be due to an interpretive error (the child describes a recreational activity or hygienic handling and the adult perceives a non-existent sexual intentionality initiating a path of incorrect discussions with the child - suggestive interviews-), or a professional negligence (inadequate psychological evaluations and interventions). These forms are not mutually exclusive and may occur simultaneously. As a second possibility, H<sub>2.2</sub>: the memory can be the result of a *fabulation*, in which case the child's conviction concerning the reality of the events described will also be high. Psychopathological conditions such as psychotic symptoms, impaired consciousness due to consumption of toxic substances or drugs, or incipient abnormal personality conformations could be the basis of these cases. Unfortunately, when the source is a suggested memory it is

difficult to establish the differential diagnosis from a memory whose origin is an event that was actually experienced, because both are experienced as real (Köhnken et al, 2015; Volbert & Steller, 2014). The third possibility H<sub>2.3</sub>: the story is intentionally false (*lie*), and is guided by a secondary motivation (animosity toward the accused, parental interference, feelings of resentment and revenge, protection of a third party, etc.) Finally H<sub>2.4</sub>, where the story is false because of distortions due to forgetfulness and the normal functioning of memory (*erroneous memory*).

With the analysis of the file, the forensic psychologist will also be able to evaluate the presence of factors that would limit the subsequent analysis of the testimony in terms of credibility. If these factors are present, the judge should be informed in order to be able to consider the claim, since any subsequent issue regarding the testimony would be seriously compromised, lacking scientific validity. Thus procedural diligence for the child is avoided, contributing to minimize the secondary victimization. These factors include the following:

- ✓ The cognitive capacity of the child to provide an account of the alleged facts of sufficient length and quality. Thus, although there is inter-subject variability, children of preschool age (3 to

**FIGURE 1**  
**HYPOTHESES TO BE SUGGESTED AND TESTED BY THE PSYCHOLOGIST EXPERT IN THE PROCESS OF OBTAINING TESTIMONY AND SUBSEQUENT ANALYSIS IN TERMS OF CREDIBILITY**



5 years old) are developing the capacity of episodic memory, so their memories are fundamentally semantic (decontextualized, based on knowledge and without the phenomenological feeling that they were the protagonist of those events). Therefore, children of this age lack the spatiotemporal anchor and cannot establish when or where the alleged incidents occurred. They are not able to individualize facts so they confuse general patterns with episodes (Roberts & Powell, 2001) and they are not able to provide information on how many times the alleged events occurred. They have difficulty in establishing the origin of the memory, which together with their vulnerability to suggestion, increases the possibility of generating false memories if they have been interrogated successively or inappropriately. If leading questions are used, their answers come from the (semantic) knowledge that they may have gained from comments, suggestions, movies or other sources and not from their real experience (Manzanero & Barón, 2014). In this case, stereotypes may play a significant role in the generation of false statements (Leichtman & Ceci, 1995).

- ✓ The exposure of the child to sexual information either due to having had previous sexual experiences, having/sharing sexual material or having been exposed to sexual relations between adults. Some studies show that 80% of boys and almost 50% of girls have had contact with sexual material during childhood (Reynolds, Herbenick & Bancroft, 2003). Also of interest is the degree of intimacy between the adults in the house (i.e., overcrowding in shared housing) that may guide us on the likelihood of the children being exposed to the sexual practices of the adults with whom they live.
- ✓ The relationship between the complexity of the allegations and the cognitive ability of the child. When the events are so simple that the child's cognitive ability is such that they could easily generate them with realistic characteristics, we must not apply the assessment of testimony protocols (Köhnken et al., 2015).
- ✓ Previous discussions with the child regarding the alleged events: number and forms. This is to determine the existence or otherwise of false memories, especially in preschool children. Sometimes the viewing of the judicial examination of the child, or previous examinations recorded by other professionals (police, health workers, family, etc.) is sufficient to inform the judge about the impossibility of analysing the child's testimony due to the possible contamination or re-processing of the original memory.
- ✓ The time elapsed between the experience and the disclosure. Here we pay attention to the factors affecting the storage of the information.
- ✓ The time elapsed between the disclosure and the forensic examination. This should take into account the context and form of the disclosure (spontaneous/questions, playful/hygiene context, domestic/outside the family, etc.), the reaction of the adults in the child's environment (in cases of pre-schoolers, this will be the reference from which the child interprets the situation, either in a neutral or negative tone, which will affect the encoding of the event) and discussions prior to the forensic assessment (number and forms) that can give us an idea of the factors affecting the retrieval of the information.

Keeping these areas in mind will avoid important information being forgotten, which will minimize the number of examinations of the child and facilitate the testing of the different explanatory hypotheses about the origin of the memory that the child provides, so we will have more control over the appearance of possible biases on the part of the evaluator.

The following table presents a possible protocol to guide the analysis of the court record (the same information can be used to test different hypotheses):

It will also be important to consider the various statements of the child or adult who filed the complaint to guide, if necessary, the questions for checking the information during the interview.

It is necessary to record the interview because this is a prerequisite for the subsequent application of the methods of analysis of testimony (Wakefield, 2006). This is because it enables the assessment by two experts independently (review and criticism of the considerations of the other and compiling the findings of the two experts), it enables the review by different legal operators (transparency of the process of expert evaluation) and it facilitates the exercise of the principle of contradiction by the parties (Manzanero & Muñoz, 2011). In addition, recording the interview leaves us more time to listen, as we do not have to take notes, so we can address possible signs of discomfort, anxiety, etc. in the child. Furthermore, it is the only way to ensure, after viewing, that we have not inadvertently asked inappropriate questions. Our own recollection of the interview is very unreliable in this respect.

#### ***Prior information collected through contact with the adult context of the child***

The interview of the adults in the socializing context of the child has three main objectives: a) to continue to obtain data for testing the hypothesis; b) to have information on the child (hobbies, tastes, preferences, relevant personality characteristics, possible separation anxiety, information the child has been told regarding the forensic examination, etc.) to facilitate the establishment of the rapport (warm and trusted atmosphere) on the day of the examination, as well as other important information for the child's interview, for example, the degree of fluency in the case of foreigners or terms the child uses to name the genitals; c) obtaining an account of an event they have experienced close in time to the alleged acts which will subsequently allow us to appreciate the child's narrative style.

On the first point, the interview with the significant adults can help us to gather data for testing our hypothesis in relation to:

- ✓ The child's cognitive capacity (they may be able to provide data on academic performance in relation to the peer group, psycho-educational examinations, etc.)
- ✓ The child's tendency to confabulation or fantasy
- ✓ Clinical mental health diagnoses
- ✓ Psychological treatments before or after the alleged events
- ✓ The context and form of the disclosure
- ✓ The reaction of the adult context at the disclosure
- ✓ Related discussions with the child by the adults in the environment (number and forms)
- ✓ The psychological state of the minor pre- and post-complaint (significant internalizing and externalizing changes)



- ✓ Handling of sexual information (degree of supervision of Internet access that the child has, access to pornographic material at home, possible exposure to sexual relations between adults at home, possible overcrowding in housing conditions, etc.)
- ✓ Family relationships (relational dynamics between the different members of the family, inter-parental relationship, management of the rupture process in the event of family separation). In the case of accusing a parent within a context of family separation, it is important to inquire about the child's relationship with that parent prior to the rupture. Based on forensic practice a number of indicators have been identified of the instrumentalizing of CSA complaints in cases of conflictive separations. However these still lack empirical evidence, so they should be used as a guideline and with caution (Ruiz-Tejedor, 2004, Pereda & Arch, 2009).
- ✓ Defendant-family relationship (when it is not a case of abuse within the family)
- ✓ Possible previous situations of sexual victimization in the child or other family members, especially in the event that the complaint has been filed by an adult, the presence of sexual victimization from that person will be examined (possible hypervigilance to the risk of sexual abuse in the child and unwittingly influencing the child with inappropriate and repeated questions to confirm the absence/presence of the situation)

The interview with the child's adult environment will also serve to seek consent to examine the child in the absence of their legal guardians, and to make a video recording of the interview with the child. They will be informed that is a requirement of the technique being used and also a way to minimize the number of interviews with the child within the judicial context.

Finally, it is often the case that the adults request guidelines from the forensic psychologist with regards to how to deal with the child. The following are guidelines that may be transmitted: to avoid discussing the alleged acts with the child, although he or she may have to testify again in court; to act normally if the child talks spontaneously about what happened, without attempting to gather more information and protecting the child from the feelings that the information causes us; to avoid blaming the child for what happened, or asking why they did not act in a different way or tell what happened before.

**Physical environment and attitudes and behaviours of the expert psychologist**

We mentioned within the section of preliminary basics, that the framework of the interview should convey comfort and calm to the child. Insisting on this aspect, it is important that it is carried out in a private space with sufficient lighting, adequate ventilation and a pleasant temperature, with furniture adapted to the size of the child and free from disturbances and objects that may distract their attention. On this note, we must ensure that we will not be interrupted by third parties or by other elements

**TABLE 1  
PROTOCOL TO GUIDE THE EXAMINING OF THE FILE**

FACTORS THAT WOULD LIMIT / IMPEDE SUBSEQUENT ANALYSIS OF THE TESTIMONY	FACTORS WHICH WOULD EXPLAIN THE TELLING OF A STORY ABOUT A SITUATION THAT WAS NOT EXPERIENCED	FACTORS THAT MAY AFFECT THE ACCURACY OF AN ACCOUNT OF A SITUATION THAT WAS EXPERIENCED
<ul style="list-style-type: none"> <li>✓ Child's age (cognitive ability).</li> <li>✓ Number of discussions with the child from disclosure to the forensic evaluation.</li> <li>✓ Questioning strategies carried out.</li> <li>✓ Complexity of the alleged events.</li> <li>✓ Previous sexual experience and knowledge.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Victim-victimizer relationship prior to the formal complaint. In very young children, the relationship between the family and the accused. Important if disclosure arises in a separated family or one in the process of separating (analysis of the management of the rupture process)</li> <li>✓ Presence of clinical reports that could include a psychopathological condition prior to the child's complaint or a disability.</li> <li>✓ Number and type of previous discussions with the child.</li> <li>✓ If the child is receiving psychotherapy it is necessary to enquire what types of interventions are underway (therapeutic model).</li> <li>✓ Context and form of disclosure (spontaneous/directed). Important if it was directed, if it was due to behavioural indicators of suspected abuse or after visits with the other parent in the case of separated families. If it was spontaneous, it is important to address the context in which it "eclosed" or emerged (i.e., in a context of sexual content -e.g., in a class on sexuality-, play, neutral context, etc.).</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Factors of the event and the victim:</b></li> <li>✓ Perceptual conditions, (lighting, noise, etc.)</li> <li>✓ Duration of the event</li> <li>✓ Attentional level and consciousness (i.e., consumption of toxic substances)</li> <li>✓ Degree of violence exercised in the crime</li> <li>✓ Emotional state of the alleged victim (i.e., traumatic experience)</li> <li>✓ Victimization - a single episode or chronic</li> <li>✓ <b>Retention Factors:</b></li> <li>✓ Delay (time elapsed since the alleged victimization and disclosure)</li> <li>✓ Number of times that the child has had to recall the alleged facts</li> <li>✓ Revictimization</li> <li>✓ Reaction of the context of the child to the disclosure</li> <li>✓ Therapeutic interventions that involve re-telling what happened</li> <li>✓ <b>Retrieval factors:-</b> Previous discussions with the minor (number and type of questions used). If any of these discussions have been recorded, the expert will request the recording (i.e., court examination).</li> <li>✓ Type of victimization reported (single episode / chronic over time)</li> <li>✓ Psychological state of the child in relation to the ability to testify (clinical reports existing on file, disability reports, etc.)</li> </ul>



(telephone, etc.) during the course of the interview. Anything that might intimidate the child must be avoided as it would hinder the establishment of rapport (González et al, 2013; Lamb, Orbach, Hershkowitz, Esplin & Horowitz, 2007). The literature agrees in suggesting that, with younger children, it may be useful to provide paper and crayons during the forensic interview (Poole & Dickinson, 2014), while the use of elements that encourage playing games or fantasy are contraindicated (Wakefield, 2006). We must devote sufficient time to the creation of this rapport and not underestimate its importance, since much of the interview process will depend on it.

The basic rule for approaching an interview with a minor is that the expert must adapt the intervention to the developmental stage of the child, as this will delimit their skills (cognitive, motor, language, social, emotional, etc.) Addressing this aspect will make it possible to adapt the interview so that: a) it is understandable to the child; b) it facilitates spontaneity and fluidity; c) the data obtained can be interpreted in a manner befitting the child's developmental age. For this reason, in many cases, a prior assessment of the child's cognitive skills is essential in order to testify (Contreras, Silva & Manzanero, 2015).

Continuing with the importance of adapting the interview to the child, it is appropriate for the interviewer to dress informally but neatly, to avoid marking the asymmetry of the relationship, but not so overly casual as to make the child believe they are in a situation of play (Fernández-Zuñiga, 2014). With regards to non-verbal communication, the interviewer's eye-level should be at the same height as the child's to stimulate their treatment as equals, to encourage communication and to perceive the nonverbal signs that reflect their emotional state. Direct eye contact is avoided when the alleged allegations are addressed. The correct body posture for the expert expresses receptiveness to the discourse of the child, leaning slightly forward and without folding the arms. When speaking, it will be in a warm and mellow tone, and with a rather slow pace, expressly avoiding childish language. It is necessary to avoid being overly warm and friendly, as this can cause an excessive desire to please, which facilitates the provision of more extensive information but can compromise the reliability. The interview style should be flexible, as children react poorly to rigid contexts and interviewing methods (Lamb et al., 2007).

### Phases of the interview

Although when describing the interview process, it is useful to distinguish a series of phases with their objectives and appropriate tasks, we must not see the structure presented here as a series of closed phases that are carried out in a certain order. On the contrary, it should be understood as a flexible process that we must continue to adapt according to the circumstances as they arise at any moment during the interview. The expert must always bear in mind the goals of the forensic interview: to obtain the most extensive and accurate account possible regarding the alleged incidents in the formal complaint (González et al, 2013), seeking to control and minimize any possible interference (cognitive or procedural) that could affect the testimony.

All of the different models of forensic interview that have been published (American Professional Society on the Abuse of Children, 2012; American Psychological Association, 2013; González et al, 2013; Lamb et al, 2007; Powell & Snow, 2007; Wakefield, 2006) include three phases: 1) the phase of rapport-building and instructions, 2) the substantive phase or obtaining the statement, and 3) the closing phase of the interview. Following on from the previous studies, we propose a division of the interview process into four phases (González et al, 2013):

#### a) Introductory phase

This is the initial contact with the child, and from this the child will develop their first impressions of the situation and the expert. The main objectives of this phase are to establish rapport and to set the stage for the interview. This phase is also important to encourage attention and a sense of security (Ezpeleta, 2001), so the child will be encouraged to express any doubts or concerns they may have. They will be informed where their family members (or the caregivers who have accompanied them) will be for the duration of the interview. It is important to personalize the intervention, using the child's name when we talk to them, to reassure them and reduce their stress and the feeling of being evaluated. These are all elements that can achieve a good atmosphere.

Tasks of this phase:

- ✓ To receive the child and present the interviewer; the aim is to establish a personal relationship. The expert will explain who they are (name) and what their professional role is, taking the opportunity, in simple terms, to explain what the examination will consist of (i.e., *I am a psychologist and part of my job is to ask children how they are, how things are at school, with the family, with friends and, if they have had a problem, if they want to, they can tell me to see if I can help*). This presentation will later facilitate the start of the interview with neutral topics in order to reach the child's alleged legal problem gradually.
- ✓ In young children it may be useful to explain the legal context they are in, in terms such that they can understand it. Who we are (forensic psychologists), who we help (describing the different legal operators) and why (to protect them in case they have a problem).
- ✓ The child will be asked whether they know the purpose of the examination and who has explained it to them. As well as testing our hypothesis, this can also serve to re-structure with the child any inappropriate expectations regarding the examination (Caso et al., 2011).
- ✓ Clarification of the interview process. This is so that the children understand the rules that will govern the interaction, which will make them have more control over the situation, minimize their anxiety and facilitate cooperation with the expert. For example, recent research indicates that children are less likely to give false testimony if they have promised to tell the truth before the substantive phase of the interview (Lyon & Evans, 2014). The basic rules are shown in Table 2.
- ✓ The need to listen carefully to the questions and not be in a hurry to answer.- The importance of telling the truth. Their



understanding of the concepts of truth and falsehood will be evaluated as we progress.- There are no right or wrong answers.- The child just has to tell the things that really have happened to them.- If the child does not know the answer to a question, they must answer "I do not know".- If the child does not remember something, they must answer "I do not remember".- If the child does not know or remember the answer to a question, saying "I do not know or I do not remember" is fine. - It is not obligatory to answer all of the questions. If the child does not want to answer a question, they can say "I do not want to answer".- The child can rectify when they realize that they made a mistake in any answer. - The child can correct the interviewer if the latter makes a mistake when recalling any information they may have about what happened. Table 2. Basic rules of the interview

- ✓ Clarification of the limitations of confidentiality. We need to clarify to the child that we will transmit what he/she tell us, to the judge, who is in charge of protecting him/her.
- ✓ We explain to the child that the interview will be recorded, as well as the reasons and the importance of this. A test recording can even be made that serves as a game for establishing rapport.

b) Transition phase

The objectives of this phase are the examination of the cognitive and social skills of the children that affect their ability to testify, training them in the art of free narrative that we will use in the next phase (emphasising the requirement that they describe their experience in as much detail as possible) and evaluating their memory style.

For the assessment of the capacity to testify, it may be useful to use the CAPALIST protocol (Contreras et al., 2015), which was created to assess these skills in children and people with intellectual disabilities. On this point we must take into account the child's clinical history or whether psychopathological indicators are detected during the interview, in which case the psychologist must conduct a thorough psychopathological examination.

**TABLE 2  
BASIC RULES OF THE INTERVIEW**

- ✓ The need to listen carefully to the questions and not be in a hurry to answer.
- ✓ The importance of telling the truth. Their understanding of the concepts of truth and falsehood will be evaluated as we progress.
- ✓ There are no right or wrong answers.
- ✓ The child just has to tell the things that really have happened to them.
- ✓ If the child does not know the answer to a question, they must answer "I do not know".
- ✓ If the child does not remember something, they must answer "I do not remember".
- ✓ If the child does not know or remember the answer to a question, saying "I do not know or I do not remember" is fine.
- ✓ It is not obligatory to answer all of the questions. If the child does not want to answer a question, they can say "I do not want to answer".
- ✓ The child can rectify when they realize that they made a mistake in any answer.
- ✓ The child can correct the interviewer if the latter makes a mistake when recalling any information they may have about what happened.

Table 3 presents the primary and secondary cognitive skills that affect the ability to testify.

To help in the weighting of each of these skills, the expert psychologist can use an *ad hoc* drawing by criminal psychologists of the *Guardia Civil*, which is currently in the process of being validated (Manzanero & Gonzalez, 2013). Besides serving to assess the skills, this procedure is also used to evaluate the moral judgment of the child, observing whether they are aware of the consequences of their actions and their position with regards to the truth and lies. Content-neutral leading questions can also be introduced to assess the child's degree of resistance to suggestibility.

The examination of the level of adaptation of the child in the different areas of their life, personal, social, school and family, may also be relevant in determining the child's cognitive and social skills.

To train the child in the art of free narration the interviewer will ask the child to describe a neutral event that he/she has previously experienced, which the adult informants have already described to us (i.e., a recent family event) or alternatively, the description of the previous day or performing an activity of interest to the child (asking them to tell us about it from the beginning to the end, with all of the possible details). It is also of interest to request a description of an event experienced at the same time as the alleged abuses. This

**TABLE 3  
SKILLS FOR TESTIFYING. BASED ON CONTRERAS, SILVA AND MANZANERO (2015)**

PRIMARY COGNITIVE SKILLS	SECONDARY COGNITIVE AND SOCIAL SKILLS
<ul style="list-style-type: none"> <li>✓ <u>Memory:</u> Autobiographical Episodic Semantic</li> <li>✓ <u>Perception:</u> VisualAuditory</li> <li>✓ <u>Attention:</u> SelectiveSustained</li> </ul>	<ul style="list-style-type: none"> <li>✓ <u>Cognitive:</u> SpaceTime Descriptions QuantityAction-consequences</li> <li>✓ <u>Communication</u> Verbal language Non-verbal language</li> <li>✓ <u>Social interaction</u> Empathy Assertiveness Sociability Acquiescence Social desirability</li> <li>✓ <u>Identification of emotional states</u> Own Others'</li> <li>✓ <u>Moral capacity</u> Distinguishing between right and wrong</li> <li>✓ <u>Representation ability</u> Distinguishing reality/fantasy Capacity for imagination Reproducing scenes Reproducing conversations Assigning roles (I/you/he)</li> <li>✓ <u>Sexual knowledge</u> Body parts Sexual relationship Previous experiences</li> </ul>



examination will also serve to define their memory style and afterwards to compare it with the descriptions provided regarding the allegations.

c) Substantive phase or obtaining the account

The objective of this phase is to obtain a good quality account of the alleged allegations, i.e., as extensive and accurate an account as possible. The expert psychologist, at this stage, will take a secondary role, transferring to the child the protagonism for the flow of information. However, the expert psychologist will maintain an attitude and behaviour that encourage communication but are never judging, using expressions such as "I understand", "Go on", "What else?"

To enter this phase, the expert can repeat the information they provided to the child about their role and ask an open question, for example, "As I said earlier, part of my job is to ask children how they are, how is it going at school, with family, with friends and if they have had a problem, if they want, they can tell me, to see if I can help. We have already talked about school, you, your family. Now I want you to tell me everything that happened about why you have come to talk to me today." To go into more detail, once the initial account has finished, a second attempt can be encouraged: "You were there, not me, so you're the one with all the information about what happened and I'd like you to tell me everything you remember about that situation."

These types of communicative resources are very detailed in protocols that have already been tested, such as that of the NICHD, by Lamb et al. (2007), and the Revised Cognitive Interview (Fisher & Geiselman, 1992; Geiselman & Fisher, 1994).

In this regard, as well as information related to the contextualization of the alleged facts (who, when, how, where and how often), it is essential to gather as much information as possible regarding the alleged sexual interaction (before, during and after the alleged facts reported) with the behavioural descriptions of the child and the accused.

At this stage we can introduce a new interview rule: "What you tell us is important for us to be able to understand you better, so you have to tell us everything you remember, even if you think it is not important, but only what you're sure about, without making anything up." It will be important to clarify that if we ask the same question several times, it is not because their answer is incorrect, but because of our need to understand exactly, with the greatest possible clarity, how things happened.

The style of questioning should go from the most open to the most closed, being especially cautious not to use questions that contaminate the child's memory (Powell & Snow, 2007). Table 4 shows different types of questions and their usefulness in obtaining a quality account (González et al., 2013).

Just as there are types of questions that facilitate the interview process and the quality of the testimony obtained, there are also other issues that threaten the quality of the child's memory (see Table 5).

Tendentious questions (the child's attention is directed to something that has not been previously mentioned) Trick questions (the child's attention is directed to something he or she has not said before which is false) Leading questions (the question is asked in a way that the answer is already suggested) Forced-choice questions Yes/no questions Focused and directed questions (these combine the identity of the perpetrator with the alleged abusive action) Table 5. Inappropriate questions that may contaminate the child's memory.

d) Closing phase

Given the tension the child may have been under, in the closing stage of the interview the aim is to restore a positive emotional tone. To do this, the focus will once again turn to their strengths and interests, or even a few minutes could be spent doing an unrelated leisure activity. The child will be given clear information about what the next steps in the judicial process are, and caution must be taken not to make promises that cannot be met. Finally, we thank the child for their cooperation in the examination, not for having disclosed the criminal acts (González et al., 2013).

**TABLE 4**  
**TYPES OF QUESTIONS AND THEIR USES DURING THE SUBSTANTIVE PHASE OR PRODUCTION OF THE ACCOUNT PHASE**

TYPE OF QUESTIONS	OBJECTIVE
1. Open questions	1. To obtain information without pressure or without directing the responses
2. Specific non-suggestive questions	2. To clarify further the information provided by the child
3. Closed questions	3. To clarify further the information provided by the child
4. Confrontational questions	4. To be used in cases where the victim has given contradictory information during the interview or with respect to other examinations, with the aim of clarifying the information provided by the child

**CONCLUSIONS**

The usual lack of physical and biological evidence in crimes of

**TABLE 5**  
**INAPPROPRIATE QUESTIONS THAT MAY CONTAMINATE THE CHILD'S MEMORY**

1. Tendentious questions (the child's attention is directed to something that has not been previously mentioned)
2. Trick questions (the child's attention is directed to something he or she has not said before which is false)
3. Leading questions (the question is asked in a way that the answer is already suggested)
4. Forced-choice questions
5. Yes/no questions
6. Focused and directed questions (these combine the identity of the perpetrator with the alleged abusive action)



CSA greatly hinder their judicial investigation. Thus the testimony of the child takes centre stage as a means of evidence. The fragility of the memory footprint and an inappropriate technique for obtaining it can shut off potential ways of solving the crime.

In this article we have addressed the phase of obtaining testimony through the technique of the forensic interview. Depending on their developmental stage and personality characteristics, each child will describe their experiences with a particular style, which will affect the length, detail and clarity of the testimony obtained.

It is for this reason that an appropriate forensic interview must be adapted to the idiosyncrasies of the evaluated child and some flexibility must be allowed in its structure, but without neglecting any of the phases (introductory, transitional, substantive and closing) or the aspects described throughout this article. The scientific literature on the psychology of testimony, child development and cognitive processes is consistent in demonstrating the fragility of the cognitive indicia (testimony) and the ease of distorting it during the retrieval process, mainly due to the lack of professional qualification of those concerned, resulting in the use of improper interviewing techniques or adopting starting biases that influence the process of testing the hypotheses.

The forensic interview design proposed in this paper aims to facilitate the obtaining of a quality testimony from children, as extensive and accurate as possible, minimizing the different sources of error. However it is undoubtedly not enough to cling to this design or other protocols; psychologists who undertake these expert interviews must have specialised forensic psychology training, and specific training in interview techniques for cases of CSA, which also includes a period of supervised practice. However, although it is widely accepted that there is a need for this, there is no standardization of the psychological expert action in this area. A possible explanation for this situation is the existence of different protocols, which although they often coincide on many points, also display differences that give rise to discrepancies among researchers and practitioners.

However, knowledge of best practices in the evaluation of CSA and specialized training would contribute to a professional practice of quality and to control the sources of error.

It is important to continue to progress towards a consensual practice of action based on evidence and updated scientific research. The relevance of the correct conducting of a forensic interview in the case investigation is more than enough to justify that the professionals who carry it out must have accreditation or training to back up their intervention. The legal system should also always be aware of the consequences of bad practice on the psychological state of the child complainant, as it is a form of secondary victimization.

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