

Interviews of Children in a Portuguese Special Judicial Procedure

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### Abstract

Since 2007, alleged victims of child sexual abuse in Portugal provide evidence in a mandatory “Declarações para Memória Futura” (DMF; English trans. ‘Statement for future use’) proceeding. In order to protect children from having to testify in court, interviews conducted at the DMF can later be used as trial evidence because the hearings are conducted by judges. The present study examined 137 interviews with 3 to 17-year-olds conducted in several Portuguese criminal courts. Detailed examination of interview transcripts showed that 69% of all questions asked were *option-posing questions*, 16% were *directive questions*, 11% were *suggestive questions*, and only 3% were *open-ended prompts*. The vast majority of details provided by children were thus obtained using the risky recognition-based prompts (i.e., option posing and suggestive questions) associated with the risks of contaminating and limiting children’s informativeness, both potential threats to the credibility of their testimony. There is an urgent need to address this issue and consider the implementation of a scientifically validated structured interview protocol in Portugal.

*Keywords:* Forensic Interview; Question Types; Child Abuse; Legal Professionals; Portugal

### **Interviewing Children: Best-practice Guidelines**

Over recent decades, an extensive body of scholarship has advanced our understanding of children's capabilities and performance in investigative interviews, clarifying how to maximize the amount and accuracy of the information provided while minimizing the risk of eliciting erroneous information. In particular, research has shown that the type of questioning affects both the quantity and quality of the elicited information (Brown & Lamb, 2015; Lamb, Hershkowitz, Orbach, & Esplin, 2008; Lamb, La Rooy, Malloy, & Katz, 2011; Poole & Lamb, 1998; Saywitz, Lyon, & Goodman, 2011; Westcott, Davies, & Bull, 2002 for reviews). Most of the relevant field research has involved close analysis of forensic interviews, with much less attention paid to in-court testimony, which was the focus of the present research.

Professional guidelines throughout the world strongly recommend that forensic interviewers use open-ended 'input-free' prompts (e.g., 'Tell me what happened', 'Tell me everything about...') to elicit accounts of alleged events from free recall memory to ensure that children's responses are likely to be both accurate and richly detailed (e.g., Lamb et al., 2008; Home Office, 2011; American Professional Society on the Abuse of Children [APSAC], 2012; Saywitz & Camparo, 2013). Additional open-ended prompts can also be used (e.g., 'Tell me more about that' or 'Then what happened?') along with cued invitations (e.g., 'Earlier you mentioned [content mentioned by the child], tell me everything about that') to request more elaborated responses and additional detail. Although young children tend to provide fewer details and briefer accounts in response to open-ended questions than older children (e.g., Lamb et al., 2003a; Hershkowitz, Lamb, Orbach, Katz, & Horowitz, 2012), their reports are generally accurate (e.g., Brown et al., 2013; Jack, Leov, & Zajac, 2014). Only after open-ended questions have been exhausted are interviewers advised to employ more directive questions, such as WH-

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questions, that focus on details about information previously disclosed by the child (e.g., 'When did it happen?', 'Where did he put his finger?') but still involve recall memory processes.

In contrast, focused recognition prompts, such as 'yes/no' and 'forced choice' questions (e.g., 'Did he touch your body?', 'Did it happen before or after school?'), should only be used to elicit crucial missing details at the end of the interview, because these types of questions are more likely to elicit inaccurate information, especially from young children (e.g., Waterman, Blades, & Spencer, 2001, 2004). If used, they should be paired with open-ended recall prompts or directive questions (e.g., 'Did he touch your body?' 'Yes' 'Tell me everything about that'). Suggestive questions, which by definition introduce undisclosed information or communicate that particular responses are expected, can undermine the consistency of children's reports, and should not be used at any time.

Informed by such findings, recommendations and best practices guidelines have been developed and implemented in many countries (e.g., 'NICHD Investigative Interview Protocol', 'Achieving Best Evidence in Criminal Proceedings – Guidance on Interviewing Victims and Witnesses, and Using Special Measures') to promote interview strategies that are developmentally appropriate and recognize both children's strengths and limitations. Best practice guidelines typically emphasize the importance of using open-ended prompts and restricting the use of suggestive practices so that reliable and accurate information can be elicited from children (e.g., Lamb et al., 2008; Home Office, 2011; American Professional Society on the Abuse of Children [APSAC], 2012; Saywitz & Camparo, 2013).

### **Interviewers Question Types and Children's Responsiveness in the Courtroom**

Even when children are interviewed by specialized interviewers using evidence-based interview protocols, they are often re-interviewed in court when cases go to trial (see Spencer & Lamb, 2012). Motivated by concerns about the ways that alleged victims of sexual abuse are examined and cross-examined in court, several studies have been conducted recently showing that children are questioned inappropriately by prosecutors and defense lawyers (Andrews, Lamb, & Lyon, 2015; Klemfuss, Quas, & Lyon, 2014; Stolzenberg & Lyon, 2014). Klemfuss, Quas, and Lyon (2014) analyzed 42 American criminal court transcripts and found that defense attorneys used more suggestive questions than prosecutors, that prosecutors used option-posing questions most frequently, and that no open-ended prompts were used by either type of lawyer. Another study (Andrews et al., 2015) reached similar conclusions after examining 120 American trial transcripts, finding that defense attorneys used more suggestive questions whereas prosecutors were more likely to use option-posing questions when addressing young alleged victims of sexual abuse. Stolzenberg and Lyon (2014) also concluded that defense attorneys used more recognition prompts than prosecutors. Furthermore, several studies have shown that defense attorneys used fewer open-ended prompts and more closed and leading questions than prosecutors did (e.g., Andrews & Lamb, 2016 [56 cases], Davies & Seymour, 1998 [26 cases]; Zajac, Gross, & Hayne, 2003 [21 cases]; Hanna, Davies, Crothers, & Henderson, 2012 [18 cases]; Stolzenberg & Lyon, 2014 [72 cases]) and one study found that prosecutors used proportionally more open-ended prompts than defense lawyers did (Zajac et al., 2003). Both Zajac and Cannan (2009; 15 cases) and Evans and Lyon (2012; 164 cases) found that, although defense

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attorneys asked more leading questions than prosecutors, they were proportionally as likely to use closed-ended questions.

Some researchers have examined whether children's age influences questioning strategies in court but the findings have been inconsistent. Klemfuss et al. (2014) and Stolzenberg and Lyon (2014) reported that both types of attorneys tended to ask more suggestive questions than option-posing questions of older children, whereas Andrews and collaborators (2015) and Zajac and collaborators (2003) found that defense attorneys' and prosecutors' questioning strategies did not vary with children's ages.

There has been little research focusing on how different question types affect children's actual responses during judicial proceedings, and the reported results are inconsistent. Some researchers (Zajac et al., 2003; Andrews et al., 2015) reported no significant differences in responsiveness regardless of the types of questions asked by both prosecutors and defense attorneys. In contrast, Klemfuss et al. (2014) found that children, particularly older ones, provided more information in response to prosecutors' than defense attorneys' questions. These researchers attributed these patterns to older children's motivation to provide more extensive narratives in response to the 'Wh' questions asked more frequently by prosecutors. Children usually provided unelaborated responses when they were asked questions that simply required 'yes' or 'no' responses (Stolzenberg et al., 2014).

The above findings suggest, however, that attorneys who cross-examine children at trial may not understand how to communicate in a developmentally appropriate manner (Davies, Henderson, & Hanna, 2010; Hanna et al., 2012), and that the nature of their questioning would likely influence the accuracy of the accounts they elicit (Evans & Lyon, 2012; Zajac & Hayne, 2003; Zajac et al., 2003).



As we point out above, despite numerous studies demonstrating that open-ended recall prompts are more desirable than other question types, legal professionals consistently rely on risky questioning strategies.

### **Interviewing Children in the Portuguese Judicial Context**

In recent years, many changes have occurred in Portugal, particularly with regard to the way alleged victims' statements are obtained in judicial proceedings. The Portuguese judicial system has implemented specific rules that regulate the criminal investigation process to protect children who are involved in judicial proceedings. For example, these rules prevent public attendance and remove defendants from the courtroom when children testify (nº3 article 87 and article 352 of the Portuguese Criminal Procedure Code [PCPC]), and specify that children should only be questioned by the presiding Judge (article 349 PCPC). In addition, the Law nº93/99 (Witnesses Protection Law [WPL]) states that children are a vulnerable group of witnesses who should be questioned as quickly as possible (article 28), and that all measures necessary should be implemented to guarantee the spontaneity of their accounts (article 26). Psychological support should also be provided when necessary and a professional must be present to support children during the statement taking procedure (article 27).

The WPL also states that a special pre-trial proceeding, the 'Declarações para Memória Futura' [DMF] (article 271 PCPC), should take place when children have allegedly been abused sexually. This procedure, which became mandatory in 2007, comprises an interview conducted during the criminal investigative phase by the presiding Judge. A record of this interview can be used as evidence-in-chief during the trial so that children do not need to testify in court. During the DMF, the public prosecutor and the defense attorney, who must be present, can propose or suggest questions to the judge undertaking the questioning, but *by law* they are not permitted to

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question children directly. In practice, because all participants are present in the same room, children typically hear questions being suggested, and judges do sometimes allow direct questioning of children by prosecutors and defense attorneys. During the DMF interview, the presence of a psychologist is also mandatory, mainly to provide emotional support to the child, but the law does not specify their exact role or level of involvement. Despite some recommendations to help professionals (Caridade, Ferreira, & Carmo, 2011) psychologists typically do not play an active role in the proceeding, and in particular they have no role in the questioning of children. Typically, the psychologists only explain the DMF procedure to children (e.g., identifying who will be present, and the importance of the procedure), and manage their emotional distress (e.g., by indicating to the questioning judge that the child needs a break).

In 2012, the Portuguese Parliament also ratified the 2007 European Council Convention for Children's Protection Against Sexual Exploitation and Sexual Abuse requiring that: children's statements should be obtained as quickly as possible in developmentally appropriate contexts; interviews should be conducted by specialized professionals; when multiple interviews were necessary, they should be conducted by the same person; the number of interviews should be limited; and children, in some cases, can be accompanied by legal representatives or adults of their choice. The Convention also addressed the importance of video-recorded interviews and their acceptance as evidence during trial proceedings, so in 2013, the PCPC was revised to allow criminal investigators to video-record their interviews with witnesses and suspects (Law nº 20/2013, February 21st) and to guarantee that testimonies are collected properly. The PCPC prohibits procedures that contaminate memory (including, specifically, suggestive questioning) (art. 126º 1.b).

Despite these important legislative reforms and widespread respect for the crucial importance of forensic interviews, actual practices appear unsatisfactory (Peixoto, Ribeiro, & Lamb, 2011). Ribeiro (2009) found that alleged victims were interviewed an average of 8 times by many professionals performing different roles (e.g., police officers, social workers, forensic psychologists, forensic medical doctors, prosecutors, and judges), and that many of these professionals had had no specific training in how to interview children. Even when there is strong physical evidence of sexual abuse, children are still interviewed up to 9 times (Peixoto, 2012).

Moreover, the Portuguese scientific literature about child interviewing is characterized by general 'best practice' guidelines and interview protocols focused mainly on forensic psychological assessment and credibility assessment (Machado, 2002; Machado, 2005; Machado & Antunes, 2005; Machado, Caridade, & Antunes, 2011; Magalhães & Ribeiro, 2007; Magalhães et al., 2010; Manita, 2003). For example, the Portuguese Victim Support Association (APAV, 2002) guidelines for police officers (CNPJCR, 2011a) and child protection professionals (CNPJCR, 2011b) are at best vague and do not explain evidence-based approaches to child interviewing. Existing guidelines are also not mandatory or uniform and thus professionals approach their work in varying ways (Peixoto, Ribeiro, Fernandes, & Almeida, 2015). Currently, there are no detailed guidelines about how Portuguese judges, defense attorneys, and prosecutors should conduct interviews with children in court, and there has been no systematic evaluation of existing methods.

### **Present Study**

Accordingly, the present study was designed to systematically evaluate the way children are interviewed during DMF proceedings. The types of utterances used by judges, prosecutors, defense attorneys, and psychologists when interviewing children

about alleged abusive events and the details provided by the interviewees were examined in detail using procedures employed in comparable studies of this type (e.g., La Rooy et al., 2015). We hypothesized that because the DMF interviews are used at trial, and are conducted in the presence of prosecuting and defense lawyers, the questioning styles would resemble those observed in previous studies of in-court questioning (e.g., Andrews et al., 2015; Klemfuss et al., 2014; Stolzenberg & Lyon, 2014). We thus anticipated that judges, prosecutors, and defense lawyers would all predominantly ask option-posing questions and ask few open-ended questions. We also expected that most details would be provided in response to option-posing questions, with few provided in response to open-ended prompts.

### **Method**

#### *Sample*

One hundred and thirty-seven (137) interviews conducted in DMF proceedings between 2009 and 2014 were examined. The audio recording and/or the written transcripts of the interviews were formally requested from the relevant judicial entities (e.g., courts, departments of criminal investigation) in several Portuguese cities. The sample included 38 interviews from the north of Portugal, 48 from the Centre, and 51 from the South. There were 48 male and 85 female interviewees; for the remaining 7 this information was not available.

The interviews involved 109 female and 28 male children aged between 3 and 17 years ( $M = 11$  years and 5 months) who were alleged victims of sexual or physical abuse. Allegations about multiple abusive experiences were made by 85 children, with 52 children reporting a single abusive experience. In terms of the type of abuse, 131 children reported being victims of sexual abuse, 2 of physical abuse, and 4 of both sexual

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and physical abuse. In this sample, 55 children reported penetration (oral, anal, vaginal), 52 touches of private body areas above their clothes, and 42 touches under their clothes. In addition, 55 children reported grooming behavior, 43 reported that perpetrators had exposed themselves (e.g., nudity, masturbation), and 11 children reported direct physical aggression (e.g., slapping). In approximately 84% ( $n = 124$ ) of the cases, the alleged suspects were known to the children before the incidents. Most of the alleged offenders were acquaintances (e.g., neighbors, family friends, school colleagues) of the victims ( $n = 54$ ), while 30 were family members (siblings; grandparents; cousins; uncles or aunts), 15 were biological parents, 14 were step-parents, 24 were strangers (no previous contact between victim and perpetrator), and 11 were boyfriends/ex-boyfriends of the alleged victim. Of the 148 offenders, 143 were male and 5 were female; 9 cases involved multiple suspects.

The average delay between the alleged events and the first official interviews of the criminal investigation was 17 months ( $SD = 27$ ). The average delay between the first and the last official interviews in the criminal investigation was 13 months ( $SD = 9$ ). The delay between the first official interview and the DMF proceeding was around 11 months ( $SD = 7$ ). Although DMF proceedings were usually the last time children were questioned during the criminal investigation process, they were occasionally examined as well in forensic evaluations, psychosocial assessments, etc. The average delay between the last official interview in the criminal investigation and the final judicial decision (by the Prosecutors' Office or after a trial) was 11 months ( $SD = 7$ ).

After the criminal investigation, the Prosecutors' Office decided not to prosecute suspects in 26 of the interviews analyzed, and temporarily suspended legal proceedings in 10 cases. In 71 interviews, trials had been completed by the time the research ended: 30 defendants received suspended sentences, 20 were imprisoned, 13 were acquitted, 6

were fined and 2 were required to perform community service. In three interviews, alleged victims were awaiting trial. In 27 interviews, the legal outcomes were unknown.

### *Coding Process*

The coding scheme focused on: 1) the type of interviewer (judge, prosecutor, defense attorney, and psychologist) utterances recorded during the DMF interview; 2) the quantity and quality of information provided by the young interviewees about the alleged abusive event in response to each question or prompt.

All 137 interviews were transcribed verbatim from the audio recording and were coded using the utterance type coding scheme developed by Lamb and his colleagues (Lamb et al., 1996; Lamb et al., 2008). For the purposes of this study, we focused on the part of each interview concerned with substantive information (i.e., about anything that happened during the investigated event and the immediate context), therefore excluding any non-substantive utterances, including introductory exchanges at the beginning of the interview (e.g., information about the purpose of the court proceedings), attempts to establish rapport with the child, digressions, and attempts at the end of the interview to discuss neutral topics. All substantive question-response pairs were coded.

### *Type of interviewer's utterance*

Interviewers' utterances were classified by two independent coders as *invitations*, *directive questions*, *option-posing questions* or *suggestive questions* as previously defined by Lamb et al. (2008):

1. *Invitations* include open-ended questions, statements, imperatives or contextual cues to elicit free-recall responses from the child.
2. *Directive questions* include interviewers' utterances, mostly using 'wh' questions, which focus on incident-related information previously mentioned by the child to request additional information.

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3. *Option-posing questions* are interviewer utterances that focus children's attention on aspects that they did not previously mention, without implying that a specific response is expected. This type of question includes 'yes-no' questions, forced choice questions, questions casting doubt on the truthfulness of the child, and questions about someone's motivation.
4. *Suggestive questions* include interviewers' utterances that introduce information that the child did not previously disclose, assume that a particular response is expected, quote the child incorrectly, or present the same option-posing question for the third time.

### *Children's Responsiveness*

Children's responses were classified using the following categories:

1. *Responsive* – Verbal and action responses related to the question asked in the previous interviewer utterance, including responses that do not contain informative details, or when their meaning is unclear.
2. *Unresponsive* – Responses that do not relate to the interviewer's previous utterance, but provide incident-related information.

To examine the richness of the children's testimony we counted the number of new details about the alleged abusive event provided in each responsive and unresponsive utterance. A detail was coded only the first time it was reported and was defined as any relevant information about the alleged abusive event provided by the child during the interview, such as the naming, identification, or description of individuals, objects, events, places, actions, emotions, thoughts and sensations that were part of the alleged incident, as well as any of their features (e.g., appearance, location, time, duration, temporal order, sound, smell, texture). Each piece of unique new information about the alleged abuse was coded as a single detail.

Two independent coders with experience and training in use of the coding procedures independently coded approximately 20% ( $n = 30$ ) of the transcripts that had been randomly selected. Inter-rater reliability was assessed with Cohen's Kappa, and the agreement was high for both utterance types,  $K = .93$ , and the number of details provided,  $K = .85$ . When any disagreement occurred it was discussed and resolved. All other transcripts were coded by one of the coders.

### Results

#### Type of interviewer's questions

An average of 62.4 ( $SD = 50.5$ ) of substantive question-response pairs were identified in the 137 interviews. Judges were responsible for an average of 54.3 ( $SD = 42.5$ ) questions, prosecutors for 5.3 ( $SD = 14$ ), defense lawyers for 0.6 ( $SD = 2.1$ ), and psychologists for an average of 0.4 ( $SD = 2.3$ ).

With regard to the different types of questions asked by judges, prosecutors, defense attorneys, and psychologists, an average of 43.5 ( $SD = 36.3$ ) were *option-posing questions*, followed by an average of 10.1 ( $SD = 9.9$ ) *directive questions*, 7.0 ( $SD = 7.6$ ) *suggestive questions*, and 1.8 ( $SD = 2.3$ ) *open-ended prompts*.

A repeated measures analysis of variance (ANOVA) was conducted to examine whether the type of interviewer utterance (Invitation, Directive, Option Posing and Suggestive) varied as a function of interviewer (judge, prosecutor, defense lawyer and psychologist). The analysis showed a significant effect of utterance type ( $F(3,408) = 179.053, p < .001, \eta_p^2 = 0.568$ ), interviewer ( $F(3,408) = 199.133, p < .001, \eta_p^2 = 0.594$ ), and a significant interaction ( $F(9,1224) = 158.575, p < .001, \eta_p^2 = 0.538$ ). There were no significant differences or interactions associated with age. Pairwise comparisons (Table 1) revealed significant differences with respect to all judges' questions. When interviews



were conducted by prosecutors, they used more option-posing questions than all the others types of questions, and also used more directive questions than open-ended prompts. Defense lawyers asked fewer open-ended prompts than option-posing questions. No differences were found regarding the types of questions asked by psychologists, but the psychologists seldom asked questions and this could explain the absence of statistically significant differences.

### **Children's Responsiveness**

Nearly all (92.5%) of the children's answers were *responsive*. Children provided an average of 174.8 ( $SD = 152.8$ ) new details about the investigated event in response to the questions they were asked.

With regard to details provided in response to the different types of questions asked by judges, prosecutors, defense attorneys, and psychologists, an average of 88.9 ( $SD = 78.2$ ) new details were elicited by *option-posing questions*, 38 ( $SD = 43.4$ ) details by *directive questions*, 16.2 ( $SD = 25.4$ ) details by *suggestive questions*, and 8.9 ( $SD = 18.9$ ) details by *open-ended prompts*.

A repeated measures analysis of variance (ANOVA) was conducted to examine whether the number of details elicited varied as a function of interviewer utterance type (Invitations, Directive, Option-posing and Suggestive) and interviewer (judge, prosecutor, defense lawyer and psychologist). The analysis revealed significant effects for utterance type ( $F(3,408) = 118.522, p < .001, \eta_p^2 = 0.466$ ), interviewer ( $F(3,408) = 162.522, p < .001, \eta_p^2 = 0.544$ ), and their interaction ( $F(9,1224) = 97,892, p < .001, \eta_p^2 = 0.419$ ). Pairwise comparisons (Table 2) demonstrated significant differences in the numbers of details elicited using different types of questions asked by judges. Clearly, most of the details reported to judges were elicited using option posing questions, followed by directive and suggestive questions, and finally by open-ended prompts. When children were questioned by prosecutors, option-

posing questions elicited more details than all the others types, and directive questions elicited more details than suggestive questions and open-ended prompts. There were no significant differences among the numbers of details elicited using different question types when children were examined by defense lawyers or psychologists.

### **Discussion**

As expected, the judges played a leading role in DMFs, accounting for 90.5% of all questions asked. Prosecutors asked more questions than defense lawyers, perhaps because prosecutors are responsible for criminal investigations, of which DMFs comprise the final stage. Prosecutors thus seemed to take advantage of the opportunity to collect additional information from alleged victims. However, defense lawyers intervened less than expected, especially because one main objective of the DMF is to provide evidence-in-chief for a trial.

The limited participation by prosecutors and defense lawyers could be explained by the fact that, according to the PCPC (Art. 349<sup>o</sup>), witnesses under 16 years of age can only be directly questioned in a judicial context by the presiding judge (in court) or by the judge (*juiz de instrução*) in the case of DMFs. As we observed, however, defense lawyers and prosecutors were allowed to question children directly. We must also emphasize that all participants were present in the same room and could hear one another, so requests by prosecutors or lawyers that judges ask specific questions would be heard by the children and perhaps perceived as direct questions.

In addition, the fact that defense lawyers asked fewer questions than prosecutors could be explain by the fact that most of them were state-appointed and might have had little time to prepare. However they were appointed, defense lawyers might also have chosen to use the DMF to gain more knowledge about the case and the possible charges

that might result from the investigation, and thus opted not to disclose their defense strategy by suggesting specific lines of inquiry. In many cases, DMF proceedings provide defense lawyers with their first opportunity to learn about the allegations and possible charges.

As in other studies focused on in-court questioning (e.g., Andrews & Lamb, 2016; Andrews et al., 2015; Klemfuss et al., 2014; Stolzenberg & Lyon, 2014), and as we anticipated, option-posing questions were used most frequently by all DMF participants. Such questions thus seem to characterize the approach adopted by legal professionals questioning witnesses. In addition, the judges and prosecutors had access to the case files prior to the DMFs, so their extensive use of option-posing questions could indicate that the DMF was treated as a context in which to confirm their understanding and the validity of previously obtained evidence, rather than as an investigative interview. Clearly, our analyses showed that children had few opportunities in the DMFs to give free narrative accounts of alleged abusive events in response to open-ended prompts. Indeed, open-ended prompts were mainly used by psychologists, who participated in only 6 interviews.

The excessive use of option-posing questions had an impact on the numbers and quality of details provided by the children. More than half of the details they provided were elicited using such prompts (see Table 2), and if we add details elicited using suggestive questions, roughly two-thirds of the details were elicited using recognition prompts. There is considerable evidence (Dent, 1986; Dent & Stephenson, 1979; Hutcheson, Baxter, Telfer, & Warden, 1995; Lamb & Fauchier, 2001; Leichtman & Ceci, 1995; Orbach & Lamb, 2001) that the use of recognition prompts increases the rates of error and contradiction, perhaps by increasing the pressure to respond, and, by

signaling the interviewer's interests or expectations, also increasing the risks of acquiescence, suggestibility, and confirmatory bias.

In the current field study, it was obviously not possible to verify the accuracy or inaccuracy of the information provided by the children. Nevertheless, based on experimental analogue research (e.g., Brown et al., 2013; Ceci, Ross, & Toglia, 1987), the excessive reliance on recognition prompts in DMFs is concerning, because they create conditions that are known to elicit inaccurate information. In DMFs, for example, option-posing questions may encourage children to acquiesce to and validate other evidence, including other witness accounts. The fact that children responded to 90% of all prompts may suggest that they understood the seriousness and importance of the DMF, but it also magnified the riskiness of the option-posing and suggestive questions they were asked (Ceci, Ross, & Toglia, 1987; Ceci & Bruck, 1995; Quas et al., 2007).

The extensive use of option-posing questions also limited children's opportunities for free recall and narrative responding and, consequently, led to decreases in the amount of relevant information provided. Open-ended questions were seldom asked. Thus, even if the children had been prepared and motivated to disclose and talk about incidents of abuse, the rigid and leading questioning process did not allow them to provide full and detailed accounts, in which additional relevant information could be provided spontaneously. Instead the questioning largely allowed children only to confirm aspects of the events that were already known. Narratives about the abuse incidents can have decisive effects on children's perceived credibility (Hershkowitz, Fisher, Lamb, & Horowitz, 2007) (Hershkowitz, Lamb, Sternberg & Esplin, 1997) (Feltis, Powell, Snow & Hughes-Scholes, 2010; Snow, Powell & Murfett, 2009).

Delay is also an important factor to consider, especially in relation to young children, as the number of details remembered by children decreases over time

(Hershkowitz et al., 2012; Lamb, Sternberg, & Esplin, 2000; Lamb et al., 2003). In the current study, lengthy delays between the alleged event and the DMF were common; they averaged 28 months. The DMF commonly comprises the last in a series of interviews, and thus often occurs many months after allegations come to light (Peixoto, 2012; Ribeiro, 2009). Thus, aside from the poor quality of questioning, the delay and number of interviews provide additional opportunities for children's accounts to be contaminated, especially as the interviews are conducted without the help of structured interview protocols, are not commonly audio or video recorded, and are conducted by many different professionals (Peixoto et al., 2015). Long delays also prevent children from dealing emotionally with the abusive experiences, and require them to re-experience the abusive events in multiple interviews, taking place over a long period of time, with judicial decisions reached an average of 2 years after the first interview.

### **Conclusion**

The current study clearly showed that DMF interviews are characterized by an extensive use of option posing questions by all legal professionals. This increases the risk that children's memories will be contaminated. Further, the confirmatory approach, accomplished mainly by asking option-posing questions, denies children the opportunity to freely describe what happened to them, and does not comply with international guidelines about how children should be interviewed in judicial contexts. Instead, we recommend the use of a structured interview protocol as a standard for DMF proceedings. Peixoto, Ribeiro, and Alberto (2013) have argued that implementation of the NICHD Investigative Interview Protocol could solve the problems illustrated in this research. This interview protocol stimulates free-recall and increases the quantity and quality of information provided by children (Orbach et al., 2000), even those who are young (Hershkowitz et al., 2012; Lamb et al., 2003a) or have special

needs (Brown, Lewis, & Lamb, 2015). The use of the NICHD Protocol also has a positive impact on credibility assessment (Hershkowitz, Fisher, Lamb, & Horowitz, 2007) and judicial decision-making (Pipe et al., 2013). For this reason the Protocol has been adopted in several jurisdictions around the world (La Rooy et al., 2015) and has been used successfully with Portuguese children participating in judicial contexts (Peixoto et al., 2015).

The implementation of a structured interview protocol should be accompanied by a more extended set of practical changes. First of all, the DMF interview should, if possible, be the first and early formal interview, thus preventing loss of information, risk of contamination and secondary victimization (Ribeiro, 2009). The interviews should be conducted by specialized interviewers who have been properly trained (Lamb, Sternberg, Orbach, Hershkowitz, et al., 2000; Stewart, Katz, & La Rooy, 2011), and belong to an evaluation and feedback culture (Stewart, Katz, & La Rooy, 2011). To achieve these goals, the interviews should also be video-recorded, as recommended by international legislation (for example, the Lanzarote Convention) and national laws (e.g., PCPC). These changes will comprise a decisive step in the defense of children's rights and will promote a judicial system that is fair to both victims and suspects.

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Table 1  
Type of Question by Interviewer

Interviewer	Question Type				$F_{1,136}$
	Invitation	Directive	Option Posing	Suggestive	
	$M (SD)$	$M (SD)$	$M (SD)$	$M (SD)$	
Judge	1.6 (.2) <sub>a</sub>	9.6 (1) <sub>b</sub>	39.6 (3.3) <sub>c</sub>	6.8 (.7) <sub>d</sub>	178.25*
Prosecutor	.1 (.1) <sub>a</sub>	.7 (.3) <sub>b</sub>	3.8 (1) <sub>c</sub>	.5 (.3) <sub>ab</sub>	22.49*
Defense Lawyer	0 (0) <sub>a</sub>	.1 (.1) <sub>ab</sub>	.2 (.1) <sub>bc</sub>	.0 (.1) <sub>ab</sub>	8.57**
Psychologist	.2 (.1) <sub>abcd</sub>	.1 (.1) <sub>abcd</sub>	.1 (.1) <sub>abcd</sub>	0 (0) <sub>abcd</sub>	1.91

Notes. \* $p$  .001; \*\* $p$  .01

Different subscripts denote significant differences within utterance types.

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Table 2  
Details by type of question and interviewer

Interviewer	Question Type				<i>F</i> <sub>1,136</sub>
	Invitation	Directive	Option Posing	Suggestive	
	<i>M (SD)</i>	<i>M (SD)</i>	<i>M (SD)</i>	<i>M (SD)</i>	
Judge	8 (1.5) <sub>a</sub>	33.9 (3.2) <sub>b</sub>	80.7 (6.2) <sub>c</sub>	15 (2.1) <sub>d</sub>	110.23*
Prosecutor	.4 (.3) <sub>a</sub>	3.5 (1) <sub>b</sub>	6.8 (1.5) <sub>c</sub>	1.1 (.5) <sub>a</sub>	14.15*
Defence Lawyer	0 (0) <sub>abcd</sub>	.4 (.3) <sub>abcd</sub>	.6 (.2) <sub>abcd</sub>	.2 (.1) <sub>abcd</sub>	2.71
Psychologist	.5 (.4) <sub>abcd</sub>	.2 (.1) <sub>abcd</sub>	.8 (.7) <sub>abcd</sub>	0 (0) <sub>abcd</sub>	0.98

Notes. \**p* .001

Different subscripts denote significant differences within utterance types.