INGEBORG CLOSE

The Reliability of a Child as an Eyewitness in Court

Review

Whether eyewitness reports provided by children during a criminal court case are reliable, is frequently questioned. Factors that can influence the reliability of these reports are children's memory capacity, their susceptibility to suggestion, and the delay between a crime and providing an eyewitness statement. Eyewitness reports provided by children can be reliable given that this delay remains within a reasonable time frame, and that the presented questions are not suggestive. Additionally, eyewitness reports provided by older children are more reliable than those of younger children. A potential mechanism to increase the reliability is to use relevant cues or objects present at the time of the incident when the child is presenting evidence in court. Taking these factors into account in future criminal court cases with children as eyewitnesses will ensure the best possible reliability in children's statements, leading to an increased number of rightful convictions.
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INTRODUCTION

An eyewitness is an individual who has heard or seen anything regarding a criminal offense, and can therefore possess relevant information regarding this offense (De Rechtspraak, 2008). If such an individual is willing to serve as an eyewitness in court, he or she is likely to be able to prevent more crimes from occurring and help protect other individuals from becoming a victim of a crime (The Crown Prosecution

Service, n.d.). The number of children as eyewitnesses is ever-growing and therefore child eyewitnesses are more involved in the field of legal testimony (Bruck & Ceci, 1999; Flin, Boon, Knox, & Bull, 1992). Because of this greater involvement, it is frequently questioned whether children are able to serve as credible eyewitnesses during a criminal court case, especially in cases where the sole eyewitnesses to an offense are children (Flin et al., 1992). There are several factors that might influence the reliability of children's eyewitness reports. Firstly, children of all ages have the capability to give accurate reports when they are asked to freely recall a particular event. However, the younger the children are, the less detail they will eventually report (*Pipe, 1996*). Secondly, the delay between being a victim or witnessing a crime and providing an eyewitness statement can take up to six months (Flin et al., 1992). Since memory has the tendency to decline over time, the accuracy of the eyewitness' memory may decline as well (Law Commission, 1999). Lastly, children as well as adults appear to be suggestible, although younger children (5- to 8-year-olds) more so than older children (9- to 12-year-olds) and adults (Bruck & Ceci, 1999).

In the current paper, concern is raised regarding the accuracy of children's eyewitness reports, because of the above-mentioned factors. Therefore, in this paper it is tried to answer the question whether eyewitness statements provided by children are a reliable source to use in a criminal court case. When the factors affecting the reliability of children's eyewitness statements are known, specific methods to alleviate these factors can be designed, such as using suggestion free questions during children's eyewitness statements.

RELIABILITY OF EYEWITNESS STATEMENTS

Memory capacity

As mentioned previously, children are able to provide an accurate report when asked to freely recall a particular event, although younger children tend to report less detail than older children and adults (Pipe, 1996), which is problematic when serving as an eyewitness in court. Pipe and Wilson (1994) examined whether or not the memory capacity of children can be enhanced (i.e., providing more detail in their statements) by providing them with cues. The recruited children (6- and 10-year-olds) had an interaction with a magician, after which they were interviewed twice regarding this interaction (after 10 days and after 10 weeks). Additionally, the children were placed in one of four conditions: no cues (interview room not the same as magic show room), contextual cues (interview room the same as magic show room), relevant cues (items used by magician and contextual cues were present), and irrelevant cues (magic trick items similar to those used by the magician, and contextual and relevant cues were present).

It appeared that all children reported more accurate information after a short delay than after a long delay. However, younger children reported less accurate information than the older children. The relevant cues did facilitate free recall: all children reported more information when the relevant cues were present than when they were not. However, there was no difference in accuracy between the four conditions (Pipe & Wilson, 1994).

Gee and Pipe (1995) have performed a study which has replicated and extended the aforementioned results by conducting a similar study in 6- and 9-year-olds. This study showed that during free recall all children provided reports that were highly accurate. However, older children reported more correct information, but also made more errors than the younger children. After a short delay (10 days), all of the children reported more correct information than after a long delay (10 weeks). A prior interview increased the amount of information reported by the older children only after a long delay. It seemed that relevant objects attenuated the age differences that were present during prompted recall.

Although the results of both these studies have shown that children are able to provide accurate reports of experienced events, this accuracy can be negatively influenced by the way that children are questioned. Research has shown that the responses that children provide to open-ended questions (e.g., "Tell me what happened.") are more accurate than the responses they provide to specific questions (e.g., "Did you hurt your leg?") (Bruck & Ceci, 1999). Additionally, when children are presented with forced-choice questions (e.g., "Was it blue or red?"), they rarely indicate that they do not know the answer, which compromises the reliability of children's eyewitness reports (Bruck & Ceci, 1999). Also, repeated questioning can decrease the accuracy of children's responses to questions (Krähenbühl, Blades, & Eiser, 2009) as it can lead children to change their initial answer (Krähenbühl et al., 2009), perhaps because they assume incorrectly that their first response was incorrect (Memon & Vartoukian, 1996).

It appears that children are able to provide accurate reports of experienced events (Gee & Pipe, 1995; Pipe & Wilson, 1994), although they recall more correct information when they are presented with relevant cues (Pipe & Wilson, 1994) or prompts/objects (Gee & Pipe, 1995). Taken together, these findings indicate that when children are presented with relevant cues or objects that were present at the time of the incident, they might increase the reliability of the children's eyewitness reports. Additionally, to ensure the best possible reliability in children's statements, open-ended questions should be used during questioning.

Vulnerability to suggestion

Another factor that can influence the reliability of children's eyewitness statements is vulnerability to suggestion, or the suggestibility effect (Ceci, Ross, & Toglia, 1987). When a certain memory trace or recollection of the original event becomes distorted or replaced after being exposed to erroneous post-event information, this is referred to as the suggestibility effect (Ceci et al., 1987). Ceci et al. (1987) designed experiments to investigate this effect in children. More precisely, they examined whether the memories of younger children are more vulnerable to misleading information than those of older children. All children were told a story after which they either received misleading information about the story or not. After an amount of time the children had to recall the story (Ceci et al., 1987). Results showed that the children most vulnerable toward the effects of misleading information appeared to be the youngest children (3- to 4-year-olds), whereas the other age groups (5- to 6-; 7- to 9-; and 10- to 12-year-olds) did not differ from each other. Furthermore, children that did not receive misleading information performed better than their

same age peers that did receive this information. This result has been replicated by two other studies performed by Ceci et al. (1987). The last study showed that children are susceptible to misleading information, regardless of whether this information is given by a child or an adult (Ceci et al., 1987). It has also been shown that children's suggestibility can be influenced by situational factors (Almerigogna, Ost, Bull, & Akehurst, 2007). Almerigogna et al. (2007) found that when children were being questioned by means of a non-supportive (e.g., serious behavior, closed body posture) instead of a supportive (e.g., friendly behavior, open body posture) interviewing style, they answered significantly more of the misleading questions incorrectly. This finding indicates that questioning children by means of a supportive instead of a non-supportive interviewing style could lead children to be more resistant to suggestions, and therefore keep children's suggestibility to a minimum (Almerigogna et al., 2007).

Delay between incident and statement

An issue that is frequently questioned is whether children are able to recall accurate memories of a certain event a few months after this event has occurred, and this was studied by Flin et al. (1992). All included test subjects (5- to 6-year-olds, 9- to 10-year-olds and adults) observed an event after which they were either interviewed once (after a long delay) or twice (after a short and a long delay) regarding this event by means of cued recall (free recall of the event in combination with specific questions regarding what happened during the event) or enhanced recall (cued recall in combination with additional questions regarding contextual details of the event to enhance their memories). Results showed that the overall accuracy did not differ between the three age groups one day after the event. However, whereas the adults maintained their overall accuracy five months after the event, the overall accuracy of both children's age groups was significantly reduced and this reduction was largest for the younger children (Flin et al., 1992). Additionally, subjects who were interviewed by means of enhanced recall after day one had a significantly higher overall accuracy after five months, than those who had not been interviewed after day one. More recent research has shown that although children have a better verbal memory for a particular event after a short delay than after a long delay, they can have a relatively good verbal memory for an event that occurred six years ago (Jack, Simcock, & Hayne, 2012). The results indicate that although events can be verbally recalled after a long delay (Jack et al., 2012), the overall accuracy of children's eyewitness reports will be higher when witnesses are able to present their evidence within a short time frame after the incident has occurred (Flin et al., 1992). This time frame should be smaller for younger children, due to the greater loss in accuracy of their reports.

DISCUSSION

Whether children are able to serve as credible eyewitnesses during a criminal court case is frequently questioned, and especially in those cases where the sole eyewitnesses to an offense are children (Flin et al., 1992). Studies regarding children's memory capacity have shown that children can provide accurate reports of events when they are asked to freely recall these events (Gee & Pipe, 1995; Pipe & Wilson, 1994), although older children provide more accurate information than younger ones. In the presence of relevant cues (Pipe & Wilson, 1994) or relevant prompts/objects (Gee & Pipe, 1995), children can recall more correct information, although younger children appear to be less accurate than older children in the presence of objects (Gee & Pipe, 1995). It also appeared that younger children are more vulnerable toward the effects of misleading information than older children (Ceci et al., 1987). This suggests that children, and especially younger children, are likely to agree when they are presented with questions that contain suggestions. However, it has also been shown that the suggestibility of children can be influenced by situational factors (e.g., interviewing style) during the questioning of children (Almerigogna et al., 2007). When using a supportive instead of a non-supportive interviewing style, children are likely to be more resistant to suggestions. Regarding the effect of a delay on memory, it has been shown that children are able to verbally recall a certain incident after a long delay (Jack et al., 2012). However, the reliability of the eyewitness reports provided by children is higher when the witnesses are able to present their evidence within a short time frame after the incident has occurred (Flin et al., 1992). This time frame should be smaller for younger children, due to the greater loss in accuracy of their reports.

Based on these findings, specific methods can be identified to facilitate the acquisition of more reliable eyewitness statements. Eyewitness reports provided by children can be reliable, provided that the questions presented to them are open-ended and do not contain suggestions, which children are likely to agree with. Also, while questioning children, the interviewer should adopt a supportive, instead of a non-supportive interviewing style, and the delay between the incident and providing a statement as an eyewitness should remain within a reasonable time frame. A potential mechanism to increase the reliability is to use relevant cues or objects that were present at the time of the incident when the child is presenting his or her evidence during a criminal court case.

As mentioned previously, the number of children as eyewitnesses is ever-growing (Bruck & Ceci, 1999; Flin et al., 1992). Therefore, ensuring the best possible reliability in children's statements will help lead to an increased number of rightful convictions. In future criminal court cases with children as eyewitnesses, the interviewer should adopt a supportive interviewing style and should avoid specific, forced-choice and repeated questions as well as the use of questions that contain suggestions. Also, the time frame in which children are summoned to present their evidence should be small, and children could be provided with relevant cues or objects to improve the accuracy of the eyewitness statements, and therefore make their statements as reliable as possible.

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