

THE CONSTRUCTION OF FUNCTIONAL IDENTITIES IN FORENSIC

INTERVIEWS WITH CHILDREN

by

Sharon Kay Deckert

Copyright © Sharon Kay Deckert 2006

A Study Submitted to the Faculty of the

INTERDISCIPLINARY PROGRAM IN
SECOND LANGUAGE ACQUISITION AND TEACHING

In Partial Fulfillment of the Requirements
For the Degree of

DOCTOR OF PHILOSOPHY
In the Graduate College

THE UNIVERSITY OF ARIZONA

2006

THE UNIVERSITY OF ARIZONA
GRADUATE COLLEGE

As members of the Study Committee, we certify that we have read the study prepared by Sharon Kay Deckert entitled The Construction of Functional Identities in Forensic Interviews with Children and recommend that it be accepted as fulfilling the study requirement for the Degree of Doctor of Philosophy

Susan U. Philips Date: July 20, 2006

Linda R. Waugh Date: July 20, 2006

Norma Mendoza-Denton Date: July 20, 2006

Cecile McKee Date: July 20, 2006

Final approval and acceptance of this study is contingent upon the candidate's submission of the final copies of the study to the Graduate College.

I hereby certify that I have read this study prepared under my direction and recommend that it be accepted as fulfilling the study requirement.

Study Co-director: Susan U. Philips Date: July 20, 2006

Study Co-director: Linda R. Waugh Date: July 20, 2006

STATEMENT BY THE AUTHOR

This study has been submitted in partial fulfillment of requirements for an advanced degree at the University of Arizona and is deposited in the University Library to be made available to borrowers under the rules of the library.

Brief quotations from this study are allowable without special permission, provided that accurate acknowledgement of source is made. Requests for permission for extended quotation from or reproduction of this manuscript in whole or in part may be granted by the copyright holder.

SIGNED: Sharon K. Deckert

ACKNOWLEDGEMENTS

I must begin by acknowledging Susan Philips and Linda Waugh, my study co-chairs. Susan Philips' scholarly work and the courses I have taken from her have significantly shaped the ways that I think about both the study of language and about academic work. Susan Philips has a gift for honestly and openly listening to ideas and gently challenging a student to think in new and creative ways. I am truly grateful that she agreed to co-chair my study committee.

Linda Waugh is an incredible scholar and human being. Her generous intellectual and emotional support have been invaluable. Without her support, I might have finished this study, but I have grave doubts about whether this would have been in this lifetime. She models a combination of academic scholarship and student support that I aspire to achieve one day.

Norma Mendoza Denton has provided both encouragement and enthusiasm. The courses that I have taken from her and the discussions that we have had have helped my work tremendously. I value her insight and her approach to working with students.

Cecile McKee has provided strong encouragement and energy during this study process. In particular, she has provided practical support at moments in the process when I despaired of ever collecting data.

I must also acknowledge Malcah Yaeger-Dror who has been a source of both intellectual growth and strength for me over the years that I have worked with her. Her support and generosity have taught me a great deal about how academic work can be done with commitment, perseverance, and integrity.

Julian Heather and Caroline Vickers have been my true friends during the long process of graduate school. Julian Heather provided both friendship and emotional support during one of the most difficult times of my life. He has been both a creative work partner and a model of efficiency, good planning, and cleanliness in everyday life—although his affinity for electricity is to be avoided. May my household someday run as smoothly as his. Caroline Vickers has offered me both friendship and intellectual support over the years. She has challenged me to look at my work from multiple perspectives; she has taunted me back; and it doesn't hurt that at times, she can make me laugh like a child.

I must also acknowledge my parents who have been true friends during the long process of my life. My mother, Juanalou Deckert, was always a source of emotional nurturing and someone who understood my relentless sense of curiosity. My father, Harry Deckert, continues to astonish me with his sense of caring for others and with the emotional support he provides for me. Without their support and understanding I would not have reached this point in my academic career. I am incredibly thankful to have been born into their family.

Finally, I would like to acknowledge the director of the children's center where I collected these data. Although she must remain anonymous, I am grateful to her and to all of the other individuals who work on a daily basis with issues related to child sexual abuse. Their work is incredibly difficult and deeply appreciated.

DEDICATION

In memory of my mother, Juanalou Jennings Deckert

TABLE OF CONTENTS

LIST OF TABLES.....	9
LIST OF FIGURES	10
LIST OF EXCERPTS	11
ABSTRACT	13
CHAPTER 1 - INTRODUCTION	15
<i>Statement of Problem</i>	15
<i>The Constitution of Legal Identities</i>	19
<i>Identity Construction and Theoretical Models</i>	19
<i>Speech act theory</i>	20
<i>Conversation analysis</i>	22
<i>Language, ideology, and Marxist theories of the state</i>	26
<i>Ethnography of communication and identity</i>	32
<i>Legal Categories of Identity</i>	34
<i>Criminal Categories and Legal Identity</i>	35
<i>Legal Identities as Mutually Constitutive Pairs</i>	38
<i>Functional Identities</i>	46
<i>Child Abuse and Forensic Interviews</i>	54
<i>Statistics on Child Abuse</i>	54
<i>Definitions of child abuse</i>	54
<i>Overview of the Legal Process</i>	56
<i>Referrals</i>	56
<i>Children’s advocacy centers</i>	58
<i>Decisions about charges</i>	59
<i>Children as Witnesses</i>	61
<i>Narration</i>	62
<i>Suggestibility</i>	65
<i>Validity</i>	66
CHAPTER 2 - METHODOLOGY.....	72
<i>Data Collection</i>	72
<i>Human Subjects Committees</i>	72
<i>Subject Consent and Assent</i>	72
<i>The Data</i>	77
<i>Interview with center director</i>	77
<i>Transcripts</i>	77
<i>Police and sheriff’s reports</i>	79
<i>The Effects of Using Transcripts in this Study</i>	81
<i>Questions of transcript accuracy</i>	83
<i>Data Analysis</i>	86
<i>Transcript Organization</i>	86
<i>Data Coding</i>	90

TABLE OF CONTENTS - *Continued*

CHAPTER 3 - IDENTITY IN PRE AND POST-ELICITATION SEQUENCES	94
<i>The Interview as an Event</i>	96
<i>The Interview as a Bounded Event</i>	96
<i>Participant Structures</i>	98
<i>Participant Structures and Relative Status/Power</i>	102
<i>Child Age and Language Generation in the Interview</i>	108
<i>Construction of Functional Identities</i>	110
<i>Identity and Performance</i>	112
<i>Interview Procedures and Intra-interview Socialization to Legal Witness</i>	115
<i>Pre-elicitation/Opening Sequences</i>	117
<i>Greetings</i>	120
<i>Interviewer's Name and Child's Full Name/Child's Age (Year in School)</i> ..	120
<i>References to Interviewer's Job</i>	122
<i>Discussions of Safety</i>	125
<i>References to Methods and Procedures</i>	130
<i>General Rapport Building Sequences</i>	131
<i>Determination of Who Lives Where</i>	135
<i>Sequences Related to Telling the Truth</i>	137
<i>Truth vs. lie determination.</i>	140
<i>Agreement/Rules to tell the truth procedures</i>	145
<i>Answering "I don't know."</i>	151
<i>Sequences Related to the Purpose of the Interview</i>	155
<i>Post-elicitation/Closing sequences</i>	159
<i>Questions for Interviewer</i>	159
<i>Reassurances</i>	161
<i>If This Happened Again, What Would You Do?</i>	162
<i>Statements of Procedures (What to do now)</i>	162
<i>Thank You/Appreciation</i>	163
<i>Conclusion</i>	164
CHAPTER 4 – IDENTITY IN ELICITATION OF AN EVENT(S)	167
<i>Construction of Witness: Socialization to Legal Event-appropriate Information</i>	168
<i>Two Styles of Telling about an Event(s)</i>	176
<i>Construction of Legal Victim and Legal Perpetrator</i>	190
<i>Conclusion</i>	202
CHAPTER 5 – THE EFFECTS OF ADDITIONAL PARTICIPANTS	207
<i>Second Interviewer</i>	207
<i>Parents or Close Relatives of the Child</i>	219
<i>Interpreter as Third Participant</i>	229
<i>Interpreters and formal training</i>	230
<i>The role of the interpreter.</i>	231
<i>Interviewer altered the normal flow of events</i>	234

TABLE OF CONTENTS - *Continued*

<i>Attention shifted to interpreter's role and to interpreter as audience/observer.....</i>	236
<i>Interpreter controls content.</i>	238
<i>Asymmetrical maintenance of pronouns.</i>	240
<i>Changes that Affect Interviewer's Therapeutic Role and the Construction of Identity</i>	247
<i>Personalization: 3rd person => 2nd person.</i>	248
<i>Personalization: Genitive NP => 2nd person pronoun.</i>	249
<i>Upgrade: Syntactic simplification.</i>	251
<i>Conclusion</i>	252
CHAPTER 6 – CONCLUSION	256
<i>Functional Identities</i>	256
<i>Legal Witness</i>	256
<i>Legal Victim and Legal Perpetrator.....</i>	262
<i>Effects of a Third Interview Participant</i>	265
<i>Implications.....</i>	267
<i>Interpreters and formal training.....</i>	267
<i>Data Collection.....</i>	268
<i>Therapeutic implications.....</i>	268
<i>Theoretical implications.</i>	269
<i>Social, cultural, and political implications.</i>	270
APPENDIX A: REDACTION METHODOLOGY	273
APPENDIX B: QUESTION CODES	276
APPENDIX C: MODIFIED CODES	279
REFERENCES	280

LIST OF TABLES

Table 1. Summary of Individuals Represented in Interviews.....	79
Table 2: Words by Participant and Interview Section.....	109
Table 3: Typical Pre-elicitation and Post-elicitation Sequences.....	117
Table 4: Summary of Coding Types for Pronoun Changes.....	244
Table 5: Asymmetrical Maintenance of Pronouns.....	245

LIST OF FIGURES

Figure 1: Constructional Dependencies.....	53
Figure 2: Legal Process for Child Abuse Cases Involving Children’s Centers.....	58
Figure 3: Child’s Percent of Total Interview Words by Interviewer	110
Figure 4: Average Number of Words per Turn in Pre- and Elicitation Sections.....	179
Figure 5: Narratives and Accounts in Relation to Tellership and Embeddedness.....	181

LIST OF EXCERPTS

Excerpt 1	82
Excerpt 2	86
Excerpt 3	87
Excerpt 4	88
Excerpt 5	88
Excerpt 6	98
Excerpt 7	99
Excerpt 8	100
Excerpt 9	104
Excerpt 10	106
Excerpt 11	121
Excerpt 12	123
Excerpt 13	124
Excerpt 14	127
Excerpt 15	128
Excerpt 16	129
Excerpt 17	130
Excerpt 18	132
Excerpt 19	134
Excerpt 20	136
Excerpt 21	137
Excerpt 22	141
Excerpt 23	143
Excerpt 24	146
Excerpt 25	147
Excerpt 26	147
Excerpt 27	148
Excerpt 28	149
Excerpt 29	152
Excerpt 30	153
Excerpt 31	156
Excerpt 32	157
Excerpt 33	159
Excerpt 34	159
Excerpt 35	161
Excerpt 36	163
Excerpt 37	171
Excerpt 38	173
Excerpt 39	184
Excerpt 40	187
Excerpt 41	191
Excerpt 42	192

LIST OF EXCERPTS - *Continued*

Excerpt 43	194
Excerpt 44	195
Excerpt 45	197
Excerpt 46	199
Excerpt 47	201
Excerpt 48	208
Excerpt 49	210
Excerpt 50	211
Excerpt 51	215
Excerpt 52	215
Excerpt 53	217
Excerpt 54	221
Excerpt 55	224
Excerpt 56	226
Excerpt 57	227
Excerpt 58	229
Excerpt 59	234
Excerpt 60	235
Excerpt 61	237
Excerpt 62	238
Excerpt 63	239
Excerpt 64	241
Excerpt 65	243
Excerpt 66	243
Excerpt 67	244
Excerpt 68	246
Excerpt 69	248
Excerpt 70	249
Excerpt 71	252

ABSTRACT

This study focuses on the functional identities of legal witness, legal victim, and legal perpetrator and their co-construction in the forensic interviews that take place after allegations of child sexual abuse have been made. I argue that while these are inter-related identities, the focus of their constitution and the direction of their constructional dependencies is determined by the event context. Nineteen transcripts of forensic interviews involving children ages 3 to 12 were collected during a three-month period at a children's center in a western state.

Legal witness as an identity of performance, is constituted in performance. Interview processes socialize children to these performances. Ritualized sequences within interviews also provide evidence that children have the qualities required of a legal witness. Children are constructed as legal victims in interview processes that establish they have been acted upon according to specific actions defined in the law. This mutually constitutes the legal perpetrator. Children, however, resist both interpellation as a legal victim and elements of the process of the interview affecting how they are perceived as legal witnesses. Analysis also reveals that the purpose of the interview within the extended legal process inherently shapes the accounts and narratives that are co-produced.

The addition of a third interview participant is also considered. Second interviewers provided a complex co-construction process that can support the constitution of the legal witness identity. Relatives of the child also provide a complex process. If they are perceived as co-authoring the narratives or accounts, however, they may

negatively affect the legal witness identity. The addition of an interpreter can facilitate the child's co-construction as a legal witness. As pre-trial events, forensic interviews are not subject to trial requirements for trained interpreters. In the case considered here, the untrained interpreter produced language that was less precise, more personal, and had the potential to affect the legal implication of questions.

Finally, I discuss the therapeutic, theoretical, and the social, cultural, and political implications of the study.

CHAPTER 1 - INTRODUCTION

Statement of Problem

This study began as an analysis of the processes that occur when children are interviewed about alleged events related to child sexual abuse. These interviews represent complex interactions that are themselves part of an extended legal process that begins when an accusation of child sexual abuse is made and ends in a variety of different ways, one of which may be a criminal trial. At the beginning of this work, I had already become interested in how people construct identity in face-to-face interactions. In particular, I had proposed the idea that in televised court cases, some individuals were creating a type of short-term, context-dependent identity that served their purposes for the courtroom event, but which was not meant to be a part of their non-courtroom personal identity (Deckert, 2000). In examining the transcripts related to the forensic interviews examined in this study, I realized that a similar type of identity construction was in progress in the question-and-answer sequences that make up the interview event. As part of the ongoing process of the interview interaction, children were being socialized as legal witnesses. At the same time, however, the question-and-answer sequences that elicited alleged accounts of abuse events were constructing children as legal victims, and this mutually constituted their alleged perpetrators. It seemed clear to me that while the successful or unsuccessful construction of these legal identities had consequences for the ongoing legal process, the identities were not at this stage in the legal process necessarily part of the children's or alleged perpetrators' individual personal, social, or cultural identities. The construction of a legal perpetrator, for example, must undergo further processes in the legal system

before an identity, such as child molester, becomes a formal part of the individuals' social identity.

This study focuses on the identities of legal witness, legal victim and legal perpetrator and their constructional dependencies in the forensic interviews that take place after allegations of child sexual abuse have been made. I argue that these identities are constructed in relation to the purpose of the interview, that their constructions are mutually dependent upon one another, and that they are not necessarily created as part of the children's or alleged perpetrators' individual, social or cultural identities.

Individuals can be defined as having a set of identities. I use the term "functional identity" to discuss the roles/characters/identities that are co-constructed in these interviews and in other settings as well. I do not want to use any one of the terms "roles" or "characters" because the identities that are being created access multiple roles and cultural characters simultaneously. I am avoiding the unmodified term "identity" because I do not think that these functional identities, even in the cases when they are self-constructed for the purposes of a particular event, must reflect an aspect of the self-perceived identities of the individuals in question.

As an example of what I call a functional identity, consider the situation that arises in some states when one member of a same-sex couple wants to adopt his or her partner's biological child. Although in many instances, this individual fulfills the role of parent for the child, the process of adoption in particular states requires that the partner apply not for a second-parent type of adoption, but for a stranger adoption (Richman, 2002). In applying for this type of adoption, a person who is essentially a parent, must

take on a particular identity, that of a stranger, for legal purposes during the adoption process. Clearly, this identity is not one that is equivalent to any aspect of the person's "real" identity. It is an identity that the individual chooses to construct for the function of proceeding with the adoption process; and at the end of the process, this particular identity does not become part of the individual's complex personal, social, or cultural identities. In fact, the purpose of the process is to legally recategorize the individual from stranger to parent.

This example illustrates another quality of functional identities. The construction of functional identities requires actions that are related to categories of identity that contextually exist prior to their interactional construction in much the same way that the cultural categories of citizenship, race, or legitimacy exist as categories before an individual is constructed as having an identity in relation to these categories. This can have consequences for the construction of these identities. In the forensic interviews examined in this study, for example, a child's conflict with constructing herself¹ as a member of the category "victim," with its social implications, can conflict with the child's need to construct herself as a reliable witness. The construction of a functional identities, such as legal witness, is not, however, merely reflexive of the categories that particular actions are indexing. They must be actively co-constructed in the ongoing interactions of the event.

I chose the term "functional" for several reasons. The first relates to the idea that the motivation for constructing a particular functional identity is not limited to the particular circumstances of the event, something that is most likely a quality of the

performance of any identity; they are also constructed for a particular purpose, such as adopting a child, or constructing a legal perpetrator so that charges can be brought. I also chose the word functional because many of these identities serve, in an almost mathematical sense, as a function to constitute a second identity. In the types of crimes examined in this study, for example, the construction of a legal victim is a necessary step in the construction of a legal perpetrator.

Consider as an example, the construction of “victim” that occurs in rape trials. In the ongoing interaction of the question-and-answer sequences of the prosecution’s case, individuals who are testifying must succeed in constructing themselves as legal victims in order to construct another individual as a rapist, but this does not necessarily mean that the individual is purposefully using this event to construct a personal identity that includes legal victim as a part of that identity. One of the difficulties of these constructions, however, is that within the particular event context, the participants behave as if the functional identities under construction were the identities of the individuals involved in the event. A second difficulty is that, as required by law, these identities are performed in public. An individual’s *intent* to use or not use the event to construct “victim” as part of his or her personal identity, may have little to do with how the individual is viewed by the immediate audience of the event and by the extended audience within the individual’s social and cultural context. The social and cultural consequences of categorization as a rape victim come into play. Individuals who testify in rape trials, however, also shape public notions of the legal category of “victim.” So it seems possible that over time, the implications for categorization can change.

The data examined in this study focus my discussion of functional identities on those that relate to legal processes. The fact that these functional identities are constructed in an event that is part of the legal process has implications for how these identities are constructed relative to one another. The law guarantees that individuals have the right to not participate in their own construction as legal perpetrators. Consequently, the onus of construction falls on the legal witness. This means that the construction of children as reliable witnesses is a necessary element in the construction of both the legal victim and legal perpetrator identities. The construction of these functional identities, then, is a complex process involving constructions at the level of face-to-face interactions which are both reflexive of and constitutive of the social, legal and political structures of which they are a part.

The Constitution of Legal Identities

Identity Construction and Theoretical Models

This study addresses this complex process of construction by using an approach that integrates theoretical frameworks that individually address only parts of the complex interactions that make up the inter-related process of constituting identity. Waugh, Fonseca-Greber, Vickers and Eröz (in press) have argued that what is needed for examining these types of interactive processes is a complex, multi-layered approach. They argue that only such an approach can account for all of the complex levels of interaction that are operating in a particular piece of discourse. In this study, I have drawn from a number of theoretical approaches. These include Speech Act Theory,

Conversation Analysis, Language, Ideology, and Marxist Theories of the State, and Ethnography of Communication.

Speech act theory.

Speech act theory, in particular Austin's ideas of perlocutionary actions, is essential to any argument that identity is constructed in discourse. I am arguing that forensic identities are constructed in the ongoing interactions of the forensic interview. In particular, I am arguing that the functional identity of a legal witness is constructed in part by the practices of the interview and that the functional identities legal victim and legal perpetrator are constructed by the interactions of the legal witness and the interviewer. Essentially, both of these arguments are based in the notion that individuals use language to perform particular actions.

In his seminal discussion of using language to perform an action, Austin (1975) begins to analyze utterances as acts by making a distinction among types of declarative sentences. Austin argues that many utterances that can be defined by traditional grammar as declarative sentences do not serve the purpose of representing factual information but instead are used to perform actions. He classifies utterances that perform particular actions as "Performatives." He argues that, "Once we realize that what we have to study is *not* the sentence but the issuing of an utterance in a speech situation, there can hardly be any longer a possibility of not seeing that stating is performing an act" (p. 139).

Austin argues that the distinction that is relevant to considering utterances as action is the distinction between locutionary, illocutionary and perlocutionary acts. A single utterance can be the performance of all three of these types of actions. Locutionary

acts are those that are performed *in* saying something. So, for example, if an individual utters the sentence “I warn you that this type of behavior will result in your suspension,” the locutionary act is the physical act of uttering the string of sounds and words that constitute the utterance. The illocutionary act performed in the same utterance is the performance of a warning. Perlocutionary acts are the effects that a speaker produces *by* saying something in a particular way. By choosing to phrase the sentence, “I warn you that this type of behavior will result in your suspension,” in this particular way, the speaker produces “effects upon the feelings, thoughts, or actions of the audience, or of the speaker, or of other persons” (p. 101). For example, the utterance may produce in the hearer a feeling of fear about losing his or her job should there be no change in behavior.

Much of the study of speech acts has focused on the aspect of illocutionary force. However, a focus on perlocutionary acts is needed for discussions of the constitution of identity. The crucial idea of speech act theory that can be used in discussions of identity construction is Austin’s notion that a speaker’s *choice* about how to say something can produce particular effects on an interlocutor in particular interactions. Austin has argued, for example, that to do any act in a way that is perceptible to others “is to afford ourselves and generally others also the opportunity of coming to know both (*a*) that we did it, and further (*b*) many other facts as to our motives, our character or what not which may be inferred from our having done it” (p. 111). As Wolfson (1988) argues, “To begin with, a speech act or act sequence . . . has important cultural information embedded in it” (24). For example, she argues that American’s complementing one another on physical

characteristics such as thinness not only performs the illocutionary act of complementing, but also carries with it the embedded cultural value that thinness is preferred. I argue that not only does this act carry the embedded cultural value, but it also has the consequence of making others aware of the fact that the speaker is a knowledgeable member of the culture. It is not simply that speakers perform actions and accomplish effects when they speak that is important to this discussion of identity construction; what is also important is the idea that the *choice* of performing one illocutionary or perlocutionary action over another has the consequence of communicating particular types of information about the speaker and constructs the speaker in a particular ways.

Conversation analysis.

Conversation Analysis (CA) is an approach that has developed “a theory of context that links processes of interpretation to action within a reflexive, time-bound process” (C. Goodwin & Heritage, 1990). Proponents of CA argue that it is in social interaction, in general, and face-to-face interaction, in particular, “through which the business of the social world is transacted, the identities of its participants are affirmed or denied, and its cultures are transmitted” (C. Goodwin & Heritage, 1990).

Sacks, Schegloff, and Jefferson, considered the initial developers of this field of study, built on the work of Garfinkel who argued, among other things, that meaning is negotiated in interactions, that it is dependent on the use of participants’ background understandings as well as the social setting of the activity, and that social setting is used to determine the meaning in a current activity at the same time that the meaning generated in the activity determines the meaning of the current context (Garfinkel, 1967).

Proponents of CA have shown that conversation is not a random set of turns, but an ordered sequence of turn-taking that follows a systematic set of procedures (Sacks, Schegloff, & Jefferson, 1974). Central to this analysis is the notion of the “adjacency pair.” An adjacency pair is a sequence of two turns in which the second speaker must show his or her turn’s relevance to the previous speaker’s turn. Consequently, a speaker’s turn inherently reveals the speaker’s understanding of the previous turn. This makes the second speaker’s understanding of the previous turn available to analysis. The adjacency pair provides researchers with both a search procedure and a proof criterion.

This search procedure has led CA to develop a number of methodological approaches to the study of conversation. There is, for example, the insistence that the data should represent naturally occurring conversations (C. Goodwin & Heritage, 1990). Typically data are collected in part through audio/video recordings and transcribed in detail. Recordings and transcripts can provide a record of the interaction that allows examination and reexamination of data relative to different research questions as well as provide for comparison of data across corpora (Goodwin and Heritage 1990). Briggs (1997), however, argues that CA’s privileging of recordings and transcripts leaves CA with at least two major difficulties. The first is that this methodology sets the boundaries of an event at the beginning and end points of a particular recording or transcript. Examination of the transcripts used in this study, however, indicate that the beginning and ending of recordings do not necessarily align with the beginning and ending points of the interview event. The second limitation of this type of analysis is that it assumes that meaning is inherently locally produced, ignoring the need to examine the types of

intertextual links between the utterances produced in certain interactions and ones produced in other settings. He argues, for example, that a focus on the immediate context of the adjacency pair cannot provide for an analysis of “how talk circulates between settings” (p. 522). CA alone cannot account for the fact that the interviews analyzed in this study have structural similarities or for the idea that identity constructions within the interview are intertextually connected to sections of related police reports. One solution to this difficulty is to argue, as Briggs does, that the concept of genre provides for discussions of intertextuality.

A second solution to this limitation is to combine CA search procedures and proof criterion with other research methods. Some researchers use ethnographic research methods and apply a CA style of analysis to their data. This allows them to examine conversations with a more intertextual approach. For example, Goodwin’s (1990) analysis of children’s interactions in their neighborhood shows how a narrative in an ongoing interaction can be used to restructure the participant framework of a dispute.

She uses an example a group interaction in which two young boys, Chopper and Tony, are exchanging short turns of talk arranged in couplets of countering arguments. Talk is restricted to these two focal participants with others in the group behaving as audience members. At one point, however, Chopper introduces a story into the dispute that portrays Tony as a coward. Chopper’s move to a long narrative turn changes the participant framework by shifting Tony out of the role of focal participant and into the role of addressee. The other boys in the group become the audience for the narrative. Since one of the roles of the audience of a story is to produce evaluations of that story,

Chopper's move to a narrative provides the other boys in the group with the opportunity to produce evaluations of the story and consequently of Tony's actions. This part of Goodwin's analysis is consonant with CA's proof criterion that is limited to turns at talk.

Goodwin also, however, presents a "return story" that Tony tells later in the ongoing interaction. She analyses this story as constituting "a systematic transformation" (p. 251) of Chopper's story. In this return story, Tony tells a story that is very similar to the one Chopper told. In Tony's story, however, Chopper is the principle character. By placing Chopper in a similar situation, she argues, Tony can compare their relative actions. This analysis is not based solely at the turn-taking level. While Goodwin is analyzing Tony's story at the level of the turn-taking sequence, her analysis also shows that Tony not only provides evidence that he understood the previous turn, but that he understood Chopper's narrative and its social consequences. It could be argued that he is responding not to the previous turn but to a previous sequence of turns extending CA's proof criterion from the adjacency pair to sequences of turns. While Goodwin's analysis does provide for a type of intertextual analysis, in that it analyzes how the two stories within the ongoing interaction are interrelated, that intertextual analysis is still limited within the larger bounded event—a dispute sequence—and it does not provide the type of intertextual analysis that Briggs calls for.

One of the things that CA provides for a consideration of identity construction is the notion that analyses of social interaction, such as the constitution of identity, should be studied using naturally occurring data and that turn sequences can be used to identify what meaning is constructed in the interactions. If one is arguing, as I am, that children

are both being socialized as legal witnesses by participating in the process of interview events and at the same time being constructed as viable legal witnesses in the interaction of the interview event, then these processes of construction must be identifiable within the interaction itself. CA's focus on the adjacency pair provides one procedure for searching for the elements of this construction.

A second idea, which is connected to the work of Sacks, is the notion of how collections of membership categories can be used by members of a shared culture to make decisions about how particular actions reflect particular categories of individuals. What this portion of Sacks' work provides for discussions of identity construction is the notion of categories and categorization processes. This notion is discussed in more depth in the section on legal identities.

Language, ideology, and Marxist theories of the state.

What is still needed is a model for discussing how individuals are constituted in relation to the social and political structure of which they are a part. The work of Marxist theorists such as Althusser and Gramsci provide models for a discussion of the constitution of individuals within particular socio-political structures. Althusser (1971) provides a model in which the individual is constituted in relation to ideological structures. In his discussion of the reproduction of the conditions of production, Althusser argues that in order for social formations to remain relatively stable, they must as part of their production, reproduce "the conditions of their own production" (p. 125). In reproducing the conditions of their own production, they must both reproduce the productive forces that support the particular system and reproduce the existing relations

of production that support the particular system. He refers to Marxist theories of state, which define the State as inherently repressive. In particular he refers to the state's capabilities of resorting to violence in its politico-legal apparatus, which includes its army, police, court, and prison systems. Using what Althusser calls a "spatial metaphor," or "the metaphor of the edifice," Marxist theory proposes a dual-leveled structure. The base, or infrastructure, is the economic element of the structure consisting of both the productive forces and the relations of production; the superstructure consists of politico-legal elements. Althusser argues that this spatial metaphor has advantages because it allows for discussions of how the two levels of the structures interact: the superstructure is relatively autonomous at the same time that there is a "reciprocal action" of the superstructure on the base" (p. 130). He argues, however, that for useful discussions of how relations of production are reproduced, it is necessary to include in the theory a discussion of ideology. Althusser does this, in part, by integrating ideological apparatuses (such as those related to religious, educational, legal, family, political, and communications) into the superstructure. So where Marx had a superstructure consisting of the repressive State Apparatus, Althusser's superstructure consists of the repressive State apparatus and ideological State apparatuses. He argues that it is in the ideologies associated with these ideological apparatuses that "subjects" are constituted. For the purposes of my discussion of functional identities, it is important to note that Althusser makes a distinction between *individuals* and *subjects*. Individuals exist prior to their ideological constitution as subjects, but it is in relation to ideology that subjects are constituted. As Althusser states, "*all ideology hails or interpellates concrete individuals*

as concrete subjects, by the functioning of the category of the subject” (p. 162 emphasis in the original). For Althusser, it is the functioning of the category of subject itself that is the mechanism by which individuals are interpellated in ideology and by which subjects reproduce ideology. So it is the functioning of an ideological category of subject, such as “witness,” that is the mechanism by which individuals are interpellated as witnesses; and this interpellation of witness, in turn, reproduces the ideological category of witness. Each individual interpellation, then, has the potential to affect the ideology.

For Althusser, ideology is material in the sense that it is realized in the material *practices* of subjects. The essence of Althusser’s discussion makes practice dependent on ideology and ideology dependent on subjects. This is expressed in his dual arguments that “there is no practice except by and in an ideology” and “there is no ideology except by the subject and for subjects” (p. 159).

Several related points should be made here. For Althusser, the individual is interpellated as a subject in the action of the individual’s recognition of, or response to, a particular aspect of an ideology. He uses the example of a police officer saying “Hey, you there!” and a particular individual responding to the hail. For Althusser, it is in the act of recognizing that the hail is referring to him/her and in the act of responding to the hail, that the individual is interpellated as a subject. Althusser focuses on the aspect of the process of recognition by the individual as essential to the individual being interpellated as a subject. But it must be noted that Althusser’s process of interpellation requires at least two processes. First the individual must be hailed. While it may be true that the policeman’s “Hey, you there!” does not interpellate every person within earshot and that

any persons not recognizing the hail as hailing them, cannot be said to be interpellated by the hail; at the same time, as obvious as this may seem, if no hail is presented, a person cannot be interpellated by it. Notice that the role of ideology in this model must be said to be twofold. First, it must be responsible for the categories of subjects who can be hailed in particular ways. In this sense, practice is dependent on ideology. The model assumes that the police officer, for example, will not hail an individual he/she does not perceive as belonging to the proper category in the proper circumstance. A child, for example, cannot be interpellated as a witness if the category of witness does not already exist, or if she is not perceived as belonging to that category. Second, in this model, the category must be active in the individual for the individual to recognize the act of hailing as an act that is appropriate to him/herself. In other words, this can be seen as a process of categorization that requires that both the police officer and the hailed individual recognize the individual as appropriate for the hail. For a child to be interpellated as a legal witness, then, she must recognize herself as a witness and respond to a construction of that identity. It would seem that the recognition of the subject must occur in the person of the police officer before it can be applied to the individual in question. For Althusser, individuals must be recognized as particular subjects in relation to the ideologies of the socio-political system before they are interpellated as individual subjects.

Althusser's model, however, leaves the actual agency of the interpellated subject open to question. It is difficult in this model, for example, to account for the roles of either agency or resistance. The issue of agency raises the question of whether recognition alone is sufficient for the interpellation of subjects. Consider the possible

scenarios of individuals who, when hailed by the police officer, are aware that the officer is hailing them, but simply refuse to acknowledge the hail. It would seem that, although the individuals may be interpellated as subjects by their recognition, the individuals are not participating in a practice that would position them in a particular place in the socio-political structure. Consider, for example, a child who is struggling with the idea of constructing herself as a victim. If the child refuses to participate in the construction of this identity, it may not be possible to position her within a socio-political structure in a way that differentiates her from non-victims. Finally, Althusser does not make reference to the idea that the various ideologies associated with each of the ideological State apparatuses may interpellate various types of concrete subjects with respect to the various contexts of ritual or practices generated by and in the ideology reproduced in those rituals or practices. However, it seems possible to argue that his model lends itself to arguments that there are various categories of subjects. So, for example, it seems possible to use his model to argue that the context of the forensic interview with its ideological rituals and practices has inherent within it specific categories such as legal witness, legal victim, and legal perpetrator that can be used to interpellate, or construct, particular individuals' functional identities relative to the interview event.

While Althusser's model accounts for how particular ideologies are materialized in practice, it does not provide a mechanism that can account for why a particular ideology might be maintained in practice in opposition to other available or possible ideologies. It also cannot account for cases in which it might, for example, be against individuals' self interests to participate in practices that interpellate them in particular

ways. Gramsci's notions of hegemony and manufactured consent are necessary for any model that must account for how particular ideologies are maintained in opposition to possible competing ideologies as well as account for discussions of both group and individual agency and resistance (Gramsci, 1997; Williams, 1977). For Gramsci, hegemony goes beyond ideologies in that it is constituted in and by the practices of dominant and subordinate individuals and groups as they negotiate interrelations within political, social, and cultural realms. It is not necessarily part of the superstructure in that it is the *process* of political, social, and cultural forces that form the notions of dominance and subordination that support, and in practice, maintain the relations of the superstructure. Hegemony is not limited to specific ideologies. It "is a whole body of practices and expectations, over the whole of living, . . . that constitutes as sense of reality for most people in a society . . ." (Williams, 1977, p. 110). Williams argues that a "true condition of hegemony is *self-identification* with the hegemonic forms: a specific and internalized 'socialization'" . . . which rests "on a (resigned) recognition of the inevitable and the necessary" (p. 118 emphasis in the original). In other words, the socialization that occurs in relation to hegemonic notions of particular legal and general social and cultural identities naturalizes both identities and the categorical processes that instantiate them. Gramsci uses slightly different terminology for this type of process. In his discussion of how single individuals incorporate themselves into their position relative to other individuals, he asks how "educative pressure" can be applied to single individuals to "obtain their consent and their collaboration, turning necessity and coercion into 'freedom'" (p. 242). Participation in the hegemonic practices that make up

the normalized activities of political, social, and cultural systems is an implicit type of consent not only to the identities and statuses that are generated by these practices, but also to the notion that these identities and statuses are a natural part of an individual's sense of reality.

Conceptions of hegemony as process allow for non-static views of identity. So while an individual's or group's consent to a particular status or definition may be manufactured by hegemonic processes, the fact that they are constituted by processes provides for types of resistance to the practices that maintain those statuses and definitions. In the day-to-day interactive processes that make up hegemonic notions, resistance is possible. So for Gramsci, if the police officer were to identify a particular individual in a particular way and hail him/her, the individual's lack of response could be a move resisting the particular identity implicit in the hail. From a Gramscian perspective then, identity construction can be seen as a process that is subject to individual forces.

Ethnography of communication and identity.

Goffman's work discussing the construction of individual roles or identities from the perspective of the intentions of individuals, also takes into account the importance of larger social conceptions of particular roles. In his discussion of how various social situations can be defined, Goffman (1959; 1963; 1974) argues that individuals have the ability to define or project certain definitions of the social contexts in which they are participating. For Goffman, these projected definitions have "a distinctive moral character" such that "any individual who possesses certain social characteristics has a moral right to expect that others will value and treat him in an appropriate way" (1959, p. 13).

Goffman views these projections as performances of roles or identities. He uses the term “front” to refer to the part of the performance that defines the situation and consequently constructs the performer. The performed identity is constituted in interactions between the performance of the front and the responsibilities of the audience. While Goffman refers to these performed identities as “fronts,” these performed social selves are considered by the audience to be individual’s identity or at least a part of the individual’s identity.

Consider Goffman’s (1959) example of a young American middle-class girl playing dumb for her boyfriend. He notes that it is possible to notice the guile and contrivance of such a performance, and yet, at the same time, not be aware that recognizing her as having a particular identity is the result of a performance; “. . . we accept as an unperformed fact that this performer *is* a young American middle-class girl” (pp. 74-75 emphasis in the original). Her audience, in other words, considers this performance as representative of her actual identity.

In saying that an audience accepts this identity as an unperformed fact, Goffman is arguing that individual identities such as “young American middle-class girl” are naturalized within particular social and cultural contexts and that they are partially constituted in self performance. What Goffman does not consider is that the actions that he labels as the “guile” and “contrivance” of the performance are part of the process that is constituting the identities of the scenario’s participants as he defines them. Notice that Goffman has communicated this situation in a way that identifies the male participant as the girl’s “boyfriend.” Part of what naturalizes this identity is precisely the girl’s overt

performance. Girls, even of the generation in question, did not “play dumb” for just anyone. Given the cultural and social assumptions of the time at play, had she, for example, been explaining a complex mathematical proof, she would still have been recognizable as a young American middle-class girl, but her conversational partner would most likely not have been identifiable as her “boyfriend.” The point here, is that both the constitution and recognition of particular identities are based on hegemonic notions; and these notions are subject to change over time.

Legal Categories of Identity

Social and cultural categories of identity such as landowner (Mertz, 1988) or those related to citizenship (Coutin & Chock, 1995), race (Dominguez, 1986), or legitimacy (Lazarus-Black, 1994) are often constituted in relation to ideologies that represent these identities as objective, natural categories.

Coombe (1991) has argued that constituting and implementing these kinds of identities involve concepts of power and can, therefore, be considered a political process. As hegemonic ideologies are supported by political processes, including legal ones, the establishment of particular legal codes for classification is partially a political process. The hegemonic forces that are responsible for creating and sustaining the legal categories extend beyond the political and legal systems themselves to the wider social and cultural systems that maintain definitions of identity in general. If categories such as citizenship, race, or legitimacy were, in fact, natural categories that were not tied to the maintenance of particular social statuses, for example, they would not be subject to political and social change.

What I have not yet discussed, in relation to the larger issue that is naturalized in the laws that constitutes such legal categories, is the question of who has the power to first, define the existence of a concept such as “the other” and second, to generate the hegemonic forces necessary to constitute in practice the categories themselves. A question that also remains to be addressed relates to the processes by which *particular* individuals can be identified as belonging to these categories. If these categories were socially neutral categories, there would have been no social or political impetus for their legal instantiation. Therefore, identification with an individual category, with its consequent assignment of a particular identity, has social, political, and power implications.

Criminal Categories and Legal Identity

Coombe (1991) argues that social categories of identity are the result of social meanings attributed to difference and not to any objective standards. The types of identity, such as child molester, discussed in this section also depend on the cultural ideology of difference in the sense that they are used to reinforce concepts that people who are found guilty of certain crimes must be different from the average person. Typical cultural descriptions of serial killers as “monsters,” for example, are heavily dependent on this ideology. Cultural constructions of child molesters as strangers who offer children candy to get into their vehicles are to some extent constituting child molesters as the unknown. However, statistics do not reflect this constitution of child molesters. According to U.S. Department of Health (2003) statistics that examined data from the 36 states that provided this type of information, family members account for 68% of all

perpetrators. When this is added to the occurrences by other adults in the child's life such as day care providers, coaches, teachers, youth leaders and clergy, it becomes clear that strangers do not make up the largest portion of individuals who molest children. The point, here, is that the cultural need to construct some legal categories as unnatural, may ignore actual facts. The question of how this affects the incidence of child molestation is one that this study cannot address.

The legal procedure for inclusion in criminal category is to be found guilty of the particular crime that is connected to the identity. If an individual is convicted of child molestation, for example, he or she is categorized as "guilty" and consequently as a "child molester." This identity can have consequences that last longer than the time period of a prison sentence. The law, for example, requires that individuals who have been found guilty of sex crimes against children register with local and state law enforcement agencies, and they are required to update their residential information each time they move. "Megan's" Law (104th U.S. Congress, 1996) stipulates that state and federal governments provide information about these individuals to the public upon request. The method of providing information to the public varies by state, but in some states, convicted child molesters must post signs to this effect in their homes. Some legal categories provide legal identities that do not have the same social impact. Typically, one would guess that these roughly correlate with definitions of the types of crimes, for example, whether they are felonies or misdemeanors. An important point here, however, is that while all guilty verdicts may produce the label "guilty," they may not all produce legal labels that can affect identify with the same social force.

The second part of Coombe's statement that legal identities are not the result of an objective standard, may also hold true for criminal categories. It is, however, part of legal ideology that these types of laws do objectively define individuals. It is part of legal ideology that laws clearly define criminal actions and that legal action can be used to connect particular actions to particular individuals (Drew, 1992). In practice, however, both the notion that laws clearly define criminal actions and the notion that legal action can be used to connect actions with individuals are subject to qualification.

In her examination of how law students are socialized in law school classroom to learn to "think like a lawyer" (p. 131), Mertz (1996) argues that the meaning of the law as it applies to particular cases depends on a "mutually constitutive" relationship between cases that serve as precedents and the cases using the precedents. In this relationship, the meaning of a case "only emerges as it is interpreted as precedent in subsequent cases" (p. 235). At the same time, because the case is serving as precedent, it constrains and frames the terms of the case for which it is serving as a precedent. Therefore, "any subsequent authoritative interpretation relies in a fundamental way upon the authority of the prior text" (p. 235). If legal meaning is established in these mutually constitutive relationships, at least for people thinking like lawyers, then the meaning of a law is contextually dependent. This belies the ideology that laws, in and of themselves, clearly define criminal actions. Drew (1992) put this in a slightly different way arguing that the decision of whether an incident was a violation of some law is in reality a question of whether the action was a violation of a particular *interpretation* of that law.

In terms of the law's ability to connect certain actions with particular individuals, consider the definitions of certain types of crimes that require a description of a particular action as occurring against an individual or individuals. Conley and O'Barr (1990b) argue that "the law generally requires a plaintiff to show an injurious *action*, the defendant as *agent*, and the plaintiff as the *acted upon*, as well as a causal link between the action of the agent and the harm the plaintiff suffered" (p. 48 italics in the original). In the practice of an adversarial system, of course, this is not straightforward. Drew (1992), for example, argues that the American judicial system involves a contest between which of two sides can produce the most convincing story about whether an incident happened and whether that incident was a violation of some law. At the same time that this foregrounds the ambiguities involved in the classification, it still instantiates the ideology that legal processes can be used to determine whether particular actions have occurred as well as which individual is responsible for those actions.

Legal Identities as Mutually Constitutive Pairs

Returning to Conley and O'Barr's (1990b) argument that "the law generally requires a plaintiff to show an injurious *action*, the defendant as *agent*, and the plaintiff as the *acted upon*, as well as a causal link between the action of the agent and the harm the plaintiff suffered" (p. 48 italics in the original), it is possible to examine this generalized definition of a "crime" according to Sacks' (1972) discussion of category bound activities. Sacks argues that there are category-bound activities such that certain activities are viewed by members of a particular culture as being bound to members of a certain category. He uses the example of how the action "cry" is bound in the culture to the

stage-of-life category “baby” in such a way that if members of other stage-of-life categories, such as “adult,” participate in this action, it can be seen as degrading. Conversely if someone from an earlier stage-of-life category, such as “child,” performs an action bound to the later stage “adult,” it can elicit praise. Current cultural and legal debates about whether children should be tried as adults when they have committed specific crimes seem to hinge on just this type of category interaction. Sacks proposes a “viewer’s maxim” to explain how the recognition of a category-bound event can elicit expectations of a connection to a particular category. The maxim states that if a member of the culture sees a category-bound activity being done, and it can be interpreted as being done by a member of the appropriate category, then the member should interpret the action in that manner. Consider his classic example, “the baby cried, the mommy picked it up,” taken from a story being told by a young child. The young child as a member of the culture saw a woman picking up a baby, interpreted “picking up babies” as an action that was appropriate for the category “mother,” and produced the assumption that the woman was the baby’s mother (Sacks, 1992).

Many of Sacks’ category-bound activities are bound to the agents of actions. I refer to them as “agent category-bound activities.” I argue that legal definitions of crime, on the other hand, describe category-bound activities that are more strongly bound to the receivers of the action—to the victims. For the present argument’s sake, I refer to these as “patient category-bound activities.” An example of this second type of activity can be found in the 1975 case of a Boston physician who was on trial for manslaughter in connection with a late-term abortion (Danet, 1980a). Danet presents the definition of

manslaughter that was used in the trial. It includes the description that “manslaughter is the unlawful killing of another . . . “ (p.187). In her analysis of this case, Danet shows that the prosecutor and the defense lawyer employed specific sets of words in their negotiation of whether the object of the abortion had ever been a person and could consequently be described as having been the object of the unlawful killing. These labels were part of the conflict between the defense lawyer and the prosecutor to define the story of the event in order to categorize, or not categorize, the object of the abortion in a particular legally defined category “person.” If the defense lawyer succeeded in his categorization, this categorized “person” could then be considered the object of the patient category-bound activity “unlawful killing.” In this model, the act of finding a defendant guilty would be the legal process of identifying the patient of an action thereby constructing the agent of the legally defined patient-bound activity as guilty of manslaughter. Notice that without the constitution of an appropriate “victim,” no perpetrator of the act of unlawful killing can be constructed. “Victim” and “perpetrator” in this case can be seen as mutually constitutive pairs.

Matoesian’s (1993; 2001) analyses of rape trials show how the ongoing co-construction of a particular witness’ testimony affects the formation of whether a witness can successfully be constructed as the victim of a rape. Again, the crime in question is defined as a patient-bound activity. If certain actions cannot be constructed as having been perpetrated against a particular individual, there is no victim and consequently there can be no finding of rape.

The structure of legal definitions of criminal actions represent an interesting ideology. Consider, for example the definition: “manslaughter is the unlawful killing of another without malice” from Danet’s (1980a, p. 187) analysis. The agent in this definition is not specifically stated. In this case, the law does not say “a killer is a person who commits manslaughter” or even more graphically “a killer is a person who slaughters another person under such and such conditions.” Instead, the nominalization “manslaughter” takes subject position, and it is this nominalization that is defined in relation to the patient, the “another” of the definition. While not all laws are set up with nominalizations that background the agent, however, the laws must link the actions of the agent to the “victim” in some way. The child molestation laws of one western state do this in the following way:

- (1) As used in this section, “child” means a person under the age of 14 . . .
- (2) A person commits sexual abuse of a child if . . . the actor touches the anus, buttocks, or genitalia of any child, the breast of a female child, or otherwise takes indecent liberties with a child, or causes a child to take indecent liberties with the actor or another with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.²

There are, of course, several processes occurring in the construction of this law. It uses, for example, the transitive verbs “touch,” “take,” and “cause.” Each of these verbs is transitive in the syntactic sense that it must take an object and in the semantic sense that it must take a patient or experiencer. In touching, something must be touched, and the

categorial and semantic requirements of the lexical item requires that an experiencer or patient be stated in the utterance. Although the section is not shown here, this law also stipulates the instruments of touching. One of the processes occurring in the matrix clauses of this law is the narrowing of all of the possible sets of patients and experiencers that could occur with each of these verbs to one small, specific subset: anus, buttocks, genitalia, breast, indecent liberties, or child. The choice of the use of the periphrastic genitive “of any child” or “of a female child” in contrast to the inflected genitive “any child’s” or “a female child’s” furthers the focus of this law on specific body parts. It is not a question of whether the perpetrator is touching a child, for example, but the anus, buttocks, genitalia or breast of a child. With the verb “takes” the child is embedded in the “with” clause in patient position. It is only with the verb “cause” that the child is the agent of the clause. But even in this construction, the child is the semantic patient of the causing at the same time that the child is the agent of the indecent liberties.

The law also makes a distinction in how charges are brought in consideration of the perpetrators’ relationship to the child. So, for example, it makes a difference in whether “the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense” or whether

the offense was committed by a person who occupied a position of special trust in relation to the victim; ‘position of special trust’ means that position occupied by a person in a position of authority, who, by reason of that position is able to exercise undue influence over the victim, and includes, but is not limited to, a youth leader or recreational leader who is an adult, adult athletic manager, adult

coach, teacher, counselor, religious leader, doctor, employer, foster parent, babysitter, adult scout leader, natural parent, stepparent, adoptive parent, legal guardian, grandparent, aunt, uncle, or adult cohabitant of a parent.

Notice that these definitions specifying the relationship of the abuser to the child are still articulated in terms of “the offense”—a nominalization that Halliday and Matthiessen (2004) define as an ideational metaphor. They argue that a verbal nominalization such as (offend > offense) serves as a metaphor that “can be interpreted against the background of its congruent variant” (p. 637). In this instance, it can be argued that “the offense” as a metaphor can be interpreted against the background of the verb “offend” as it represents the actions “commit,” “touch,” “take,” or “cause” perpetrated against their respective patients and experiencers.

In a second complex nominalization, “the purpose of committing the offense,” the ideational metaphor “the purpose” can be interpreted against the background of its congruent variable (purpose (v) > purpose (n)) in relationship to the “intent” element of the earlier definition of sexual abuse. By connecting the nominalization “purpose” (the intent element) to the “committing of the offense,” (the actions against patients element), this subsection of the law references the listed individuals in relationship to the actions of the previous subsection.

This law, particularly in its use of the word “victim,” reveals the social constructions of “child as victim”—a child is the acted upon and a patient of the action of another even when he or she is an agent of additional actions. At the same time, it also serves as a definition of a victim—particular actions must occur for a child to be

identifiable as the “any child” or “any female child” of this law—providing for a sequence of patient-bound actions that can categorize a particular individual. Since this definition is created in law, the identity of victim can be seen as a representation of the hegemonic concepts of victim. The identity of victim can also be seen as the kind of identity that exists prior to the interpellation of the subject. It is part of the ideology of the state that an individual can be interpellated, or constituted, as this type of a subject based on this category; and it is this ideology that is in practice in the question-and-answer sequences of the forensic interview.

As obvious as this might be, this law is set up for the purpose of categorizing perpetrators of sexual abuse: “A person commits sexual abuse of a child if . . .” The construction of the sexual abuser in this law, however, requires further consideration. It is important to notice that the law does not define the characteristics of perpetrators. They are not defined, for example, as individuals with certain belief systems or drives. This definition pares them down to a specific set of characteristics. They are defined as the agents of a discrete set of patient-bound actions (e.g., touching, taking, or causing) and a discrete set of intentions (e.g., the intent to cause pain, arousal, or gratification). The law does not directly define a “sexual abuser”; rather it defines “a person who commits sexual abuse.” In these definitions, agency is constructed in relation to particular actions. “A person commits” and “the actor touches . . . or takes . . . or causes,” for example, construct the agency of the perpetrator both semantically and syntactically. Agency is constructed by lexical choice. This definition uses the transitive verbs “commits,” “touches,” or “takes.” Each of these verbs semantically require agents of the action. By

choosing active sentence structures and placing the noun phrases, “a person” and “the actor” in subject position, these definitions grammatically position the noun phrases as responsible for the actions of the verbs—as both grammatical subjects and semantic agents.

Legal definitions like those seen above do not directly construct the identities of either perpetrator or victim in relation to particular individuals. In the actual practice of a particular abuse event, it is possible to make the causal claim that without a perpetrator there could be no victim. However, the definition given above is not causal in this real-time sense. It simply links agent to action to patient. It is the fact that it is the child who is being interviewed in the forensic interviews examined here that affects the practice of the construction of identities. Within the context and practice of the interview, a child is constructed as a legal victim if it can be established that he or she has been acted upon in specific ways. The construction of the victim essentially mutually constructs a perpetrator. In this event, the construction of the perpetrator is dependent on the construction of the victim. This constructional dependency can more clearly be seen if it is contrasted to what might happen in an interview of a perpetrator in which he or she was confessing to particular actions. In that context, the perpetrator would be constructing him- or herself as having performed certain actions upon a child; and this would mutually construct the child as a victim. They are mutually constructed, but the focus of the construction and the direction of the constructional dependencies is dependent on the context of the event.

Functional Identities

The construction of criminal legal categories of identity is a two-step process that first involves categorizing the “injurious action” and “the acted upon,” or legal victim, in order to establish the identity of “agent,” or legal perpetrator, of the action. More precisely, the participants in the pre-trial interviews examined here use language-based mechanisms for co-constructing individuals and events in relation to the legal concepts “injurious action” and “acted upon.” These, in turn, are used to determine if charges can be brought against an alleged perpetrator.

While the focus of this study is the functional identities that are co-constructed in the testimonies of these interview situations, functional identities are not limited to these situations. It is important to notice, however, that although the functional identities examined in this study are created in the context of a legal process, they are not themselves the final legal identities. These functional identities are constructed as part of the extended legal process of constituting the possible legal identity of child molester. The functional identities that are constructed in legal cases, in particular, and in other types of events, in general, do not reflect, even in the cases when they are self-constructed by the participant, the totality of the self-perceived and self-constructed identities of the individuals in question.

As noted, I chose the term “functional” for several reasons. One reason is that the identities under construction act as a function to constitute a second identity. For example, from a legal perspective, the construction of “acted upon” or “victim” is not a goal in and of itself; it is a necessary step in the construction of “agent” or “perpetrator.”

Returning to Matoesian's (2001) examinations of the construction of identities in the courtroom, for example, I argue that the functional identity of "rape victim" that the prosecutor and plaintiff are co-constructing is actively being deconstructed by the defense attorney as he attempts to deconstruct the plaintiff as "witness" and as "rape victim" and in turn, actively construct her as a "willing participant" in the actions. Whichever of these functional identities is successfully constructed from the point of view of the jury affects the construction of the alleged perpetrator. If the prosecutor and plaintiff are successful in their co-construction of the functional identities of witness and the rape victim, the defendant is consequently constructed as a rapist and can be found guilty by the jury. This declaration of guilt would construct the actual legal identity of rapist. If the defense attorney is successful in his deconstruction of the functional identities of witness and rape victim and successful in constructing "willing participant," the defendant will also be constructed as a "willing participant" and can be found not guilty by the jury. In this sense, the construction of the legal identity "rapist" can only result if there has been a successful construction of the functional identities of witness, rape victim, and rapist.

The ability to construct these functional identities in the courtroom, however, is one that is subject to power imbalances. Consider, for example, one of the criteria necessary for the successful construction of a witness as a "victim." In his discussion of how defense lawyers in the William Kennedy Smith rape trial used the language of questions during the cross examination process to deconstruct the witness, Matoesian argues that defense attorneys are in a position of power from which, through their use of questions, they can impose standards for determining the legitimacy of witnesses'

accounts. He argues that the ability of witnesses to implement similar standards is very limited. Matoesian's analysis reveals how power asymmetries in the courtroom make it difficult for the victims to convincingly argue that a patient-bound activity has occurred. To put this another way, the power asymmetries between defense attorneys and witnesses make it difficult for individuals to present evidence in a way that constitutes them as believable witnesses. It can be argued that not only does the American judicial system, as Drew (1992) argues, involve a contest between which of two sides can produce the most convincing story, but that in certain cases, it also involves a struggle between the construction and deconstruction of the functional identity of "witness." The prosecution, using a particular set of question techniques is endeavoring not only to construct a particular version of a story, but also to construct the witness as a reliable one. The defense, using another set of questioning techniques is endeavoring not only to construct a very different version of the story, but to deconstruct the person testifying as a reliable witness. "Reliable witness" is an identity that a prosecutor and alleged rape victim must successfully co-construct and that the alleged rape victim must maintain during cross examination in order to establish the functional identity "rape victim" that is necessary for their particular version of the account of the event to be constituted.

In forensic interviews with children, similar constructions are in question. As part of a legal process, one of the major goals of the interview is to determine whether particular actions have occurred that could justify bringing particular charges against some individual. In other words, this interview acts as one of the methods used to determine whether the identity of legal perpetrator can be constructed to the extent that

the legal process, which could lead to a final determination of the legal identity of child molester, can be continued. If in this interview, for example, a child does not disclose actions that correlate with those defined in the law, police reports indicate that charges may not be brought.

As part of the legal process, the legal elements under consideration are the same as the ones in a court case. The identities being constructed are the same identities that could be in question should a case go to court; there is still the question of whether an injurious action has taken place, whether the child was the acted upon, and whether some adult was the agent of that action. The identities that may be in the process of construction, then, remain the same: witness, victim, and perpetrator.

It is important, however, to make a distinction between the identities that were constituted in the actions of the alleged event(s) and the identities that are under construction in the face-to-face interaction of the interview. The following is an introduction to these types of functional identities.

Victim: I use the term “victim” to refer to the identity of the individual who was the “acted upon” in the alleged event itself. This identity is constructed by the actions that take place during the event. The process of the construction of this identity is a complex one, and it almost certainly involves a sequence of interactions. However, this identity has already been enacted, and it cannot be constructed in either the interview or as the result of a particular legal outcome. In actual practice, however, rather than referring to this identity, I prefer to refer to this individual as the child.

*Legal victim*³: I use the term “legal victim” to refer to the functional identity that is under construction in the question-and-answer sequences of the interview. The construction of this identity is purposeful. To some extent, this identity is constructed for the purpose of determining whether charges can be brought against a possible perpetrator. Because of this, the identity is affected by the nature of the questions that are necessary to determine whether particular actions fit the legal definitions of the actions in question. It is one half of mutually constituted pair of identities.

In some examples of functional identities, it is neither necessary nor plausible that the identity under construction be considered by an audience as equivalent to the individual’s “real” identity. While in the cases examined in this study, it might be necessary for legal purposes that the legal victim identity be considered equivalent to the victim identity, not all functional identities in legal situations must be seen as equivalent to “real” identities.

Witness: I also use the term “witness” to refer to the identity of the child who was present during the alleged event itself. This identity is constructed by the child’s witnessing of the events in question. Like the identity of victim, this identity has already been enacted for the child, and it cannot be constructed in either the interview or as the result of a particular legal outcome. Since the event constructs the child as both victim and witness, it can be seen that these identities are complex.

Legal Witness: I use this term to refer to the functional identity that is being constructed in and socialized by the processes of the interview itself. One of the issues that arises in relation to children in these types of legal situations is the question of

whether children can act as competent witnesses. I argue that children are the constructed as a legal witnesses in the interviews examined here as the result of three processes. First, certain question-and-answer sequences serve as “proof” that a particular child has qualities that make her a reliable witness. Second, participation in the question-and-answer sequences of the interview is a process that socializes the child to appropriate ways to be a witness. When events are parts of larger processes, functional identities may carry across multiple events in that process. Third, I argue that participation in the practice of these interviews serve as a performance in which these identities are constructed. It is also important to note that this identity is constructed in respect to larger social and political structures. For example, the requirement that a child be a witness is guaranteed by the U.S. Constitution’s guarantee to face one’s accuser should the case continue to a trial.⁴

Witness (perpetrator): As with the child’s identities, the identities of the perpetrator are complex. In the original event, the perpetrator is both a perpetrator and a witness of events. As with the child’s event identities, this identity cannot be constructed in either the interview or as the result of a particular legal outcome.

Legal Witness (perpetrator): A second functional identity that can be considered part of the larger pattern of functional identities that relate to these legal processes is the identity of legal witness (perpetrator). Although, this identity is one that is not constructed in the interviews analyzed in this study, it is under construction in interviews that occur when suspects are interviewed by police officers. It is also under construction in instances where a defendant decides to take the stand during the trial phase of the legal

process. The constitutional right to not incriminate oneself guarantees that defendants cannot be forced to participate in the construction of witness (perpetrator) and consequently, in the possible construction of legal perpetrator.

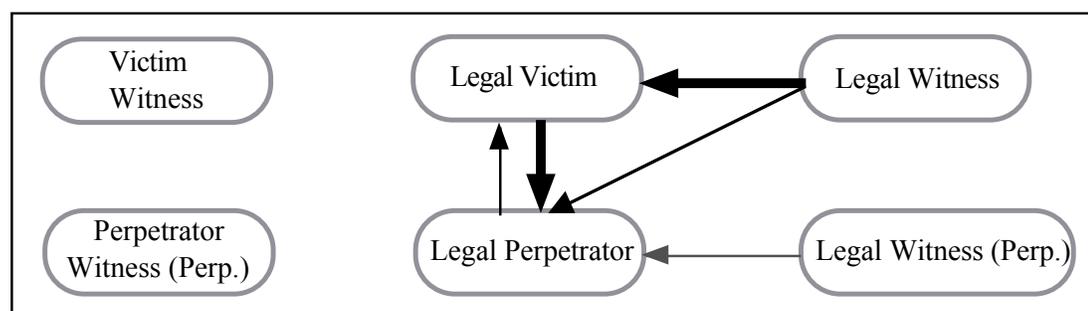
Perpetrator: I use this term to refer to the individual who was the agent in the alleged event itself. This identity is constructed by the actions that take place during the event. As with victim, this identity has already been enacted, and, therefore, it cannot be constructed in either the interview or as the result of a particular legal outcome. I refer to this identity as the alleged perpetrator.

Legal Perpetrator: I use this term to refer to the functional identity that is under construction in the question-and-answer sequences of the interview. To a very real extent, the exploration of this identity is the purpose of both the interview and the extended legal process of which it is a part. The successful construction of this identity, within the forensic interview itself, depends on the successful construction of legal victim since these are two parts of a mutually constituted pair of identities. It is also important to note that the construction of this functional identity at this stage in legal process can lead to a continuation of the legal process that may construct the legal identity of child molester or child rapist.

These identities are not constructed independently of one another in the context of the legal system. If a legal witness, for example, cannot be seen as reliable, then it is not possible for the legal victim and legal perpetrator to be constructed in the question-and-answer sequences of the interview. As mutually constituted categories, it would seem that the construction of legal victim and legal perpetrator would be equally bi-directional, but

given the context, this is not entirely accurate. Since the law is defined in relation to patient-bound activities, the construction of the legal victim is necessary for the construction of legal perpetrator. Essentially then, both the legal witness and legal victim identities, are functional identities—first, in the sense that they are the identities being constructed for the child in the interview, and second, in the sense that they must be constituted in order for the successful constitution of the legal perpetrator identity. These dependencies are illustrated in Figure 1. As this figure indicates, the identities of victim and perpetrator, which allegedly have already been constructed, are not affected by the legal process. The bold arrows indicate the strongest dependencies. Legal perpetrator is most dependent upon the construction of legal victim, which, in turn, is most dependent on the construction of legal witness. The lighter arrows show related, but less direct dependencies. A different event, such as an interview between a police officer and a suspect, would have a different balance of dependencies. Since interviews with legal witnesses (perpetrator) are part of the extended legal process, I have included this dependency as a light arrow.

Figure 1: Constructional Dependencies



*Child Abuse and Forensic Interviews**Statistics on Child Abuse*

Child sexual abuse has been a matter of public attention since Professor Auguste-Ambroise Tardieu, a professor of forensic medicine and dean of the University of Paris, published his 1857 book on rape and included cases of children who had been sexually abused by relatives (Spencer, 1990). He followed this with his 1860 paper “Étude medico-légale sur les sévices et mauvais traitements exercés sur des enfants” that highlighted the issue of cruelty to children. It was shortly after this, in 1871, that the first society for the prevention of cruelty to children was established in New York City after a highly publicized case brought it to the public’s attention that while there were laws prohibiting cruelty to animals, there were no laws prohibiting cruelty to children. The case involved a young girl who had been mistreated by her adoptive parents, who could only be prosecuted under a cruelty to animals law when a judge interpreted the word “animals” to include children (Spencer, 1990). In the 1970s, child sexual abuse became a part of the agendas of mental health and child welfare agencies and professionals when a series of multi-child cases involving childcare facilities brought the issue to the cultural forefront (Finkelhor, 1986).

Definitions of child abuse.

The U. S. Department of Health and Human Services defines sexual abuse as “A type of maltreatment that refers to the involvement of the child in sexual activity to provide sexual gratification or financial benefit to the perpetrator, including contacts for sexual purposes, molestation, statutory rape, prostitution, pornography, exposure, incest,

or other sexually exploitative activities” (U.S. Department of Health and Human Services, 2000). Various studies estimate the number of individuals who have been sexually abused to range between 6% and 62% for females and from 3% to 31% for males (Peters, Wyatt, & Finkelhor, 1986). Statistics on abuse are difficult to interpret for several reasons. First, while the U. S. Department of Health and Human Services defines sexual abuse for the purposes of its annual reports, legal definitions of sexual abuse are composed at the state level, and consequently, definitions vary. Second, statistics are generated by studies that operate with different definitions of sexual abuse. Third, these studies employ different methods of estimating statistics. For example, one method for estimating numbers of children who have been sexually abused involves surveying adults. One such survey of self-reports found that 27% of women and 16% of men reported being sexually abused prior to age 18. A second method involves estimating unreported cases in relation to reported cases. In this method, the estimated number of cases is dependent on assumptions about the ratio of unreported to reported cases (Peters et al., 1986). Finally, there are unanswered questions related to who has access to or feels comfortable with the types of institutional settings in which reports can be made.

While data about the incidence of child sexual abuse address the general social importance of this issue, arguments over the accuracy of the incidence of child abuse are not of immediate relevance to this study. Data that are more immediately relevant concern numbers of reported cases. These data indicate that in 2002, for example, there were approximately 2.6 million cases of suspected child maltreatment reported to Child Protective Services (CPS) agencies in the United States. These cases concerned nearly

4.5 million children. More than two thirds of these cases were accepted for further investigation or assessment, and approximately 896,000 children were determined to be victims of child abuse or neglect. It was determined that of these child abuse or neglect cases, 9.9% concerned cases of sexual abuse (U.S. Department of Health and Human Services, 2003). This means that in 2002, close to 900,000 children participated in processes that included some kind of interview with more than 88,000 children participating in legal processes related to some form of sexual abuse.

Children are not, of course, the only individuals whose identities are under construction in these interviews. Although cultural assumptions seem to focus on stranger-related cases, strangers do not represent the largest portions of individuals perpetrating this type of abuse. According to U.S. Department of Health (2003) statistics that examined data from the 36 states that provided data, parents account for 40.48% of perpetrators. Unmarried partners of parents account for 4.52%. Other relatives account for 22.52% of perpetrators, and legal guardians and foster parents account for approximately 1% (.72%) of perpetrators (2003). Approximately 68% of all perpetrators, then, are family members.

Overview of the Legal Process

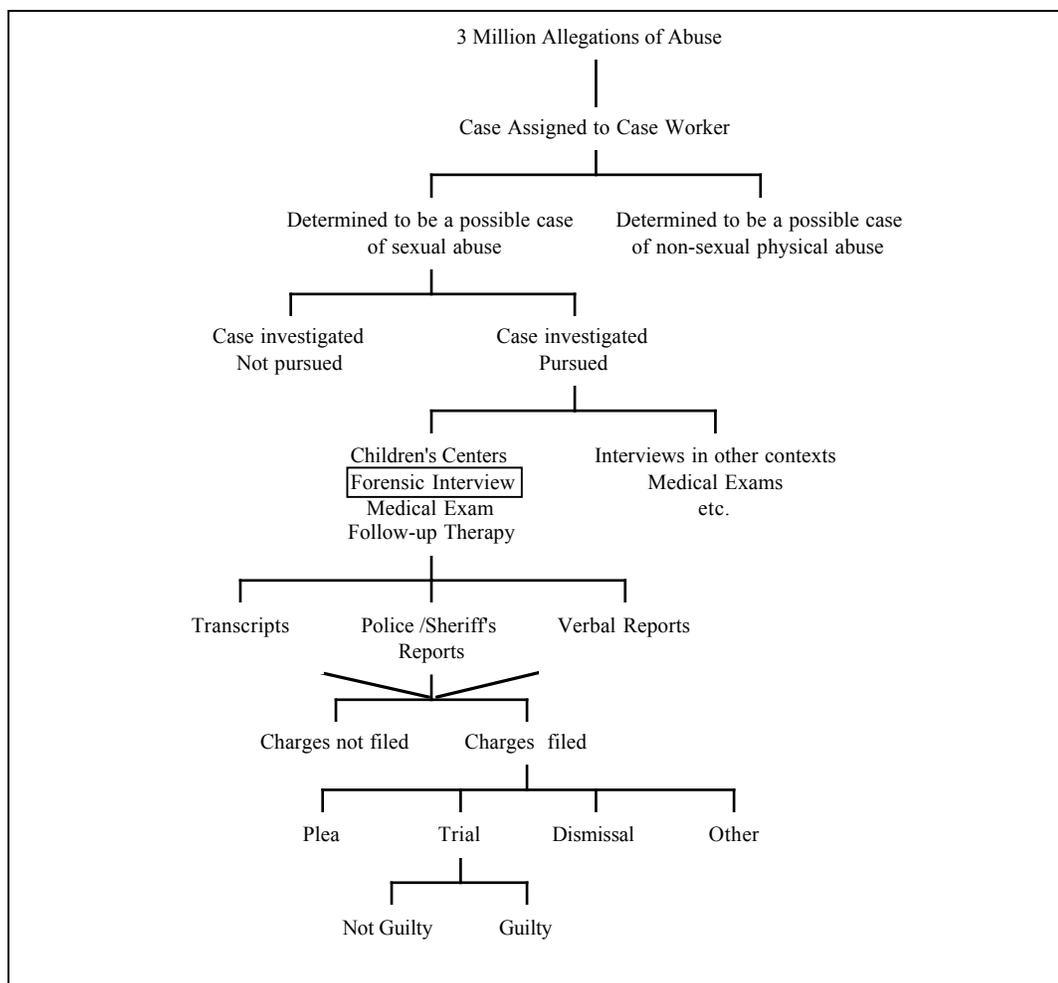
Referrals.

Typically the legal process related to abuse cases begins when a referral is made to a child protective services (CPS) unit of a child welfare agency. Figure 2 represents a broad overview of the processes involving children's centers like the one in this study. It

should be noted that it is common for cases to be handled directly by police and sheriff's offices with no interaction with centers of this type.

Many states, including Western State, legally require various types of professionals to report suspected abuse. The largest sources of referrals across the United States are made by educators (16.2%), law enforcement personnel (15.6%), and social services and mental health personnel (15.1%) (U.S. Department of Health and Human Services, 2003). These referrals are screened by CPS case workers with a national average of 32.7% of the cases screened out (U.S. Department of Health and Human Services, 2003). Referrals can be screened out for several reasons including insufficient data, the agency's workload, and referral to other agencies. Those that are screened in must meet the various states' policies regarding requirements for investigation and assessment. Certain types of more serious cases can require mandatory referral in some jurisdictions (Cross, Walsh, Simone, & Jones, 2003). While this study does not examine the process by which CPS workers make these decisions, it is important to keep in mind that at the forensic interview stage, cases have already been affected by earlier stages of the process.

Figure 2: Legal Process for Child Abuse Cases Involving Children’s Centers



Children’s advocacy centers.

Many CPS and law enforcement agencies conduct joint investigations of child abuse cases. This is encouraged by the federal government and mandated by many state laws. Among the advantages of such joint investigations are that they can lessen the trauma children may experience from repetitious or even conflicting investigations and that they can improve the efficiency and effectiveness of investigations (Sheppard & Zangrillo, 1996).

In Western State, once it has been established that an interview and/or medical exam is required, some children are brought to a children's center where medical exams and interviews can take place. The purpose of such child advocacy centers, which are based on the program model pioneered in 1985 in Huntsville, Alabama, is to provide an environment for coordination between law enforcement, CPS, and medical workers and to provide a more child-friendly environment for exams and interviews. Children's Center, where the data for this study were collected, inhabits a house that once served as a home in a residential area. Instead of a waiting room, there is a living room complete with a fireplace, sofas, chairs, toys, and books. The staff meeting room is decorated as a dining room, offices are designed to resemble home offices, and children can get snacks and something to drink in the kitchen.

Another advantage of such centers is that multiple agencies can provide services and care at a single site. A further advantage is that interviews can be videotaped and transcribed on the premises with multiple agencies having access to the same interview decreasing the need for multiple interviews. Poole and White (1995) examined the consequences for accuracy when children were questioned over a sequence of interviews. They found that the repetition of questions over a series of interviews created problems when questions were mildly suggestive yes/no questions or questions about details the children could not possibly know.

Decisions about charges.

Either the interviewer, if he or she is a police officer, or the police officer who observed the interview files a police report. The audio and video recordings, along with

transcripts when they are needed, are attached to the report as evidence. Decisions are then made about whether charges will be brought. In their meta-analysis of 21 studies of prosecution of child abuse across the nation, Cross, et al. (2003) found that child abuse cases were less likely than other felonies to have files charged. This meta-analysis included studies that concerned only sexual abuse as well as studies that looked at physical abuse. Since sexual abuse is a subtype of physical abuse, the studies that examined physical abuse are relevant to their analysis. They found that when these two types of studies were examined separately as sub-samples, there were minimal differences in most of the outcomes.

Although child abuse cases were less likely than other felonies to have files charged, Cross et al. found in their meta-analysis, that when charges were filed, child abuse cases were more likely than other felonies to be carried forward without dismissal. Of the cases that were carried forward, national conviction rates averaged 94%. In the studies they examined, they found that plea rates were generally high (a mean of 82%), so trial rates were consequently low (a mean of 18%). In general, they found that “child abuse cases were less likely to have charges filed than most other felonies, were more likely to be carried forward without dismissal, and had lower incarceration rates” (p. 324).

In considering the lower likelihood of charges being brought and the lower rates of incarceration, it is also important to note that one of the important ways that child abuse cases differ from other types of felonies is that in particular cases, therapeutic approaches may be favored. In some cases, diversion from prosecution may also include

a requirement for the successful completion of a treatment program. These are not the only types of possible outcomes of such events, however. In one of the cases examined in this study, one individual took his own life before he was arrested.

Children as Witnesses

Questions of children's competency as witnesses are important ones. One aspect of the discussion regards legal definitions of competency. For example, at the time of the Salem Witchcraft trials, which were held in accordance with English law, formalized rules of evidence had not yet fully developed (Hoffer, 1997) and, interestingly, while there was a great deal of speculation about who was communicating with the devil, there seemed to be little argument based on age about who was competent to testify. While early canon law did exclude prepubescent witnesses, common law has allowed children to testify in sexual abuse cases since at least 1779 when a court ruled in *The King v. Braiser* that as long as children understood the nature and consequences of taking the oath, they could not be automatically disqualified from testifying (Morey, 1985). In 1895, a U.S. Supreme Court decision, *Wheeler v. United States*, extended the *Braiser* definition of competency to include "intelligence." Federal Rules of Evidence (*Federal Rules of Evidence*, 2004), on the other hand, make no distinction about witnesses based on age. Article VI, Rule 601 states that "Every person is competent to be a witness except as otherwise provided in these rules." There are no exceptions that apply specifically to children. Rule 603, requires that a witness declare "by oath or affirmation" that they will testify truthfully." In the notes to Rule 603, the advisory committee argues that the purpose of the inclusion of affirmations is that they allow the flexibility needed to deal

with various groups including children. An affirmation, as distinct from an oath, which entails affirmation, “is simply a solemn undertaking to tell the truth; no special verbal formula is required” (Advisory Committee on Rules, 2004b). In the notes related to Rule 601, the Advisory Committee makes it clear that evaluations of credibility include matters related to perception, memory, and narrative abilities: “Interest in the outcome of litigation and mental capacity are, of course, highly relevant to credibility and require no special treatment to render them admissible along with other matters bearing upon the perception, memory, and narration of witnesses” (2004a). Since questions related to perception, memory and narration are considered relevant when evaluating the competency of any witness, it should come as no surprise that the focus of research related to children as witnesses includes these elements.

Most of the work that has been done in relation to child abuse focuses on three major areas of interest: perception and memory, children’s narrative abilities, and children’s suggestibility. Since this study is not approaching forensic interviews from the same perspective as traditional research focusing on child abuse, the following sections do not review literature related to these issues. However, I present brief sections on children’s narrative abilities and children’s suggestibility to introduce ideas that are of some relevance to later discussions.

Narration

As seen in the notes to Federal Rules of Evidence Article VI Rule 601, legal considerations of “competency” are partially based on an ability to narrate. Since the definition of “narration” in these discussions is not defined in relation to any

developmental theory of child discourse acquisition, it seems safe to assume that “narration” is being defined in relation to adult concepts of narrative structure, or to phrase it differently, in terms of adult narrative competence. When one compares this competency requirement with children’s developing language skills, however, problems become apparent. Acquisition studies, for example, indicate that children often use “disorganized formats” when recalling past events or that while children are capable of giving explanations for events, often they do not (Eisenberg, 1985; Peterson, 1990; Stenning & Michell, 1985). As research has shown, children have competence that is still developing for relating past events and structuring those events in narrative style (Eisenberg, 1985; Fivush, Hamond, Harsch, Singer, & Wolf, 1991; Fivush & Shukat, 1995).

Peterson (1990), argues that children as young as 2 years old can produce narratives. In her 18-month longitudinal study, 10 children (2-3;6), were visited on monthly intervals. During each one-hour visit, the children were given initial prompts about experiences the parents reported their children had experienced, but no prompting was used during the child’s narration. Peterson reports that while the youngest children produced narratives that often included “what” information (e.g., they identified the props or objects that played a role in their stories), they seldom provided information concerning “when” or “why.” While time references were totally absent initially, once a child began to include them, time references were present in at least one narrative at each of the child’s successive interviews. Seven of the 10 children began to include time references in their narrative within one month (plus or minus) of achieving a MLU of 3.5,

which for these children was between 2;2 and 2;11. In defining children's use of time adverbials in narratives, Peterson reports that children often used words like "yesterday" to refer to any time in the past. While difficulties with words like "yesterday" may indicate an incomplete understanding of the lexical item, it does not preclude the possibility that children have acquired some cognitive concepts of time.

Peterson's study was designed to avoid the types of prompting, or "scaffolding," that often occur when adults interact with children telling stories. In many studies working with children at these ages and in real-life situations, when children tell stories to adults, a scaffolding process is used in which adults ask children questions to generate additional story elements or in which adults supply additional pieces of information. Peterson argues that this type of prompted/assisted storytelling may be one of the ways in which children acquire concepts of what types of information are important story elements.

To put this another way, the question-and-answer type of scaffolding that occurs when parents interact with their children is part of the socialization process in which children learn to tell stories. I argue that the question-and-answer sequences of the forensic interviews act as scaffolding process, and this scaffolding process socializes children to give event accounts that include information related to the legal definition of child abuse and that can be used to generate specific types of charges. Seen from another perspective, the question-and-answer sequences socialize children as legal witnesses, and it is partly this scaffolding and socialization process that constructs the child's legal witness identity.

Suggestibility

A traditional discussion of suggestibility, attributed to Gudjonsonn, defined suggestibility as “the extent to which individuals come to accept and subsequently incorporate post-event information into their memory recollections” (Ceci & Bruck, 1999, p. 44). In Gudjonsonn’s definition, external information is incorporated into memory so that inclusion of this information in an individual’s future narrative would be consonant with the individual’s memory. Ceci and Bruck (1999) modify this definition and propose that “suggestibility refers to the degree to which the encoding, storage, retrieval, and reporting of events can be influenced by a range of internal and external factors” (44). While both of these definitions involve a gradable conception of suggestibility, Ceci and Bruck’s definition accounts for both internal and external influences; for influences at different stages of the memory process, and for information that is not necessarily incorporated into memory. In other words, Ceci and Bruck’s definition of suggestibility collapses the possibilities of children being mistaken or misled with the possibilities that they are lying. While their definition creates the possibility of discussing social and cultural factors as influential ones—opening the door, for example, to discussions of power—its collapse of internal and external incorporation of information creates a negative construction of both the concept of suggestibility and of children as witnesses. All discussions of suggestibility under this definition are subject not only to questions of children’s memory mechanisms, but also to a set of ideologically based judgments involving children as witnesses. To critique this definition is not to argue that children do not lie or that children cannot be influenced to lie, but to point out

that there may be value in retaining a definition that that does not conflate factors in this way. It seems obvious that there is value in being able to examine not only the different factors that affect memory processes, but also to consider what factors can be responsible for motivating a child to knowingly incorporate information that he or she does not remember into a particular account.

Validity

In the area of research related to child abuse, researchers have begun to consider issues related to external or ecological validity. External validity refers to how well the results or observations found in a study can be generalized to other situations or can be seen as representative of real life (Campbell & Stanley, 1966; Cook & Campbell, 1979). In arguing for the examination of “real world” cases, Underwager and Wakefield (1990), for example, have argued that “no one has come close in duplicating in laboratory research what takes place when children are interviewed in the real world” (p. xiii). As part of an ongoing study, they examined 36 cases from 20 states. These included nine cases from day care centers, 13 cases involving divorce and custody situations, and 14 cases that were generated when neighbors, friends, students, or others initiated complaints. They add that only two of their cases involved intact families. The cases they studied, however, do not comprise a representative sample of typical cases. Ceci and Bruck (1999) also examine real-life cases, but it cannot be claimed that the cases comprise a representative sample. They write that they chose the seven cases they present “because between them, they contain the key elements of the cases we are sent by judges, attorneys, and mental health professionals” (p. 7). It should be noted that the cases they

discuss include the Salem witch trials as well as several day care cases, a type of case that represents a relatively small portion of sexual abuse cases. In Department of Health statistics for 2001, for example, providers represented approximately 1.8% of sexual abuse perpetrators (2003 p. 50).

Several major points can be made about the validity of studies like those described in Underwager and Wakefield (1990) and Ceci and Bruck (1999). First, these studies do achieve ecological validity by examining real-life data. A distinction needs to be made, however, between “real life” data and data that are representative of the cases that professionals deal with on a daily basis. The Salem Witch trials aside, both of these studies report on cases that were sent to the researchers for consultation or somehow represent cases that “contain key elements of cases” they have been sent. Neither of these studies claim to present an unbiased representation of “real life” data. Their data are biased in favor of cases which, for one reason or another, day-to-day practitioners found difficult or unusual enough to require consultation. A second type of bias is particularly relevant to the cases examined by Ceci and Bruck. Some of the cases they present are day-care cases from the 1980s that involved large groups of children, some of whom had already publicly recanted their testimonies citing coercive interviewing techniques. A third difficulty with the data in these two types of research is that, while they discuss the context of cases, they make no effort to distinguish how these contexts could affect the nature of the cases or how the type of case is affected by the overall legal process. For example, day-care cases often arise when a single claim about sexual abuse arises. Further cases are developed as the result of intensive investigation. This is not to say that

the further cases are more likely to be unreliable, but that these cases have an additional variable of having been found through investigation; they have an extra layer of legal process that the originating case did not have. A similar point can be made for accusations that arise during divorce or custody cases. These cases have different variables than cases where no preceding legal dispute is part of the context of the case. It would be hard to argue that these variables are not a subset of the kinds of external factors that that may affect children's suggestibility.

Finally, no distinction is made about the context of the interviews themselves. Cities, counties, and states can vary widely in the types of interview situations that can occur. These can range from unrecorded interviews held in the hallway of a school, a child's home, or a police station to audio and video tape recorded interviews at police stations or children's centers.

Collecting and evaluating real life data is only the first step to beginning a new type of analysis of child abuse claims. The population of cases involved must also be considered to keep variables as constant as possible. Finally, the consideration of the effects of the legal process of which the interview is a part is of vital interest.

In the present chapter, I have defined functional identities. I have discussed the most relevant aspects of the particular theoretical frameworks including speech act theory, conversation analysis, Marxist theories of state, and the ethnography of communication that I rely on in this study. I have outlined the major issues that related to children as witnesses, and finally, I have discussed the importance of collecting ecologically valid data.

In Chapter 2, I discuss my data collection and analysis methods and the implications of using the type of transcript data that I collected. Chapters 3, 4, and 5 discuss the major findings of the study.

In Chapter 3, I examine the overall structure of the interview event. In particular, I focus on how the legal witness identity is constructed in the pre-elicitation and post-elicitation sequences of the interview. This construction occurs as a result of two major processes. Legal witness is an identity of performance, and it is constructed in performance. The analysis focuses on how socialization processes in pre-elicitation sequences provide practice for an identity that is constructed in practice. Chapter 3 also focuses on how pre-elicitation sequences related to telling the truth and related to the purposes of the interview construct the child as a reliable legal witness by providing evidence for the record that the child understands concepts of truth, plans to tell the truth, and has not been coached.

In Chapter 4, I examine the elicitation of an event(s) section of the interview. In particular it examines the constructional dependencies that hold between the inter-related functional identities of legal witness, legal victim, and legal perpetrator. Analysis of the elicitation of account(s) section of the interview also reveals that the legal purpose of the interview inherently shapes the accounts and narratives that are co-produced in interviews. The interview process affects the structures of the stories that are told. There are two major styles of co-constructing a story about a particular event. The first is the highly interactive, relatively unembedded style of accounts. The second is the less interactive, but more embedded style of narratives. These styles are not without

consequence in relation to construction of children as witnesses. The focus on the legal elements of an account or narrative, however, has consequences for how identities are constructed. Children seem to be aware of the consequences of being interpellated as victims. This affects their constructions of legal victim, in turn, affecting both the identities of legal witnesses and legal perpetrator. Children can resist both interpellation as a victim and elements of the process of the interview and these forms of resistance have different consequences for how the identity of witness is co-constructed. Resistance has consequences for the construction of the legal victim and the legal perpetrator. Finally, while interviews provide practice for both the co-production of both accounts and narratives, they cannot be seen to socialize children in relation to how to co-construct narratives.

In Chapter 5, I examine the effects of having a third participant in the interview. Third participants change the participant structures of the interview affecting the power dynamics, and shifting the audience framework of the interview. In particular, the functional identity of witness is most strongly affected by an additional participant. Two interviewers provide a complex co-construction process, and this allows a child to co-produce a story that is detailed and cohesive, positively affecting a child's construction as competent legal witness. Relatives of the child can also provide a complex co-construction process allowing a child to co-produce a story that is detailed and cohesive. However, if the relative is seen as a co-author of information this can negatively affect the co-construction of legal witness. Finally, the addition of an interpreter affected the interview in a more fundamental way. Her presence allowed the child to participate in the

interview in her first language, allowing the child to answer questions more comfortable and facilitating the child's co-construction as a legal witness. The legal distinction between pre-trial and trial events, however, affects the kind of training that interpreters must have. And this interpreter's lack of legal training affected the nature of the language of the interview creating language that was less precise, more personal, and had the potential for affecting the legal implications of some answers.

Chapter 6 concludes the study. I consider the implications of examining forensic interviews from the perspective of identity construction. I consider the implications for the use of untrained interviewers in pre-trial settings and the importance of collecting data that represent "real life" cases. I discuss the therapeutic, theoretical, and the social, cultural, and political implications of the study. I encourage further research in the areas of identity construction and interviewer effects.

¹ All of the children represented in this study were female.

² Confidentiality agreements preclude a reference to the state statute cited here. However, every attempt has been made to choose a state law that closely resembles the one in the state where these data were collected.

³ I am indebted to Susan Philips for her help and discussions in developing this terminology.

⁴ The American Bar Association's 1985 *Guidelines for the Fair Treatment of Child Witnesses in Cases Where Child Abuse is Alleged* suggested reforms to make the legal system more sensitive to child witnesses (Bulkley, 1985). Since this time, many states have adopted provisions allowing children's depositions or preliminary hearing testimonies to be presented at trial, but this continues to be a matter of development and debate in individual states.

CHAPTER 2 - METHODOLOGY

Data Collection

Human Subjects Committees

Obtaining data related to cases involving minors is a very delicate and difficult process. Protection of human subjects is a vital part of all research, and in situations where the legal outcome of cases is involved and the psychological well-being of children is concerned, there is a particular interest in and responsibility for protecting the privacy of all parties involved. The data collection process for this study required the approval of two Institutional Review Boards. The first was the University of Arizona's Human Subjects Protection Program. The responsibilities of this program are to ensure that federal guidelines related to the protection of human subjects are followed. The second committee was a part of the Human Services program of Western State. The responsibilities of this committee are to insure that federal regulations related to human-subjects research are met and to insure that the research in question meets the Department of Human Services' vision and mission statements as well as the department's code of ethics, policies, and procedures.

Subject Consent and Assent

Federal guidelines require that subject consent or assent for research is gained. The Code of Federal Regulations Title 45 §46.408 requires that if the subject is a minor, permission from the child's parents or guardian must be obtained in addition to assent from the child (U.S. Department of Health and Human Services, 2001). In cases of child abuse, this presents unique problems. In many cases, the person or persons who are

required to give consent include either the individuals under investigation or close relatives of the individual. U.S. Department of Health statistics (2003) indicate that although sexual abuse accounts for only 4.7 percent of the total abuse perpetrated by parents, they represented 31,354 of the total 77,461 perpetrators of reported sexual abuse for the reporting year. This means that parents accounted for 40.48% of total number of perpetrators of sexual abuse cases. Unmarried partners of parents represented 4.52%. Other relatives represented 22.52% of perpetrators, and legal guardians and foster parents accounted for nearly 1% of perpetrators (2003, p. 50).

Considering that these categories account for approximately 68% of sexual abuse perpetrators, it becomes clear that gaining consent in a representative sample of cases is problematic. One method for addressing these difficulties is to restrict the data in a study to cases that do not relate to family members or relatives. However, since this would limit the data to approximately 32% of available cases, the collected data set would not be representative of typical cases and would consequently lack ecological validity. A second solution to this dilemma is to create a study that protects the privacy of individuals to the point that there is no need for informed consent⁵. While this approach is not itself without difficulty, it has the positive quality of increasing the ecological validity of the data set.

The Code of Federal Regulations (2001) defines a human subject as “a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information” (Title 45 §46.102 (f)). This same subsection of the regulation defines private information as “information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is

taking place.” However, the regulation also stipulates that in order for information to fall into this private information category, “Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.” In other words, in order for an individual to be considered a human subject for the purposes of an Institutional Review Board, his or her information must be individually identifiable. The redaction of identifiable information, then, can protect the privacy of individuals to the point that they are no longer definable as human subjects for the purposes of research. This study was designed to collect only data that have had identifiable information redacted. Identifying information that was redacted included the names of all individuals and agencies, dates of birth, social security numbers, addresses, telephone numbers, interview dates, and case and police report numbers. It also included information such as descriptions of places that would make the case identifiable.

This study design was received and approved by the Human Subjects Committee at the University of Arizona. Similar arguments were presented to the Department of Human Services Institutional Review Board of Western State, and the study was also approved there. Approval of this review board was also needed for the release of the transcripts.

A second reason that only redacted files could be collected related to the legal concerns of the city, county, and state governments involved. These governments had legal concerns that the identification of subjects might compromise both the legal

standing of the ongoing cases and the psychological welfare of the children involved. The agreements to collect only redacted transcripts required a method for redacting information from these documents. Since none was available from any of the state, county, and city governments involved, a method was developed for this project (see Appendix A). In practice, however, the method is dependent on the computer skills of the person responsible for the redaction process. In addition, the method can only be used on data in electronic form which excluded the police and sheriff's reports. For the individual who did all of the redaction for both the transcripts and the police and sheriff's reports, it proved easier to simply black out the material by hand. The result of this method of redaction, however, was that transcripts, as well as police and sheriff's reports were received as hard copies and scanning was necessary to achieve electronic versions.

A major difficulty in obtaining data for this study was the question of which organizations owned the data in relation to having the authority to release them for research purposes. For interview transcripts, there was some disagreement within Western State over who could release the data. Approval by the Department of Human Services Institutional Review Board, however, was eventually found to be tantamount to approval for the data's release. Approval for the Children's Center to participate in this study and release the transcripts, however, had to be negotiated with the county's attorneys. This negotiation included a legal contract requiring the protection of the privacy of individuals and the confidentiality of the data related to any of the collected cases. It also included a stipulation that violation of this contract was subject to possible criminal prosecution.

Approval for the collection of police and sheriff's reports, however, was not included in the approval by the Department of Human Services since these departments are not part of this government agency. While police reports related to adults are generally part of the public record, records that are related to child abuse cases are not released to the public. A provision in the legal code of Western State allows for research purposes the disclosure of records that typically would have been considered private or controlled. Restrictions of this provision require a researcher to show that the research cannot be reasonably accomplished without this information; that the research is bona fide and of value; that the researcher assures the confidentiality and security of individual identifiers; that the research does not disclose any information that is individually identifiable; and finally that the researcher provides written agreement to these conditions and to the fact that violation of these conditions makes the researcher subject to criminal prosecution. This provision of the state legal code was used in negotiations with each city police department and county sheriff's department to obtain police and sheriff's reports from departments that agreed to participate. In addition, negotiations with police departments required legal agreements with each department's city government, and negotiations with sheriff's departments required legal agreements with each department's county government.

As stipulated in the study design as well as the legal agreement made, pseudonyms are used to represent individuals in transcript excerpts and discussions. Generalized pseudonyms are used for the children's center where the data collection took place as well as for the police departments, sheriff's departments, cities, counties, and state where the data were collected.

The Data

Interview with center director.

Center directors interact with multiple agencies, including Child Protective Services and law enforcement agencies, to coordinate medical exams, forensic interviews, and therapeutic support. They are intimately familiar with the types of decisions that are made at each stage of the legal process. Multiple interviews with the director of the Children's Center in this study provided general background information about the purposes and goals of such centers as well as information about the legal process itself. Due to the need to protect identities, no recordings of these interviews were made. However, since no individual cases were discussed, it was possible to take notes.

Transcripts.

This study examines the transcripts that were generated from interviews that occurred during a three-month period at Children's Center in Western State. Only cases involving children from ages 3 to 12 were collected. Although research indicates that children as young as 2 years old can narrate stories, this ability seems stronger at age three and it may be possible, for example, that preschool could play a role in children's abilities to narrate. Poole and Lamb (1998), for example, argue that "Children's expectations about conversations with adults are undoubtedly refined by exposure to formal schooling as well" (p. 77). Twelve was chosen as the upper age limit for the simple reason that an upper limit was necessary and separating pre-teens from teens provided a convenient limitation.

Only transcripts from cases involving adult perpetrators were collected.

Transcripts involving juvenile perpetrators were excluded since the legal process for juveniles is different from that of adults and often results in optional or state-ordered therapy (Center Director, personal communication, August 18, 2003). Transcripts involving families undergoing divorce or custody cases were also excluded in an attempt to control for any additional variables these cases might generate as discussed in Chapter 1. Using these criteria, 19 transcripts were collected from Children's Center. In total, there were approximately 264 pages of transcripts. In the 12 longer transcripts, there were notations marking when audio tapes had been turned over. Each tape was 30 minutes per side, and this allowed for a calculation of how many minutes each page represented for each interview. This minutes per page was used to estimate the total length of the individual interview. In order to estimate the length of the interviews that were shorter than 30 minutes and therefore had no time indications, I averaged the minutes per page from the 12 longer interviews and used this average to estimate the total number of minutes for the seven remaining interviews. The total from all 19 interviews was approximately 638 minutes. This information is displayed in Table 1. Word counts were also done. These data represent a small corpus of approximately 72,300 words.

Information regarding gender, age of the child at the time of interview, and occupation of the interviewer was collected for demographic purposes. In total, the interviews studied here represent 19 children and eight interviewers. The children, all female, ranged in age from 3;4 to 12;8. There were five female and three male

interviewers. Their job descriptions include social workers, detectives, and police officers. (See Table 1).

Table 1. Summary of Individuals Represented in Interviews

Tran.	Child	Gen.	Age	Interviewer	Gen.	Other Participant	Police Rep.	PP.	Min.
1	Sophie	F	3;4	Nessa, Social Worker	F	Male (leaves)		8	19
2	Tina	F	3;10	Nessa Social Worker	F			7	17
3	Sara	F	3;11	Meagan, Social Worker	F	Mother (leaves)	√	15	32
4	Keira	F	4;1	Meagan, Social Worker	F	Grandmother (brought in)		12	32
5	Tanya	F	4;11	Meagan, Social Worker	F		√	12	32.
6	Abby	F	4;11	Mark, Detective	M		√	8	19
7	Katie ^a	F	5;0	Nessa, Social Worker	F		√	17	41
8	Marisa	F	5;6	Tracie, Social Worker	F			5	12
9	Kortney	F	6;2	Meagan, Social Worker	F			10	24
10	Kirsty	F	7;4	Tracie, Social Worker	F			7	37
11	Kimmie	F	7;10	Meagan, Social Worker Andrew Police Officer	F M	Police Officer		27	52
12	Amy ^a	F	8;0	Nessa, Social Worker	F	Mother	√	30	88
13	Summer	F	8;3	Meagan, Social Worker	F		√	14	41
14	Nicole	F	10;0	Jackie, Social Worker Iliana, Interpreter	F	Interpreter	√	26	45
15	Alicia	F	10;9	Meagan, Social Worker	F		√	14	34
16	Nadine	F	11;7	Vicky	F			8	19
17	Chelsy	F	11;10	Meagan, Social Worker	F			14	34
18	Cassie ^b	F	12;8	Orin, Detective	M			11	26
19	Cathie ^b	F	12;8	Meagan, Social Worker	F			19	34
TOT.								264	638

^a Two children interviewed about the same incident.

^b Two children interviewed about the same incident.

Police and sheriff's reports.

Part of the original design of this project included an analysis of how the stories that are elicited in forensic interviews are entextualized in their relevant police and sheriff's reports. This interest relates to the question of how stories are shaped by the legal process. Trinch (2003), for example, has found that Latina's narratives of domestic violence are shaped by the institutional settings in which they are told. While police and

sheriff's reports were collected, the shift in research focus toward an analysis of how functional identities are constructed reoriented my use of these data.

This center interacts with approximately 20 city police and county sheriff's departments. Twelve of these departments are represented in the collected transcripts. Six of these 12 city and county governments agreed to participate in this study, citing their interest in the importance of research related to children's issues; the remaining city and county governments declined to participate; citing legal concerns. Once legal permission for the police or sheriff's report had been obtained, I provided the employee of the Children's Center with evidence of the participation agreement. This individual then collected the relevant reports and redacted the identifying information before releasing the reports to me. The collected police and sheriff's reports correspond to eight of the interviews resulting in a total of eight transcript-police report pairs within the total set of 19 transcripts (see Table 1).

In her examination of the role of police reports in relation to the concept of institutional memory, Trinch (2003) notes that police reports serve multiple functions. She points out that a police report is a "linguistic representation of a past event that is produce in an interview setting by a person who recounts his/her perceived victimization to a police officer" (p. 33). She argues that while police reports may not be as significant to the extended legal process and to charges being filed as a formal signed statement might be, they are significant narrative disclosures that document the "criminal activity in terms of taxonomy and frequency" (p. 33). An important point that Trinch makes is that police reports inscribe "the event as an account in an official space" further imbuing it

“with credibility and authority, which it is not likely to have garnered in its oral form” (p. 33). In other words, the process of re-contextualizing particular aspects of the account into the police or sheriff’s report enters those aspects of the account into institutional memory. The police and sheriff’s reports examined here contain a sequence of short reports that entextualize information from the various stages of the legal process beginning with the police or sheriff’s first introduction to the case and continuing to stages beyond the interview. In this way, the police reports contextualize the interview as a part of the extended legal process. The sections related to the interview are typically very short narratives or summaries of the observed interview focusing on key elements that are related to the legal definitions of particular actions. They serve as a record justifying the precise charges that are brought.

The Effects of Using Transcripts in this Study

Although interviews in Children’s Center are audio and video tape recorded, legal concerns about identification of individuals precluded the collection of these data. As noted, only redacted transcripts could be collected, and this has consequences for data analysis. The transcripts in this study were transcribed from the audio tapes of the interviews. Except for T:4, which includes the use of Spanish, the they were all transcribed by the same individual. The process of transcription entextualizes an oral interchange into a particular written form; and this written form, along with the audio and video tapes of the event, is entered into the record as part of the police or sheriff’s report. All acts of data collection in some sense transform how particular events are perceived and can be evaluated (Du Bois, Schuetze-Coburn, Cumming, & Paolino, 1993; Duranti,

1997; Edwards, 1993; C. Goodwin, 1994; Ochs, 1979). For example, audio tapes cannot convey communicative information relating to gesture and facial expression or convey information related to space and physical alignments of participants. As Philips (1983; 1986) demonstrates, an analysis of setting is important because it can provide information about participant roles and the power dynamics of the event. Video tapes, while having the potential to provide more information related to facial expression and gesture as well as physical space, can only provide a single point-of-view account (for each camera) of an event that is experienced by participants from multiple points of view as their positions in the room change.

Transcription itself is not a simple or perfect process, and it can affect data in various ways. Due to the different levels of information available in oral speech and the limitations of written speech, transcribers are forced to make decisions about transcription that have consequences for how analysis can be done (Duranti, 1997; Edwards, 1993; Ochs, 1979). Using transcripts does not mean that no positional information is available, however. Notes are added to a transcript when an individual enters or exits the room, for example. In the cases studied here, various units of interaction within the interview itself are often marked by the exit and return of the interviewer as he or she consults with an observer as seen in Excerpt 1.

Excerpt 1

5 Meagan (Social Worker)
 457 M: Okay. I'm going to step outside for just one more minute. Do you want to keep coloring?
 458 We're almost done, okay? All right. (squeaking sounds) (noises) (door being opened) (door
 459 being closed) (noises) (coloring sounds) (door being opened) Okay. What do you think you
 460 do (door being closed) if someone did try and touch your privates?

The beginning and ending boundaries of the interview event, at least from an adult perspective, are marked by the boundaries of the interview room and the entrance and exit of the parties involved. These arrivals and exits correspond to the beginning and end of the transcript of the event.

Transcriptions can vary widely in the level of information they convey. Transcription forms range from broad transcriptions that include full words and sentences to those that include details such as length of silences, vowel lengthening, stress, and overall pitch contours (Du Bois et al., 1993). Since the transcripts examined here become part of the legal record of the case and need to be read fairly easily, they are transcribed rather broadly. They do, however, include details such as false starts, verbal tics, and a limited type of overlap.

Questions of transcript accuracy.

In examining the transcripts of court reporters, Walker (1985; 1986; 1990) has shown that specific types of discrepancies occur. She writes that court reporters are charged by law to create accurate transcripts of legal proceedings, and that the implicit assumption behind this legal charge is that “an accurate record of an oral/acted event can be made by writing down exactly what was said” (1990, p. 203). She argues that despite implicit legal assumptions, equivalence is impossible due to the essential differences between spoken language and written language. Spoken language occurs in an undifferentiated stream; written language is expected to be delineated. Spoken language includes starts, hesitations, shifts in midstream, and few integrative devices; written language is expected to form a smoothly connected, cohesive whole.

A second source of possible discrepancies is related to the “intersection of beliefs” between reporters’ beliefs about language and their beliefs about their profession. Walker (1990) found that court reporters often edit the grammar of the incoming stream of language, but this was not done unilaterally. Walker found court reporters were more likely to edit the grammar of judges, attorneys, and expert witnesses than they were to edit the grammar of witnesses. She argues that this is due in part to court reporters’ perceptions of judges, attorneys and expert witnesses as “educated” and in part to their consequent expectations that such individuals should use “correct grammar.” This may be due to court reporters’ awareness that such individuals often have access to the transcripts later. The editing may also be the result of court reporters’ understandings that the language of such witnesses can be edited because they were, in general, not offering “sworn testimony.” As Walker notes, this discrepancy in edited versus unedited language results in transcripts in which the language of the judges, attorneys and expert witnesses appears as far more grammatically distinct from the language of witnesses than it actually is.

The quality of transcripts is also affected by the method of transcription. Greenwood, Horney, Jacobovitch, Lowenstein, & Wheeler (1983) compared the accuracy of transcripts generated by stenographic methods to those generated from audio tapes. They collected the two types of transcripts from 82 civil and criminal cases that varied in complexity and length. The data included several bilingual court proceedings. In order to find possible inaccuracies, they compared the transcripts prepared from stenographic methods to transcripts prepared from audio tapes for overall accuracy.

When a discrepancy was found between the two types of transcripts, they referred to the audio tapes to determine which transcript was the most accurate. They found that the audio-based transcripts matched the audiotape in 56% of the discrepancies with the steno-based transcripts matching in 36% of the discrepancies. In 3% of the discrepancies, neither type of transcript matched the tape, and in the remaining 5% of the discrepancies the audiotape could not resolve the discrepancies. They further separated the types of errors into categories including the omission, addition, and substitution of words; speaker missing or misidentified; word form and word order changed; and omission of verbal tics and false starts. The audio-tape transcripts produced fewer errors in all except three categories that are strongly linked to visual elements: identity of the speaker, false starts, and verbal tics.

A concluding discussion about transcripts concerns what they do provide. While transcripts may not provide linguistic suprasegmentals such as prosody, stress, or intonation, this does not mean that emotive elements cannot be analyzed. As Jakobson (1990) has argued, the emotive function “flavors to some extent all of our utterance, on their phonic, grammatical and lexical levels” (p. 74). As the proponents of conversational analysis argue, the advantage of using recordings and transcripts is that they can provide a record of an interaction that allows examination and reexamination of naturally occurring language (Sacks, 1984). They also allow for the examination of data relative to different research questions and provide for the comparison of data across corpora (C. Goodwin & Heritage, 1990). Finally, not all intonational information is missing from the transcripts analyzed here. Interviewers often use rising question intonation with

grammatical command forms and, in these transcripts, this is transcribed with the use of a question mark as seen in line 126 of the following excerpt.

Excerpt 2

T:13	Meagan (Social Worker)	Summer (8;3)
124	Okay. Okay. I heard maybe that um, something happened. Is that true, or false, or-?	
125		True.
126	Okay. Tell me what happened?	

Data Analysis

Upon obtaining the print versions of the transcripts, I scanned each of them with CanoScan and then used OmniPage Pro 8.0 for the optical character recognition necessary to convert them into text files. Scan errors were corrected by hand and each blacked out identifier was replaced with an appropriate pseudonym. Due to the density of blacked out areas in the police and sheriffs reports, scanning was not possible, and they were reentered by hand with each blacked out identifier being replaced with a pseudonym.

Transcript Organization

The first major decision that was made related to the overall layout of the transcripts for analysis. The original transcripts were transcribed with the speakers following one another in a top-down, single-column format with each line numbered by individual page as seen in Excerpt 3.

Excerpt 3

T: 13
 7 M: Okay. (mic bumped) How did he do that?
 8 K: Uh . . .
 9 M: Like-, you said you had a towel on?
 10 K: Yeah.
 11 M: Was it o-, on-, on the towel, or under the towel, or something else?
 12 K: Under the towel.
 13 M: Okay. How did-, and what did he touch you with?
 14 K: His hand.
 15 M: Okay. What-, what do you call that part of your body that he touched?
 16 K: Private.

While this transcript format is very useful for some types of analysis, it does not visually represent the participant structure of the room. Possibilities for organization, however, range from this typical format, to a format that represents individual speakers, to a kind of score-like format (Edwards, 1993; Ochs, 1979.) In particular, Ochs (1979) discusses how choices of the layout of transcripts have consequences for the assumed power relations among participants. She argues that if adults are always listed first—visually higher—than children, for example, it reinforces concepts that adults have the power in the relationship. She argues for a side by side format with the child being represented in the left-hand, first-read column, thereby visually counterbalancing power relations.

In the interview represented in this transcript, for example, a second interviewer, a male police officer, participated in the interview. In order to more clearly see the interactions, I decided to cut the transcripts into the individual speaker parts and create a side-by-side, column format which more clearly recognizes the presence of the second interviewer even in sections of the interview where he is verbally silent. In response to Ochs' argument that putting the child in the first column would visually counterbalance

the perceived asymmetry in the power relations, I originally formatted transcripts with the child in the left column as in Excerpt 4.

Excerpt 4

T:11	Kimmie (7;10)	Meagan (Social Worker)	Andrew (Police Officer)
342		Okay. (mic bumped) How did he do that?	
343	Uh . . .		
344		Like-, you said you had a towel on?	
345	Yeah.		
346		Was it o-, on-, on the towel, or under the towel, or something else?	
347	Under the towel.		
348		Okay. How did-, and what did he touch you with?	
349	His hand.		
350		Okay. What-, what do you call that part of your body that he touched?	
351	Private.		

However, due to the fact that as readers, we tend to consider things on the left to temporally precede things on the right, I found working with the transcripts in this manner very difficult and finally reversed the two columns simply for the ease of reading as seen in Excerpt 5.

Excerpt 5

T:11	Meagan (Social Worker)	Kimmie (7;10)	Andrew (Police Officer)
342	Okay. (mic bumped) How did he do that?		
343		Uh . . .	
344	Like-, you said you had a towel on?		
345		Yeah.	

- 346 Was it o-, on-, on the towel,
or under the towel, or
something else?
- 347 Under the towel.
- 348 Okay. How did-, and what
did he touch you with?
- 349 His hand.
- 350 Okay. What-, what do you
call that part of your body
that he touched?
- 351 Private.

What became quickly visually apparent in the case of two interviewers was that each interviewer tended to allow the other interviewer to interact with the child for relatively uninterrupted sets of turns resulting in two sets of dyadic pairs. In this case, it was easier to keep the child in the center column. Finally, in the interview where there is an interpreter, it made visual sense to represent the interpreter in the center column.

I found that in transcripts that represent a child who is producing very short turns, as is the case with all of the younger children in these data, dividing the transcript into columns is a very useful way to visually assess the language production asymmetry inherent in the interaction. This visual representation of the language production asymmetry is decreased with the older children. In two interviews with the older children, Chelsy, 11;10 and Cassie 12;08, for example, the girls produced extended-turn narratives and, overall, produced more language than their interviewers.

Cutting the transcript apart and dividing the speakers into columns provides a transcript that more visually represents the dyadic, or in some cases triadic, nature of the interview. In sections of the interview where a second adult is questioning a child, it remains visually clear that there are three participants in this interview. A second value in viewing transcripts in this way is that it becomes easier to compare relative turn lengths.

It is visually clear that in Excerpt 5, for example, that much of the work of eliciting the story is done by the interviewer. I found that identifying longer narrative turns is facilitated with this format. Finally, cutting the speakers apart in the transcript made it possible to obtain separate word counts for each participant.

Data Coding

My first set of codes related to the types of questions that interviewers were asking. This focus was motivated by research related to the possible coerciveness of different question types. For example, Danet and her colleagues (1980b) analyzed question types and lawyers' uses of questions to discredit witnesses. They proposed a typology of question forms in terms of their coerciveness. In their continuum, declarative questions are the most coercive, followed by accusative yes/no forms. Next are the yes/no or choice questions, and on the least coercive end of the continuum are open-ended questions. Danet et al. add a set that they call "requestions"—questions in the form of a request such as "Could you tell us what happened?" as the least coercive of all question types.

But question type is not the only variable an attorney or interviewer can manipulate. Philips (1982) argues that the degree of coerciveness of a question is a function of social as well as linguistic processes. For example, she found that some of the coerciveness of a question arises from the status of the questioner in relation to the status of the witness. Matoesian (1993), among others, argues that the syntactic form of questions can provide the person asking the questions with a great deal of local management in turn-type preallocations such as question-answer sequences. He argues

that while these types of sequences limit the first pair parts to questions, “the range of syntactic options [in question forms] allows considerable scope for choice and strategic maneuvering” (1993, p. 150). He further argues that “if power involves one actor possessing more options and resources than another . . . then the interaction between socially structured talk and question form translates into differential control capacity and coerciveness of question form” (p. 150).

Research also suggests that it is not simply the syntactic structure of questions that gives one participant more options than the other. The participant with power also has the ability to repeat questions. Ceci and Bruck have noted that “when children are asked the same question more than once, they often change their answers” (1993, p. 419). They argue that it is possible children may “interpret repeated questions as ‘I must not have given the correct response the first time; therefore, to comply and be a good conversational partner, I must try to provide new information’” (p. 419). Although it is easy to see the repeated question and the changed answer in this sequence, repeated questions can also operate over multiple interviews and have similar consequences (Poole & White, 1995).

In order to look at issues related to coerciveness and power, I created an initial coding scheme. See Appendix B. For wh-questions, I coded for wh-word; for whether the questions was in full form, *Who took you to that room?* or short form *Who did?*; whether the question was subject focused *Who did that to you?* or other focused, *Where did you go?*; and finally for non-subject focused clauses, whether their was fronting *Where did you go?* or no fronting, *You went where?* I coded for several types of yes-no questions

dependent on the kind of answer that each question required and coded tag questions for their polarity in relation to the declarative statement they were tagging.

While coding, I realized one of the major shortcomings of the coding scheme. It simply did not account for all of the typical turn options that I was finding in the data related to interviewer's turns. I modified the coding scheme by adding items such as command forms, repetitions of self and other, and other verbal feed back responses such as *OK* or *uh huh* or responses that could be seen as evaluative. See Appendix C.

A conversational analytic approach to the question-and-answer sequences, however, suggests, as Schegloff (1984) does, that considering questions from a syntactic perspective cannot explicate what a question-form turn is accomplishing in the ongoing interaction. As Schegloff points out, questions can be used for purposes other than questioning. They can be used to make suggestions, issue polite commands, show agreement with an ongoing argument, or continue a story, for example. On the other hand, other grammatical forms can be used for the purpose of eliciting information. Once I began to consider the content/function of questions, I realized that although each interviewer turn contained a question of some form, each interview had a general overall pattern. Not all questions were related to generating an account, for example. All of the interviews had an overall pattern of a set of sequences that generally occurred before the question-and-answer sequences whose purpose was to elicit an account. I labeled these pre-elicitation/opening sequences. These were followed by the question-and-answer sequences that elicited an account(s). Finally there was a set of sequences that occurred after the account elicitation was complete. I labeled these post-elicitation/closing

sequences. As discussed in Chapter 3, these sequences socialize the child and construct her as a legal witness. They also construct the legal victim and legal perpetrator. These three major sections serve different purposes in the overall interview event and are used to construct identities in different ways.

A second benefit of focusing on the content and purpose of individual questions was that I realized that particular questions focused the account in relation to specific actions as they are defined in the laws related to child abuse. These questions were also asked in relation to how specific charges could be filed. These instincts were borne out in the instances where I was able to obtain police and sheriff's reports that contained statements of whether charges were filed.

Finally then, I began an analysis of how the content of questions related to issues of how particular actions and relationships were integrated into the ongoing account and how these actions consequently constructed the mutually constitutive identities of legal victim and legal perpetrator in the ongoing interaction. I began coding specific question-and-answer pairs that co-constructed particular pieces of information related to the specific actions defined in the law and the specific relationships defined in the law. I was during this coding process that I realized that the process of the interview itself was socializing the child to the relevance of particular narrative elements and therefore, in another sense, socializing them as legal witnesses.

⁵ I am indebted to Cecile McKee for her insight in this area.

CHAPTER 3 - IDENTITY IN PRE AND POST-ELICITATION SEQUENCES

Many classical conceptions of identity equate personal identity with notions of the self, the soul, consciousness, or the subject. Notice that even these terms of identity do not represent simple notions. It is possible to say, for example, as Gallagher and Marcel (1999) do, that “in my various activities, I am many different selves to many different social groups” (p. 19) and at the same time, define “self” as the “relatively integrated agent that in some way constitutes what is ordinarily called the self” (p. 19). In other words, for them, the concept that is often referred to as the self can be said to consist of multiple selves realized in various contexts.

I have used the term “functional identity” to discuss the identities that are constructed for a particular purpose or function. In some cases, these functional identities can be seen to function as a necessary part of the process of constructing what I have called a mutually constitutive identity. In examining the construction of identity in relation to the forensic interviews that are under analysis in this study, this chapter focuses on the identities of legal witness, legal victim, and legal perpetrator.

A useful way to organize a discussion of interviews as sites for identity construction is to consider how individual interviews can be analyzed as particular speech events. Hymes (1986) defines speech events as those ways of speaking that are “restricted to activities, or aspects of activities, that are directly governed by rules or norms for the use of speech” (p. 56). He identifies elements of speech events including participants; settings and scenes; message forms and contents; forms of speech; and norms of interaction and interpretation. Gumperz (1982) makes the point that these social norms

are context specific. Considering speech events as representations of social norms opens discussions of the acquisition of competence in specific types of events to discussions of socialization. Ochs and Schieffelin (1995) define language socialization as “the process in which children are socialized both through language and to use language within a community” (p. 73). At least two interactional processes in forensic interviews provide opportunities for socialization. First, there are intra-interview processes. These are processes within the interview itself that socialize children to interview procedures. Forensic interviews have an overall structure that contains three parts. The first part consists of formalized question-and-answer sequences that serve a variety of purposes. These question-and-answer sequences partially serve to socialize children to the ongoing question-and-answer format of the interview interaction. The second part of the interview structure consists of question-and-answer sequences that are used to elicit an account of the alleged event(s). The third part of the structure consists of a formalized set of question-and-answer sequences that serve a variety of purposes including closing the interview event.

Inter-interview socialization processes also occur. These processes are the result of the reality that forensic interviews are not context independent events. Interviews must be considered in relation to their position within the legal process that is initiated when an accusation is made and may end in a variety of legal outcomes. As a result of the position that forensic interviews hold within the chain of events that make up the legal process, children have often been informally and/or formally interviewed before they participate

in these interviews. Depending on decisions that are made in relation to these interviews, children may also act as courtroom witnesses in later stages of the legal process.

Some of the socialization processes that children encounter in these interviews are familiar to them, of course. In everyday life, children's acquisition of storytelling elements, for example, is often aided by scaffolding procedures that occur as a parent or other adult asks questions related to particular, salient story elements (Peterson, 1990). Children have some everyday experience in co-constructing stories with adults. In these everyday story telling events, however, children do not experience the recurring questions that are the mainstay of the interactional structure of interviews. As one 4 year old, who had experienced an extended question-and-answer sequence in which she was asked to identify various body parts, expressed this "Why are you asking too many questions?"

The Interview as an Event

The Interview as a Bounded Event

As speech events, interviews are bounded in both time and space. As noted earlier, Children's Center is in an old home. The interviews take place in rooms that were once bedrooms. These rooms are decorated to resemble a child's playroom replete with toys, stuffed animals, and paraphernalia for drawing such coloring books, paper, pencils, markers and crayons. They differ from the typical play rooms that a child might encounter in her everyday life, however, because they include a video camera, tape recording equipment, and a large observation window.

The interview rooms in this house are situated along a hallway. This hallway provides space where individuals related to the case gather prior to the interview itself. These individuals may include, but may not be limited to, the center's director, the police officer assigned to the case if he/she is not the interviewer, and adults accompanying the child. The space also allows for observations of the interview. While adults accompanying the child typically wait in a room that resembles a living room, police officers related to the case may observe from the hallway or watch the video monitor.

The beginning and ending boundaries of the interview event itself are marked for adults by the arrival and departure of the parties involved. The formal/legal record of the event begins with the two major participants' entrance into the interview room. It is also marked by a sequence of formal procedures. Adults and children who participate in these events may have differing experiences of the interview event's boundaries. While interviewers may experience the interview as roughly beginning and ending with the entrance and exit of the interview room, and this notion is supported by the fact that the audio and video records of these events generally begin and end at these points, this does not entail that children's experiences of the interview correlate with the boundaries of the interview room. The child's experience of the interview may begin at home or in the car when discussions related to where the child is going occur. The child also has the extended social experience of arriving and leaving the house in which the interview room is located. In other words, the event that is constructed and perceived by the interviewers and other authorities as the forensic interview may be bounded in different ways for the child.

Participant Structures

Forensic interviews can also be described by what Philips (1972; 1983) defines as participant structures. The canonical forensic interview is a speech event with two primary participants—an adult interviewer and a child interviewee. The 19 interviews examined in this study are conducted by eight interviewers: four social workers, who do 16 of the 19 interviews; three police officers; and one interviewer, whose job description was not provided. Nineteen children participated in these interviews.

When considering the participant structures of interviews, it is important to keep in mind that when social workers are conducting interviews, the involved police officer is often watching through the observation window. As Goffman (1981a) and Bell (1984) have demonstrated, an observer, in particular one who is known to be observing by the participants of the interaction, affects the interaction. Third parties whom the speakers knows to be there, but who are not ratified participants, are labeled as *overhearers*. Bell (1984) defines two types: “acquainted overhearers (those a speaker knows personally, for whom the speaker may specifically design an utterance) and unacquainted overhearers” (p. 177). Social worker interviewers are clearly aware of the observing officers. In some interviews, as seen in Excerpt 6, the child is also aware of this officer’s presence.

Excerpt 6

T: 15	Meagan (Social Worker)	Alicia (10;9)
133	Cool. All right. Well who told you about coming here today?	
134		My sister.
135	What did she say?	
136		I’m going to talk to a policeman.
137	And that’s a policeman in there.	
138		Yeah. (laughs)

Observing officers' roles, however, are not limited to overhearing the ongoing interview. They often interact with the interviewer late in the interview when the interviewer comes out to consult with them. As evidenced by the fact that the interviewer upon returning to the room pursues or re-pursues a particular line of questions, it is clear that the officer not only affects the interview as an overhearer, but also shapes the interview as a participant in the hallway discussion.

Any discussion of the participant structure of these interviews must also take into account the fact that these interviews are audio and video tape recorded, that the audio tapes can be transcribed, and that audio and videotapes, along with any transcripts, are entered into the record as part of police and sheriffs' reports. Not only do these entextualization processes enter information related to the interview into institutional memory (Linde, 1999; Trinch, 1999, 2003), they also provide audiences that are not present at the interview event itself. Eight of the 19 interviews contained references to the recording equipment in the room indicating that interviewers often make children aware of the possibility of this audience. For example, in line 11 of Excerpt 7, the interviewer originally begins to say "So they're" and then changes it to "we're audio and videotaping this" leaving the child with a possible awareness that some undefined "they" may exist who have something to do with the audio and video tapes.

Excerpt 7

T: 12	Nessa (Social Worker)	Amy (8;0)	Mother
11	And there's a camera up there. So they're-, we're going-, we're audio and videotaping this		
12	so that you don't have to like watch me take notes and we don't have to ask you questions		

13 over and over. (coughs) Excuse
me. (creaking) Can you tell me
your whole name?

In this particular exchange, the pronoun “we” in line 12 is ambiguous. On one hand, it may reference the social worker and the child’s mother, who is present. It seem unlikely that a child would interpret this pronoun is this way, however, because she may not perceive her mother as present for the purpose of asking her questions. It also seems unlikely that the interviewer would produce this pronoun with this meaning. Of the eight interviews in which recording equipment is mentioned, five represent occasions where an interviewer was alone with the child in the room. In these five interviews, the interviewer either overtly refers to the observing police officer as the interviewer does in Excerpt 8, or the interviewer uses the pronoun “we” implying that there is an extended audience to these interviews. Again this “we” is ambiguous since in one interpretation, it can be seen as referring simply to the interviewer and the accompanying police officer. However it is also possible that it refers to the members of the center who are responsible for dealing with the equipment.

Excerpt 8

T: 13 Meagan (Social Worker) Summer (8;3)

16 All right. And just so you know there is a video
camera. Did you see that over there?
17 That’s so-, did you see the other-, the police
officer downstairs? Did you see him? Okay.
18 He came in I think before I did but um, his job
is also to he1p keep kids safe okay? But that
19 way everyone doesn’t have to sit in the room
with us. He’s just going to watch it on, on the
20 TV in the other room okay? But no one else can
see it or anything like that okay? All right?

Either interpretation introduces the child to the possibility of other audience members. It should be noted, however, that interviewers also attempt to limit notions of this perceived audience either implicitly, by defining the other member of “we” as the observing police officer, as seen in Excerpt 8, or explicitly, by making a statement like the one in line 20, “But no one else can see it or anything like that okay?” Explicit statements like this one showed up in three of the six interviews that provided explanations of the equipment. Interviewers themselves, however, are well aware that the audiences of the interview are not limited in this way. They know that the audio and video tapes as well as the transcripts are available for future review. This availability is sometimes referenced in police reports, “I received the transcript and tapes of Sara’s interview. The tapes were booked into evidence. See attached transcript.”

In his discussion of how audience design affects interactions, Bell (1984) discusses audience members who are not present in the interaction, but who, nonetheless, have an influence on speakers’ attitudes. These audience members hold what Bell refers to as an “umpiring role in the speaker’s consciousness” (p. 161). He labels these audience members as “referees” and defines them as “third persons not physically present at an interaction, but possessing such salience for a speaker that they influence speech even in their absence” (p. 186). While the question of how consciously aware interviewers are of these referees is beyond the scope of this study, interviewers are aware that the tapes of these interviews may be watched or listened to and that the interviews may be transcribed and possibly referenced in the future, and this provides interviewers with a very salient

set of possible referees of whom the child is most likely unaware. Essentially, then, the perceived audiences for the interviewer and the child are not the same.

Finally, in a small number of the interviews considered here, a third participant, such as a police officer, a parent, a grandparent, or an interpreter, is present in the interview room. The roles of these third parties are discussed in more detail in the Chapter 4.

Participant Structures and Relative Status/Power

As the discrepancy between adults' and children's understandings of potential audience members might suggest, an initial discussion of the interview as an event must take into consideration the fact that the two major participants, the interviewer and interviewee, do not approach this event with equivalent levels of expertise.

First, the interviewers represented in this study are social workers or police officers who have not only received specialized training in doing interviews, but who have experienced multiple instances of this type of speech event. Due to the extended legal process of which these interview events are a part, many children have already experienced question-and-answer interactions related to the alleged sexual abuse. So while children may have begun participating in events that have some of the interactional elements of these interviews, they cannot be seen as having an equivalent understanding of the norms of the speech event. The adult-interviewer and child-interviewee relationship can be described as an expert-novice one. In their description of interviews that occur in a junior college counselor's office, Erickson and Schultz (1982) note some of the same inequalities between interviewer and interviewee that are seen in these

interviews with children. “Typically the interview is an encounter among strangers who are unequal in authority and in familiarity with the conversational routines of the interview. It is an essential task of the senior person in the encounter to inquire into, and then officially ratify, *who the junior person is*” (p. 4 emphasis in the original).

Other asymmetries relate to the interviewers’ experience and knowledge of both the environment and the context of the interviews. Interviewers are generally familiar with the surroundings of the event. More importantly, interviewers are aware of the goals of this event as well the possible consequences of any information gathered. Finally, these knowledgeable participants produce and interpret particular sets of formal and functional interview and language features in relation to ideological constructions of evidence, coherence, and the nature of the particular actions in question. Even though some children arrive with some experience, they do not possess the full range of formal and functional interview skills their interview partners possess. The children being interviewed are not as familiar with the surroundings. They do not fully understand the goals and consequences of the event. Finally, they have not yet acquired the ideological constructions of evidence, coherence, and the nature of particular actions that their adult counterpart possesses.

Finally, interviewers are adults, and as adults, they represent individuals who occupy positions of power and social status relative to children. Fairclough (2001) defines this type of power as the power *behind* discourse, “The idea of ‘power behind discourse’ is that the whole social order of discourse is put together and held together as a hidden effect of power” (p. 55). When considering the power differences between

children and adults, however, it is obvious that some of the effects of power are also overt. Adults, for example, control the time and place of the interview. In the interview they can control the seating arrangements as seen in line 7 of Excerpt 9. This control of seating arrangements can be referenced in relation to the requirement of the recording equipment, but children do not control either the recording equipment or the seating arrangements.

Excerpt 9

T: 12	Nessa (Social Worker)	Amy (8;0)	Mother
3	You can move that bear.		
4			<unclear>
5	And she can sit on that side. (door being closed)		
6			That side? Thank you.
7	Can you come down this way so you can be on the camera.		
8		Uh-huh (yes).	

Adults also control the overall structure of the interview, often following developed protocols (Poole & Lamb, 1998). Adults control a vast majority of the interviews' topics, and they control turn sequences because they are the ones in control of asking questions. As Trinch (2003) has noted, the turn-taking, topic-raising, and topic-ratification rules that are constantly under negotiation in ordinary conversation are pre-allocated in interview situations so that it is the interviewer who raises topics, asks questions, and has the ability to determine "when and whether the other [the interviewee] has supplied a sufficient amount of discourse on a given topic" (p. 42). Matoesian (1993), among others, has argued that the syntactic form of questions can provide the person asking the questions with a great deal of local management in turn-type preallocations

such as question-answer sequences. He points out that while these types of sequences limit the first pair parts to questions, “the range of syntactic options [in question forms] allows considerable scope for choice and strategic maneuvering (p. 150).

These obvious products of relative power are not the only examples of the imbalance exemplified in these interviews. Consider, for example, the asymmetrical use of address forms seen in the interviews. Eleven of the 19 interviews examined here contain an example of the interviewer introducing or reintroducing themselves during the interview event. In many cases, children and their interviewers have met before they enter the room. Children have been introduced to their interviewers. While adults address children by their first names, children use neither names nor titles to address adults. Ervin-Tripp’s (1972) discussion of American rules of address identifies a set of rules that describe how speakers make choices about what form of address to use in interactions with another individual. Criteria used to make appropriate decisions include considerations of kin relationships, social rank, age, gender, and marital status. When the addressee is a child, however, these criteria are irrelevant. “In face-to-face address, if the addressee is a child, all of the other distinctions can be ignored” and the child can simply be addressed by his or her first name alone (p. 220). This is how children are addressed in these interviews. As noted, the children in these interviews do not address the interviewers by either title or name. This “no naming” choice, as Ervin-Tripp has pointed out, can be opted into when an individual is uncertain about which of the available options should be used.

Due to the power imbalances inherent in the interview, children do not, however, have access to all of the linguist structures in which names might be used. The use of a name or title in conversation can serve multiple functions. They can function to address the hearer as in “Okay, Tina, is that your blanky?” As in most turns of talk, any choice can be polysemous. The adult’s use of Tina’s name may be a move to show solidarity (Brown & Levinson, 1987). At the same time, however, it may be a way to control her wandering attention, and this use indexes the asymmetrical power dynamics of the interaction. Consider, for example, how the interviewer uses Keira’s name in line 343 of Excerpt 10 as a kind of summons for her attention.

Excerpt 10

T: 4	Meagan (Social Worker)	Keira (4;1)
42	It’s Tiffany’s dad. Okay. Do you like Brian? What kind of things do you like to do with Brian?	
343	(rustling noises) Keira. Keira can you look at me for just a minute? Thank you. What kind	
344	of things do you like to do with-, with Brian?	

In this function, the use of the interviewee’s name serves in much the same way as the use of a name does in the summons-answer sequences that Schegloff (1986) discusses as part of conversational openings. In Schegloff’s analysis, the summons use of a name acts as the first part of a turn sequence that requires a response. The response does not need to be a verbal one. It can simply be a look in response to the summons, or it can be in a question form such as “what?” What is important about the turn sequence initiated by a summons is its quality of nonterminality. The nonterminal quality of the sequence is due to the inquiry-like nature of the summons’ required response. This inquiry, whether

accomplished by a look or by an answer such as “what?” requires the initiator of the sequence to respond to the inquiry. So for example, when Meagan says, “Keira,” Keira is required to respond by at least looking at her. Clearly, she does not because Meagan repeats the sequence again, this time explicitly referring to Keira’s responsibility to respond by at least looking at her. “Keira can you look at me for just a minute?” In a typical interactional sequence, the speaker has the option to either take the next turn or allow another speaker to take the turn. In these summons sequences, however, the initiator of the sequence is *required* to take the following turn. Seen in another way, these sequences initiate a turn that guarantees that the speaker will have control over the next turn. Initiating the summons-like use of Keira’s name then, ensures Meagan of control over the next turn.

Schegloff analyzes this type of turn sequences as a summons-answer sequence, and discusses how these sequences are used to initiate conversation. In the example in these data, however, it can be seen, given its position in the overall interaction, that this type of turn is used in a different way. It is used to retain control over the topic. More particularly, it is used to re-initiate a child’s attention to a particular topic. When this use of a name is considered in combination with the fact that children initiate very few, if any, topics during interviews, it becomes obvious that one of the reasons that children do not use interviewers’ names is that not all of the types of turns in which names can be used are available to them.

Child Age and Language Generation in the Interview

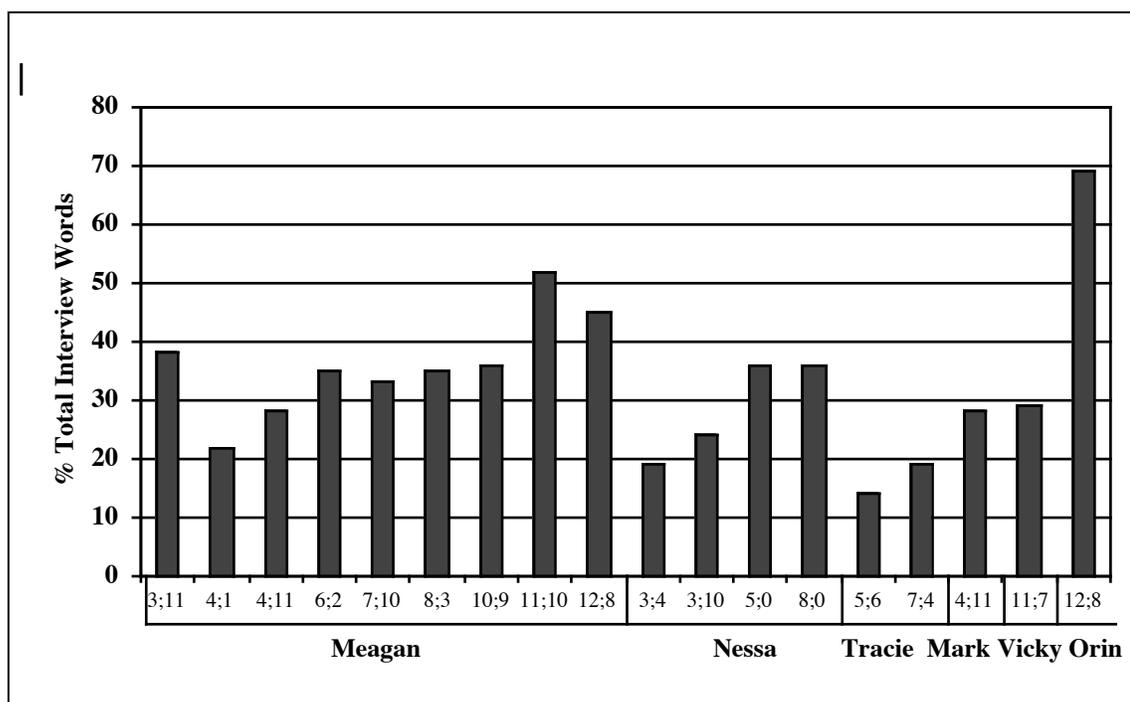
Any discussion of adult-child power differences in interviews must take into account that there can be age-related differences in children's abilities to generate language. In the interviews considered in this study, younger children do not produce a great deal of language relative to interviewers. As discussed, the overall structure of the interview has three major sections: a series of sequences that precede the elicitation of the account, the elicitation of the account(s), and sequences that follow the elicitation of the account. Table 2, which is organized by the age of the child, shows word counts for each individual in each section of the interview. Since interviews are dyadic, an interview with only two participants essentially has the same number of turns in each section of the interview. Additional participants produce a small effect on the overall number of turns per interview section. Additional participant effects are considered in more detail in Chapter 5. Transcript 14 represents a situation in which the interviewer is speaking English, the interviewee is speaking Spanish, and they are using an interpreter. Comparing word counts would be comparing two languages; consequently this interview is not included in either Table 2 or in Figure 3. The child total column represents the child's total number of words for each of the three sections of the interview. The adult total shows totals for all three sections and for all adult participants. Finally, the Child % column represents the child's percent of the total words for the interview.

Table 2: Words by Participant and Interview Section

T:	Child	Age	Pre	Elic	Post	Child Total	Inter.	Pre	Elic.	Post	Add. Adult	Pre	Elic	Post	Adult Total	C+A Total	Child %
1	Sophie	3;4	164	139	2	305	Nessa	568	536	51	Off.	109			1264	1569	19%
2	Tina	3;10	102	166	40	308	Nessa	389	522	46					957	1265	24%
3	Sara	3;11	329	1221	12	1562	Meagan	602	1914	58	Moth.	28			2602	4164	38%
4	Keira	4;1	239	239	0	478	Meagan	665	531	14	Gr.mo		423	23	1656	2134	22%
5	Tanya	4;11	272	714	38	1024	Meagan	692	1714	218					2624	3648	28%
6	Abby	4;11	137	385	69	591	Mark	401	871	231					1503	2094	28%
7	Katie	5;0	183	1284	38	1505	Nessa	463	2078	126					2667	4172	36%
8	Marisa	5;6	99	101	1	201	Tracie	639	533	20					1192	1393	14%
9	Kortney	6;2	365	600	27	992	Meagan	867	924	73					1864	2856	35%
10	Kirsty	7;4	129	189	9	327	Tracie	548	711	97					1356	1683	19%
11	Kimmie	7;10	495	2061	36	2592	Meagan	1723	2866	105	Off.	50	419	22	5185	7777	33%
12	Amy	8;0	431	2384	8	2823	Nessa	639	4132	9	Moth.	27	306	0	5113	7936	36%
13	Summer	8;3	137	1608	48	1793	Meagan	1045	2078	185					3308	5101	35%
15	Alicia	10;9	377	939	44	1360	Meagan	785	1476	160					2421	3781	36%
16	Nadine	11;7	94	621	8	723	Vicky	501	1212	87					1800	2523	29%
17	Chelsy	11;10	930	1533	91	2554	Meagan	964	1144	205					2313	4867	52%
18	Cassie	12;8	178	2440	10	2628	Orin	363	721	80					1164	3792	69%
19	Cathie	12;8	284	2182	4	2470	Meagan	1226	1721	99					3046	5516	45%

Figure 3, shows that although the ability to generate language relative to the adult participant varies by individual, younger children do not generate even half of the language produced in an interview. Two of the older girls, however, Chelsy, 11;10, and Cassie, 12;8, did generated more than half of the overall language produced in their interviews. Examining the overall amount of language generated indicates that the older children in these data have both the language and interactive skills to negotiate and produce more language relative the interviewer.

Figure 3: Child's Percent of Total Interview Words by Interviewer



Construction of Functional Identities

As earlier discussions of children as witnesses suggest, there are socially constructed biases about children as witnesses. This is particularly true of younger witnesses. Consider, for example, the statement from the disposition portion of one of the police reports related to an interview examined in this study; “I spoke with Alan Randall regarding this case, and he informed me that it is possible to get a good viable witness statement from a 4 year old depending on their mental capacity.” The officer further reports, “I informed Michael Aptell of the situation and he indicated for me to put a report together and send it up to him for additional investigation.” Officially reporting the

need to talk to another individual regarding the capabilities of a 4 year old indexes the investigating officer's inherent concerns about young children as witnesses. He puts himself on the record as having these particular concerns at the same time that he uses the responses he received to justify moving the case to the next level of investigation. In much the same way that Philips (1998) argues that individuals can use polysemous statements to avoid responsibility, the two indirect quoted sequences, "he informed me that it is possible to get a good viable witness statement from a 4 year old" and "he indicated for me to put a report together and sent it up to him," not only serve as justification for moving the case to the next level, but also as a mechanism to place the responses of the other two individuals on the record thereby shifting responsibility for the decision to the two other individuals. Finally, the officer puts on the record his concerns for whether a child could specifically provide "a good viable witness statement."

This officer's report indicates that the issue of whether children can be seen as viable witnesses is at stake. "Viable," considered in the context of the disposition section of this police report, is used in relation to whether this case can proceed. This interpretation is supported by the sentence that immediately follows, "At this time S1/David Wheeler has not been contacted. I left this up to the discretion of Michael Aptell." Erickson and Schultz's (1982) notion of interviews as events in which counselors act as gatekeepers is a useful one for discussions of the extended legal process of which interviews are one stage. Seen from this perspective, interviews can be seen as gateway events to further stages in the legal process, and interviewers and interview audience members can be seen as gatekeepers. If one of the roles of the officer who wrote

this report is a gatekeeping role, he has passed the case on to the next stage of the legal process at the same time that he partially sidesteps his responsibility as a gatekeeper based on his uncertainty that the child can perform as a viable witness.

When interviews are considered in relation to a cultural context that questions children's viability as witnesses, it becomes evident that interviews are events with multiple purposes. One of these is, of course, the overt gateway purpose of determining whether an account can be elicited that can lead to charges being filed. A second purpose, and this also serves a kind of gateway function, is to determine whether a particular child can perform as a viable witness.

Identity and Performance

In their discussion of the junior college counselor interviews that occur when students are preparing to register for classes, Erickson and Schultz (1982) remark that one of the goals of an interviewer is to determine "who a student is now, and who the student wants to be in the future" (p. 4) for the purposes of appropriately counseling the student about his or her coursework. In their description of the interview itself, they note that "It is an essential task of the senior person in the encounter to inquire into, and then officially ratify, *who the junior person is*" (p. 4 emphasis in the original). For Erickson and Schultz, identity is both constructed and ratified in the ongoing exchanges of an interview event. They refer to the identity under construction as a performed social identity that "becomes inextricably involved in the counselor's judgments of the student's official social identity as they inform the counselor's gatekeeping decisions" (p. 21). For Erickson and Schultz, these performances are bound up in the students' ways of

interacting—the “ways of speaking and listening” they employ in order to make an impression on the counselor. Erickson and Schultz’s performative identities are identities that are linked to particular interactional incidents within the interview interaction. Examples they provide include “a person who is conversationally incompetent now,” “the kind of student whose answers are suspect,” or “the kind of counselor who stops and frisks students who make conversational mistakes in his interviews” (p. 25). For Erickson and Schultz, the performative identity of each participant is reflexively constructed in each successive move. In these moves, they argue, the social identities, which they define as “their statuses,” are “progressively being specified” (p. 25).

These performative identities, are different from Goffman’s (1959) “fronts” in the sense that performative identities are constantly shifting and are the instantiations of the “social identity work going on from moment to moment” (Erickson & Schultz, 1982, p. 25). While Goffman’s fronts are also mutually constructed with the individual’s audience, the fronts can be seen as the culmination of the sequence of the performative identities mutually constructed in the ongoing interaction.

These performative identities are also different from the functional identities that are being argued for here. Performative identities are linked to the moment-by-moment specifications of the ongoing interaction. The functional identities examined here, while constructed in the moment-by-moment ongoing interaction of the interview, are also linked to specifications/categories that are part of the hegemonic cultural and political infrastructure of the state. Erickson and Schultz’s performative identities also interact with external cultural constructions and attitudes, but the construction of functional

identities requires actions that are related to categories of identity that contextually exist prior to their interactional construction in much the same way that the cultural categories of citizenship, race or legitimacy exist as categories before an individual is constructed as having one of those identities. This is not to say that the construction of functional identities is merely reflexive of the categories particular actions are indexing. They are actively co-constructed in the ongoing actions of the interview's elicitation processes. As Bucholtz and Hall (2004) have said, ". . . identity inheres in actions, not in people. As the product of situated social action, identities may shift and recombine to meet new circumstances" (p. 376).

What I am calling functional identities are the product of this action of shifting and recombining of identities to suit a particular function such as being seen as a "viable witness." The functional identities that I am claiming are constructed in the interviews examined here—legal witness, legal victim, and legal perpetrator—are of two different types, and consequently, they are constructed through fundamentally different processes. Legal witness is an identity of performance and it is constructed in performance: it is related to how well someone can perform certain actions—particularly to how one can negotiate the telling of an account in a question-and-answer interaction,

Legal victim and legal perpetrator are mutually constitutive identities that are constructed as legal versions of the actors in the alleged event(s). They are identities constructed by the performance of the event account(s). What these three identities have in common is that their purposes of construction are not only for a particular circumstance, something that is most likely a quality of the performance of any identity,

but also for a particular goal. The identities in question are part of larger processes (the entire legal process from initial report to legal outcome) that depend on their successful construction. It is partially based on these functional identities that future constructions of legal identities, such as child molester, are based.

Interview Procedures and Intra-interview Socialization to Legal Witness

Interviews are not a random set of questions simply trying to elicit an understanding of an event(s) that is alleged to have occurred. In considering forensic interviews, it is useful to examine the common sets of procedures that make up the process of the interview itself. Particularly in cases where interviewers have received training, an analysis of interviews reveals procedures that operate at the structural level of the interview and procedures that operate at the interactional level.

At the structural level, the overall pattern of each forensic interview examined here can be differentiated into three major sections. Since one purpose of the interview is to determine whether an account of the alleged event(s) can be elicited, a major portion of the interview consists of the question-and-answer sequences intended to elicit information about the alleged event(s). The interview, however, does not begin with this set of questions. There are a set of question-and-answer sequences that occur before any move is made to elicit an account of the event(s); these pre-elicitation/opening sequences serve multiple functions. First, they socialize the child to the question-and-answer format of the interview. This process both socializes the child to this type of interactional format and provides the child with an opportunity to practice the type of performance necessary to be seen as a competent legal witness. Second, pre-elicitation/opening sequences

establish whether a particular child has the qualities necessary to be seen as competent witnesses, in particular those related children's abilities to co-construct accounts and to display understandings of truth.

There is also a set of question-and-answer sequences that follow the elicitation of an account(s); these post-elicitation/closing sequences also serve several functions, including providing the child with reassurance and the opportunity for leave-taking sequences. The interview's structure is summarized in Table 3. While not all interviews reflect all of the possible opening or closing sequences, some of these sequences are a part of every interview analyzed here. It is also important to note that while these pre- and post-elicitation sequences are highly structured and ritualized, they may have more than one variant. Except for Greetings, the order of these sequences is relatively unfixed. They remain, however, relatively intact as a formalized sequences no matter their order in a given interview. Finally, Child's full name/Child's age (year in school) tended, for reasons of the record, to be one of the first sequences used and General rapport building sequences, though very moveable within the pre-elicitation set, were never used to transition to the elicitation of an account(s).

Table 3: Typical Pre-elicitation and Post-elicitation Sequences

Pre-elicitation/Opening Sequences (Chapter 3)
Greetings
Interviewer's name and child's full name/child's age (year in school)
References to interviewer's job
Discussions of safety
References to methods and procedures
General rapport-building sequences
Determination of who lives where
Sequences related to telling the truth
Truth vs. lies determination
Agreements/Rules to tell the truth procedures
Answering "I don't know"
Sequences related to the purpose for interview
Do you know why you're here?
Who told you about being here?
What did they tell you?
Elicitation of Account(s) (Chapter 4)
Post-elicitation/Closing Sequences (Chapter 3)
Questions for interviewer
Reassurances
If it happened again, what would you do?
Statement of procedures (what to do now)
Thank you/Appreciation

Pre-elicitation/Opening Sequences

Pre-elicitation/opening sequences are those formalized sequences that occur prior to the elicitation of an account(s) section of the interview. Interviewers themselves consider these sequences as happening prior to the events' central purpose, "Okay. All right. Before we talk about why you're here today, let's- I want to get to know you better." This section considers the major sequences found in the pre-elicitation section of the interview.

A discussion of pre-elicitation sequences allows for considerations of how the opening boundary of the interactional event and the formal/legal documented record of the event are not perfectly aligned. As an interactional event, it would seem obvious that the beginning of the interaction would occur when the two major participants meet for the purpose of the interview. In most of the interviews examined here, however, this meeting occurs outside of the interview room before both participants enter the room and before the official record of the interview begins.

One of the qualities of these opening sequences is that no matter which of the pre-elicitation sequences the interviewer's first turn uses, the turn is a speech act that requires a response. As Sacks (1972) has argued, conversations with two parties are special phenomena, having particular sequencing rules that differ in important ways from multiparty conversational rules. He argues that in two participant conversations, question-and-answer sequences follow a basic rule: "If one party asks a question, when the question is complete, the other party properly speaks, and properly offers an answer to the question and says no more than that" (p. 343). A second rule he describes is that the person who asks the question has the "reserved right" to talk again and may use that reserved right to ask another question. These two rules taken together can result in "an indefinitely long conversation of the form Q-A-Q-A-Q-A-" (p. 343). In two participant interviews, the interviewer's choice to start the conversation with a question can be seen as a conversational move to get and maintain control over turn sequences. In addition, as a consequence of the ability to effectively limit the child's turns to answers, the choice of these sequences can be seen as a move to get and maintain topic control.

While interviewers' turns tend to end in questions, prior to the turn-final question, turns also contain simple responses, such as "Oh" or "Okay"; repetitions of some portion of the child's last turn; restatements of a portion of the child's last turn; evaluations, such as "That's not very nice, huh?"; explanations; draft versions of a question, which are immediately reformulated; and other questions. Each turn that ends in a question can be complex and accomplish several actions. Not every turn made by an interviewer has a grammatical question form. There are at least three other forms of turns found in these data. First, there are forms, that are grammatically not questions, but which initiate an information telling response, such as "Tell me why you think that." Here, although the interviewer uses the grammatical form of an imperative, the illocutionary speech act is one of asking a question. These turns do not have to be verbalized; they can take the form of physical movements. For example, an interviewer can initiate a turn, "So what I'm going to do is just point to a body part. And can you tell me what you call it?" This turn will be followed by a sequence of turns in which the interviewer's turn consists of pointing, and the child's response is a single answer such as "Eye." The interviewer's next turn is a repetition of the answer, "Eye," followed by another pointing gesture. In these instances, the pointing gesture itself acts in place of a question such as, "And can you tell me you call this?" These sequences can include up to 30 turn pairs as the interviewer checks and rechecks terms for particular body parts.

Second, there are turns types that occur as interviewers encourage children to continue longer, narrative turns. In the pre-elicitation section of the interview, this type of turn is found most often in rapport building sequences, which have a less formalized

structure. In general, however, these turns are found in the sequences designed to elicit an account(s) of events. They tend to consist of evaluators such as “Cool, I’ve never been to Funrides before” or “continuers” (Schegloff, 1982) such as “uh huh.” While acknowledging a possible turn slot, these turns show that the speaker is not opting to fully take the turn. These turns are considered in more depth in Chapter 4.

Greetings

Greetings varied from the more formal “Hello. How are you doing?” to the decidedly informal, “Boo. (laughs) Did you think I wasn’t coming?” Because most participants have met one another before entering the room, only four of the 19 interviews considered here contain any type of greeting. While it is typical for greetings to provide for a response turn, in all four of the greetings in the transcripts, interviewers chose a greeting turn that ended in a grammatical question thereby initiating the question-and-answer sequences that make up the overall interview structure.

Interviewer’s Name and Child’s Full Name/Child’s Age (Year in School)

In these sequences, the interviewer introduces him/herself and asks the child for her name. While only 11/19 interviews contain examples of interviewers introducing or reintroducing themselves during the recorded sequence of the interview, all interviews contain sequencing asking for the child’s full name. For example, in line 5 of Excerpt 11, Megan says to Keira, “Now tell me again what your name is.” Since interviewers already possess this information, it is clear that in the most direct sense, the purpose of this turn is to get the child to state her name for the record.

Excerpt 11

T: 4	Meagan (Social Worker)	Keira (4;1)
3	Is that good? Can I come sit over here next to you? Can I color with you?	
4		Yeah.
5	Oh, good. I'm going to draw. (papers rustling) Now tell me again what your name is?	
6		Keira.
7	Keira. And how old are you? How many is that? Can you count for me?	
8		Four.
9	Four. Do you know what my name is? My name is Meagan.	
10		Uh-huh (yes).

Like many of the interactions in these pre-elicitation sequences, however, any one turn accomplishes multiple tasks. The interviewer, for example, already knows both the child's name and age. One of the purposes of asking such a question is to get the information on the record. This indexes that this event serves a legal purpose and that it may be viewed by audience members who are not yet present. Even in this seemingly simple turn sequence, several other meanings and social norms are being accessed. Consider the use of the word "again" in line 5. This use of "again" indexes a former introduction in much the same way that "again" would in any conversation. The reference to a former introduction may be a solidarity building move (Brown & Levinson, 1987). This is reinforced by the fact that this question follows a sequence of moves (in lines 3-6 of Excerpt 11) where the interviewer asks the child for permission to sit next to her; the interviewer moves to sit next to the child; and the interviewer gathers paper and crayons to participate with the child in her coloring activity. Yet this move to solidarity simultaneously indexes the power difference implicit in the situation. In a typical conversation between two adults of equal status, for example, the use of a grammatical

imperative/command form “tell me what your name is” to accomplish a request of this type would seem inappropriate and a more polite form would most likely be chosen. The use of the command form here, indexes the child as a subordinate. As Erwin-Tripp (1972) reports, “We have found that subordinates outside the family receive direct commands in the form of imperatives more often than equals, to whom requests are phrased in other ways” (p. 221). The interviewer’s choice of the command form to perform a request in this turn, indexes the difference in status between the adult and the child that the interviewer may have been attempting to downplay in her former turn. Finally, this exchange initiates the interactional pattern of interviewer asking a question and child providing an answer that will be the predominant interactional pattern of the ensuing interview. It begins the process of socializing the child to the question-and-answer pattern the interview follows.

References to Interviewer’s Job

In 17 of the 19 interviews, as interviewers are introducing themselves to the child, they provide a job title and an explanation of their job. Interviewers say that they are social workers or police officers, and in 14 of the 17 instances where the social workers or police officers explicitly make a reference to their jobs, they defined them as talking to children as Meagan does in line 31 of Excerpt 12.

In lines 32 and 33 Meagan uses a job reference to transition to sequences related to telling the truth, “and one of the things we talk about is telling the truth. What do you know about telling the truth?”

Excerpt 12

T: 11	Meagan (Social Worker)	Kimmie (7;10)	Andrew (Police Officer)
28	You just like it better. Well that's good. Good deal. Well, what my job is, is that I'm a		
29	social worker and Andrew is a police officer. And do you know what we do?		
30		Uh-uh (no).	
31	We have really fun jobs. We get to talk to kids about how things are going at their home, and		
32	school, and different things like that okay? And one of the things that we talk to kids about		
33	is telling the truth. What do you know about telling the truth?		

While question-and-answer sequences might be expected in procedures such as asking a child's name and age, they seem much less likely to be produced in sequences where the interviewers are introducing information about themselves and their jobs. Whether interviewers are describing their jobs as talking to children about safety or more directly stating that their job is talking to children about "things that have happened" as in line 27, they provide this information in a way that maintains an overall question-and-answer sequence in which the child's turn requires her to listen to a question and provide an answer.

Job references are overt indexes of the adult-child disparity in authority that exists in these interviews, and talk about job sequences is often used to manage the overall structure of the interview. Job references, for example, are often used to transition from one type of pre-elicitation sequence to another. For instance, interviewers may use talk about their jobs to transition to discussions of safety, as Tracie does in lines 16 and 17 of

Excerpt 13, and then use another job reference to move to sequences related to telling the truth, as she does in lines 26-29. “My job is um, that I talk to kids about things that have happened. . . . Do you know what the difference between a truth and a lie is?”

Excerpt 13

T: 8	Tracie (Social Worker)	Marissa (5;6)
14	My name's Tracie. And I'm a social worker, do you know what that is?	
15		What?
16	My job is I talk to lots of kids and I talk to them about being safe. Do you know what the	
17	word being safe means?	
18		What?
19	Um. Do you know what-? A way to be safe in the car is?	
20		You need your seatbelts on?
21	Uh-huh (yes). You do. See so you do know what the word safe means, huh? What about	
22	when you cross the street? Do you just run out into the street or do you just look both ways	
23	before crossing?	
24		I look both ways.
25	Yeah. Well that's a good job. It seems you know a lot about safety. So that's what I talk	
26	to kids about. And that's what I wanted to talk to you about today. My job is um, that I talk	
27	to kids about things that have happened. And so when we talk today um, (traffic noises) and	
28	if I ask you a question and you don't know the answer you can just say I don't know. Um.	
29	Do you know what the difference between a truth and a lie is?	

Job references then serve multiple functions: they introduce one of the interview's participants—the interviewer, they index the authority of adults, and they index the seriousness of the interview event itself.

Discussions of Safety

There are at least three variations of the pre-elicitation discussions of safety sequences that show up in the data, and eight of the 19 interviews used a variation of this sequence. Discussions of safety related to general knowledge about safety, to issues related to places where the child feels safe or unsafe, and to issues related to parts of the body. These turns seem to serve at least two purposes. First, and most importantly, they introduce into the ongoing interaction the main topic of the interview and initiate the process of children talking about issues that will arise in the elicitation of an account(s) sequences. Second, like all pre-elicitation sequences, they socialize children to the types of turns that serve as appropriate responses in interviews.

In lines 16-17 of Excerpt 13, for example, Tracie says that her job is to talk to kids about being safe, and she completes the turn with the question, “Do you know what the word safe means?” The extended sequence indicates that Tracie intended this turn to be one in which Marissa would show her understanding of safety by providing a definition. Marissa, however, seems to interpret this move in much the same way that a child might in a typical conversation—as if the interviewer were negotiating a turn in which the interviewer was about to provide information. So Marissa does not provide a definition. Instead, in line 18, she produces a very co-operative turn “What?” indicating that she thinks Tracie is about to provide information. Tracie is now left in a position to provide information, which was not the purpose of her question. She must somehow repair the turn sequence in order to get the kind of answer she intended to get. In line 19, she produces a hesitator “um” before she reframes the question as a more concrete

question about car safety, which she can be more confident Marissa will recognize as a turn requesting information. This act of reframing the turn sequence also socializes the child as a legal witness. It indexes the fact that interviews are different from typical conversations such that questions require a second pair part that provides an answer. After receiving an answer that both provides information, “You need your seatbelts on,” and provides proof that Marissa understands the concept of safety, Tracie ratifies both the new answer and Marisa’s status as a legal witness. Tracie responds in line 21 “Uh-huh (yes). You do. See? So you do know what the word safe means, huh?”

Tracie’s reframing of the question also creates a confidence building sequence (Poole & Lamb, 1998) since it allows Marissa to answer a question with authority. This sequence, however, also reinforces the participants’ status relative to one another. Wells and Montgomery (1981) classify this type of turn pair as a “display” exchange. In display exchanges, one participant makes a direct or indirect request for information already known to him/her for the purpose of displaying the second participant’s knowledge. Wells and Montgomery note, however, that these exchanges “most frequently occur in situations where there is asymmetry of status between the participants” (p. 223). They argue that in making a request for a display, even if the speaker’s status relative to the other participants is not a superior one, the speaker will be heard as assuming a superior status. This asymmetry has, of course, already been established in this turn by the interviewer indexing her adult status with the mention of a job.

These pre-elicitation sequences socialize children to the fact that interviews are unlike everyday conversations. Within interview events, questions require a second pair

turn that provides an answer. Further evidence of this can be found in the continuing interactions of this interview. Tracie's "do you know" question under discussion here was the third "do you know" question that Marisa had answered with "what?" But Tracie continued to use this question form. In line 29, of the same excerpt, for example, she ask her "Do you know what the difference between a truth and a lie is? and she gets the same response, "what?" Tracie, however, continues to use this question form as seen in line 39 of Excerpt 14.

Excerpt 14

T: 8	Tracie (Social Worker)	Marissa (5;6)
39	to you about things that have happened. Um. Do you know why you're here to talk to me	
40	today?	
41		Why?
42	Do you know? I'm asking you?	
43		I don't know.
44	You don't know. Okay. Um, did your mom tell you about why you were coming here or	
45	what you were going to do here?	

In line 39 of Excerpt 14, for example, Tracie makes her fifth attempt at this form, with "Do you know why you're here . . ." and receives the same conversational answer, "Why?" In this exchange, however, Tracie makes explicit the nature of an interview answer when, in line 42, she responds with a partial restatement of the question "Do you know?" and follows this up with an explicit explanation of the question's intent, "I'm asking you" It is now clear that this question form requires a turn that provides information, and this is exactly what Marissa provides in line 43 with her turn "I don't know."

The question of whether these exchanges reveal a socialization process in progress can only be addressed by examining how Marissa responds to another “do you know” question. Marissa next attempt to answer a “do you know” question is seen in Excerpt 15 lines 86-87 when Tracie asks the question “Do you know what body safety is?” And this question turn gets an interview appropriate answer turn, when Marissa simply answers “No” in line 88.

Excerpt 15

T: 8	Tracie (Social Worker)	Marissa (5;6)
86	No. All right. Another part of my job is that I talk to kids about body safety. Do you know	
87	what body safety is?	
88		No.

Marissa does not, of course, answer every question of this type with the type of answer that Tracie is looking for throughout the interview process. In fact, Marissa encounters another sequence like the one in Excerpt 14, before she finally answers the question with information on a subsequent question-and-answer sequence. Two points must be made here. The first is that Tracie’s repetition of this question form provides an opportunity for socializing Marissa to the unspoken rules of the interview. The second is that this form of repetition may not be an entirely successful method for that socialization process as the “I don’t know” and “no” answers indicate.

All pre-elicitation sequences serve an intra-interview question-and-answer socialization function, but questions about safety serve another function. They introduce into the exchange the first notions of the topic that is the focus of the interview event. The purpose of these interviews is to elicit an account(s) of events related to sex abuse that

have been alleged to have occurred, and these discussions require that the child address issues related to her physical person. One of the major functions of discussions of safety appears to be engaging children in an exchange about issues related to the body in a context that has not yet taken on the characteristics of their individual experience. These exchanges provide the convenient transition into the elicitation of an account(s) portion of the interview, as Tracie does in another interview as seen in Excerpt 16. After a sequence of questions about places that Kirsty feels safe or unsafe, Tracie shifts to a second safety topic, body safety, as seen in line 74.

Excerpt 16

T: 8	Tracie (Social Worker)	Kirsty (7;4)
72	What about other places? Are there other places where you don't feel safe?	
73		Uh-uh (no).
74	Okay. Um. Another thing that I wanted to talk to you about today um, is called body safety. Do you know what that is?	
75		
76		Uh-uh (no).
77		(Page 3 of 7)
78	Um. Well we talked about things that you can do to be safe. Um, and other places but um,	
79	in an important thing is to keep our body safe too. What that means is our bodies have some private places um, usually those private parts are, are parts that are covered by a swimming	
80	suit. And so no one should touch us in those parts without our permission. Um. So has	
81	anybody ever touched you in a place where you didn't feel comfortable?	
82		

In this exchange, particular body parts, specifically defined as those “parts that are covered by a swimming suit,” lines 81-82, are introduced into the conversation and defined in a way that indexes the purpose of this interview. Specifically, the introduction of the verb “touch,” one of the verbs specified in the legal definition of sexual abuse, is

used to shift the general topic of safety to the specific topic of the interview. In everyday conversations, bodies are talked about in a variety of ways. This pre-elicitation sequence, however, narrows the range of possible topics to those related to the purpose of the interview, and in this instance, this sequence acts as a transition to the elicitation of an account(s) sequence that begins in line 82.

References to Methods and Procedures

Procedures that must be negotiated within an interview include questions of who may be included in the interview room as in “Okay, your mom’s just going to be right downstairs. Okay?” to questions of seating arrangements “Okay, where do you want to sit?” or “Can you come sit closer to me?” They can also include discussions of what will be happening in the interview and what a child’s resulting responsibility will be, “Well, we’re going to be talking for a little bit too, so it’s really important that you listen to my questions, okay?” They may also include, as seen in line 77 of Excerpt 17, discussions of the interviewer’s note taking. Typically, discussions of note taking were framed, as Meagan frames hers, in lines 77 and 78, in relation to not forgetting information.

Excerpt 17

T: 3	Meagan (Social Worker)	Sara (3;11)
77	That's right, huh? I'm just going to take some notes about what we talk about so I don't	
78	forget, okay? Now, what happens when you tell a lie?	
79		It's not good and I don't want to tell a lie ever.

What all of these sequences have in common is that they provide information about interview procedures or manage the arrangements of the physical environment in a

turn that terminates in a question—even if it is only one that requires agreement on the part of the child. Basically, interviewers use these turns to manage the physical environment and practical processes of the interview at the same time that they maintain control of both the turn taking sequences and the topic. For example, after the turn where Meagan explains her note taking, “I’m going to take some notes about what we talk about so I don’t forget, okay?” she received a positive response. This leaves her with next turn initiator rights, and she uses them to move to a truth vs. lie sequence in line 78, “Now, what happens when you tell a lie?” Procedure sequences, often paired with references to interviewer’s jobs, are also used to manage the overall structure of the pre-elicitation sequences, serving to transition from one pre-elicitation sequence to another.

General Rapport Building Sequences

General rapport building sequences are the least ritualized of all of the pre-elicitation sequences. In this quality, they are the sequences that are most like the elicitation of an account(s) sequences and, therefore, they provide the best practice for the types of interactional sequences that make up the elicitation of an account(s) portion of the interview. All 19 interviews contain this type of sequence. I chose to call these rapport building sequences because they are often referred to in this way in guides for interviews (see Poole & Lamb, 1998, for example).

These sequences may build rapport because they allow children to talk about topics that they know about and are interested in, such as movies, books, places that they have been, and games they like to play, for example. They also lighten the overall mood of the interview as is evidenced by the notations of laughter in some of these sequences.

But an analysis of their function in interviews, indicates that they serve many other important functions. Of all the pre-elicitation sequences, for example, rapport building sequences contain the most frequent use of both the open-ended questions that can be used to elicit stories and the continuer turns that can encourage a child to continue talking on the same topic. In Excerpt 18, for example, over the course of six turns, Meagan produces two turn-final, open-ended questions that could lead to stories, “What kinds of things do you like to play?” (line 62) and “What do you do at your grandma’s house?” (line 68).

Excerpt 18

T: 4	Meagan (Social Worker)	Keira (4;1)
59	That’s right. Very good. (coloring sounds) All right. (sniffs) So tell me what you like to do?	
60	Do you like to play?	
61		Yeah.
62	What kind of things do you like to play?	
63		I like to color . . . <unclear>
64	You like to color.	
65		Uh-huh (yes).
66	Okay.	
67		And go to my grandma Marys
68	And-. Okay. What do you do at your grandma’s house?	
69		I play with Ruthie
70	Okay.	
71		And Tally. Tally is Ruthie’s sin-, sister.

The first of these turn-final, open-ended questions, “What do you like to play?” results in a rather brief answer, but Meagan does not use her following turn to initiate another question. Instead, she produces a repetition, “You like to color,” that acts as a continuer. When Keira responds “uh huh,” Meagan again does not initiate a new question but produces “okay” as a continuer. In response to this continuer, Keira produces more

information on the topic of “play” by introducing a place that she likes to play. Meagan’s next question, in line 68, also does not introduce a new topic but allows Keira to continue on the topic of play, “What do you do at your grandma’s house?”

In this rapport building sequence, the two of them co-construct a small story: Keira goes to her grandmother’s and plays with sisters Ruthie and Tally. As a 4 year old, none of Keira’s turns throughout the interview are significantly longer than those seen in this excerpt (her average turn length is 3.43 words), but Meagan has established, for the record, that Keira is capable of co-constructing a story. In this rapport building sequence, Keira is constructed as a potential viable legal witness in two ways. The sequence serves as proof that Keira is capable of the kinds of interactions necessary for the elicitation of an account(s) sequences. The sequence also serves as practice for the interactions she will participate in as a viable legal witness, both within this interview event and possible across events should she be called upon as a courtroom witness.

If these sequences were only about building rapport, it would make sense for them to occur regularly as one of the first sequence of the interview. This is not the case. Some rapport building sequences were among the last of the pre-elicitation sequences to occur. They were never, however, used as a sequence to transition into the elicitation of an account(s) sequence of the interview. As noted, one of the qualities of the rapport building sequences is its lower levels of ritualization. Its number of turns was highly variable. Some rapport building sequences lasted for only a few turns, but one with one of the older girls (11;10) lasted for 47 pairs of turns and generated fairly long sets of turns on a single topic. This does not mean, however, that these sequences are entirely free

from their relation to the purposes of the interview. An example of this exchange is the topic of pets as seen Excerpt 19.

Excerpt 19

T: 17	Meagan (Social Worker)	Chelsy (11;10)
133	So-. But that bench is really small and so I like-, we only talk to little kids in there because	
134	sometimes it's hard.	
135		Yeah. Um. I have a lot-, I have a lot of stuffed animals.
136	Okay.	
137		Um. And right before I moved to Some City, I had 10 dogs and two cats. (traffic noises)
138	Whoa. That's a lot.	
139		One was Alaskan . . . One was like part like uh, half chow-, part chow part like German Shepard. So um-. And then the eight last were her puppies and so-.
140		
141	Oh.	
142		They were like part chow, part I don't know and then half I don't know. I only- the chow.
143	Just all mixed up.	
144		Yeah.
145	Cool.	
146		Um. I had a Siamese cat and there's-. We had another cat that my uncle picked up from a ditch. S-, He found him.
147		
148	Oh.	
149		We called him spunk 'cause he like runs around a lot and he's like really, really fast. Sa-. Uh.
150		We called the other one Einstein. I don't know why. My mom-. It-. 'Cause it was my mom's cat, she named him.
151		
152	Hm.	
153		It had five or-. Um. Six paws on this-. On the front left, back left, and back right. And then five on the front right.
154		
155	Wow.	
156		So it was kind of weird. He was a lot-. He was really lazy though. He just sat around and slept.
157		
158	Didn't do anything?	
159		Yeah.
160	That's kind of funny.	

161		Um.
162	So how come you don't have your dogs and stuff now?	
163	(Page 5 of 14)	
164		We moved.
165	You can't have dogs where you're at?	
166		And-. Well my sister's dad still lives up at the house.

Once Chelsy initiates her topic in line 135, she not only generates most of the language in the turn sequences, but controls the flow of the topic until its focus is shifted in lines 162 and 165 by Meagan's topic-related question, "How come you don't have your dogs and stuff now?" While this question and Meagan's next question (line 165) "You can't have dogs where you're at?" are related to Chelsy's topic of pets, they shift the focus of the interaction away from the pets themselves and toward a focus on where Megan is living. This foreshadows Meagan's complete transition in eight more turns to the who lives where? pre-elicitation sequence which she uses as a transition to the elicitation of an account(s) sequence.

Rapport building sequences serve functions other than building rapport. They lighten the mood of the interview. They construct the child as a legal witness by providing proof on the record that an individual child has the practical capabilities to co-construct an account, and they socialize the child to the practice of the kinds of interactions that will be necessary for the construction of an account(s).

Determination of Who Lives Where

Determination of who lives where sequences are used to establish not only which individuals live in which residences, but also how individuals are related to one another and how often they see one another. Sixteen of the 19 interviews contained questions

related to such information. The use of these sequences differed according to whether the accused was a family member. So, for example, in two interviews related to an incident that occurred in a neighbor's swimming pool and involved a man from the neighborhood, neither of the interviews had who lives where? sequences.

In one interview, Meagan used a brief who lives where? sequence, in line 231 of Excerpt 20, as a way to introduce the alleged perpetrator into the ongoing interview and then transition to the elicitation of an account(s) in line 239.

Excerpt 20

T: 19	Meagan (Social Worker)	Cathie (12;8)
231	All right. Now who's your neighbor?	
232		Phil
233	Phil. Do you know his last name?	
234		Smith
235	Okay. Smith and he lives-.	
236		Just across the street.
237	Across the street from you.	
238		Yeah.
239	In Some City. Okay. Tell me what we're here to talk about? About Phil?	
240		He abused us.
241	Okay. Abuse is kind of a big word.	

All of the interviews that concerned individuals who lived with a child or whom the child visited on a relatively regular basis, used these sequences.

As was the case in Excerpt 20, these sequences are used to identify the individual alleged to have committed the action in question. Excerpt 21 begins after a set of turns in which Meagan has asked Sophie about how often she visits her father. But it is with the introduction of the grandfather, the alleged perpetrator, in lines 156 and 158, that this

sequence comes ends in line 160 as a series of questions related to identification of body parts begins as seen in line 162.

Excerpt 21

T: 1	Nessa (Social Worker)	Sophie (3;4)
156	Okay. Sophie, do you ever go visit grandma and grandpa?	
157		What? Um. I already did.
158	You already did? When did you see grandma and grandpa?	
159		Um, I don't know.
160	You don't know? Okay. So, Sophie?	
161		What?
162	Do you know what parts of your body are private parts that nobody should touch?	

In this instance, the end of the who lives where sequence is aligned with the introduction of the alleged perpetrator. As the differential use of these sequences indicates, one of the main roles of these sequences is to introduce into the interaction the “who” and “where” of the account that will be generated in the elicitation of an account(s) portion of the interview.

Pre-elicitation sequences begin the process of co-constructing an account. They do this by establishing both the environmental context of the alleged events—the “where” and by introducing into the interview the main protagonists—the “who” of the account(s) that may be constructed in the elicitation of an account(s) sequence.

Sequences Related to Telling the Truth

Sequences related to telling the truth are important ones for constructing children as reliable legal witnesses since they relate to whether a child understands the concept of

truth, understands some consequences of not telling the truth, and plans to tell the truth during the interview.

Under this rubric, I coded three different types of highly formulaic sequences: those that ask children whether they understand the difference between the truth and a lie, those that relate to agreements to tell the truth in the interview, and those that provide instructions about answering “I don’t know” or correcting the interviewer if he or she makes an incorrect statement. Of the 19 interviews collected for this study, 16 interviews contained a truth vs. lies determination. These 16 interviews also contained at least one or both of the other possible sequences. The three interviews that did not use any sequences related to telling the truth were all carried out by two interviewers. One of the interviewers participated in only one interview. The second used this sequence in two of the four interviews she carried out. Since the interview date is one of the identifying pieces of information redacted from these interviews, it is not possible to determine the order in which her interviews took place. Consequently, it is not possible to determine whether the two interviews in which she used such sequences occurred as she became more experienced, for example.

Truth-telling sequences may be seen as important for several reasons. First, there are many cultural assumptions about child witnesses and their ability to tell the truth—in particular in relation to abuse. Berliner (1985), for example, has argued that some research indicates that “jurors hold biases against child witnesses” (p. 170). She relates part of this bias to the cultural misconceptions that victims of sex crimes face whether they are children or adults, “. . . child victims encounter the same erroneous belief that

victims lie about rape or provoke their own victimization” (p. 167). She adds that “children also run into the societal misperceptions that they frequently fantasize sexual assault experiences and are unable to distinguish innocent behavior from deviant sexual contact” (p. 167). Research has shown that biases assuming the victim encouraged the abuse are more particularly the case with older children (Isquith, Levine, & Scheiner, 1993). Hendersen (1997) reconceptualizes these “societal misperceptions” as part of larger cultural meta-narratives related to child abuse: “Assertions that children lie, fantasize, are too suggestible to be believed, or are coached by vindictive or overzealous adults contribute to perpetuating a meta-narrative of falsity” (p. 512).

What is at stake in this section of the interview, then, is precisely the question of whether an individual child can be constructed as a competent legal witness. As Perner (1997) has argued “To be a competent witness (not just a source of reliable information) children must understand the duty to tell the truth” (p. S21). Perner argues that to “appreciate the importance of telling the truth as a witness,” (p. S21) a child must acquire the following “component insights”:

1. Distinguishing true from false.
2. Understanding knowledge and how it is formed.
3. Understanding the effects of misinformation.
4. Appreciating the moral implications of spreading misinformation.
5. The concept of lying.
6. Understanding the moral ties of social contracts. (p. S21)

Other elements that are linked to the practice of testimony itself, such as cohesion, consistency, and testimony style also affect how children are perceived as witnesses. Research indicates that consistency and testimony style, in conjunction with negative stereotypes, affect jurors' considerations of the accuracy of children's accounts (Leippe, Manion, & Romanczyk, 1993). These elements will be considered in more depth in Chapter 4.

The purpose here is not to discuss the issue of whether children are capable of being competent witnesses according to a definition like Perner's, but to discuss how the truth-telling pre-elicitation sequences are used to construct a child as a competent legal witness. These turns are used to demonstrate that individual children possess insights related to telling the truth like those outlined by Perner. These demonstrations construct children as viable legal witnesses by providing proof for the record that the individual child possesses the insights about truth that a competent legal witness must possess. From the performance perspective, they provide children with the experience of talking about their understanding of truth and lies. The interaction of the pre-elicitation sequences provides them with practice in answering the types of questions they will be asked as witnesses in a courtroom should the case proceed to that end. In other words, these truth-telling sequences provide practice for the performance aspect of the legal witness identity.

Truth vs. lie determination.

The determination of whether a child knows the difference between the truth and a lie has two forms in these data. The first form consists of a straightforward question

asking the child what she knows about telling the truth. This question and its response determine whether a child has the appropriate understanding of the concept of lying. The second form is highly ritualized. In this ritual, participants first negotiate a sequence of turns that produce a piece of information that both participants can agree is accurate and “true.” This negotiation is followed by a question in which the true element is replaced with a false one. Finally, the child is asked to determine whether the statement containing the inaccurate element is true or false. This sequence determines whether a child has the necessary insight to distinguish true statements from false ones. Some interviewers used both forms in the same interview as demonstrated in Excerpt 22

Excerpt 22

T: 3	Meagan (Social Worker)	Sara (3;11)
44	. . . And I always tell kids th-	
45	that it's really important they tell me the truth.	
46	Do you know about telling the truth? What	
47	do you know about telling the truth?	Well always-, sometimes I do and sometimes I don't.
48	Uh-oh.	
49		Well my mom doesn't get-, but sometimes she does-. Sometimes my mom gets mad at me, but sometimes she doesn't.
50		
51	Oh, yeah? Okay. All right. Well let's see. Did you have breakfast this morning?	
52		Um. Yeah.
53	What'd you have for breakfast?	
54		Um. Eggs.
55	Eggs? Well what if I-, I said that you had pizza for breakfast? Would I be telling the truth or would I be telling a lie?	
56		
57		Lie.
58	How come a lie?	
59		Well that would be not good. (noises)

Meagan uses a job reference to transitions to the truth vs. lie determination sequence in lines 44-45. As discussed earlier, job references like, “I always tell kids,” are used by interviewers not only to transition from one pre-elicitation sequence to another, but to index the interviewer’s adult authority, and consequently to index the seriousness of a particular turn sequence. So when Meagan prefaces her statement “it’s really important to tell me the truth” with the job reference, “And I always tell kids,” she is indexing both her authority to expect the truth from Meagan and the importance of telling the truth in this event. In line 47, she begins the truth-telling sequence with a direct question, “What do you know about telling the truth?” and Sara answers that sometimes she does and sometimes she doesn’t. Sara does not directly answer the open-ended question with a list of what she knows. However, one obvious interpretation of Sara’s answer is that she is admitting that she sometimes tells the truth and sometimes does not. In this interpretation, Sara would be demonstrating that she not only has an understanding of what telling the truth means, but also enough self-awareness to admit that she sometimes does not tell the truth. Meagan’s response, “uh-oh,” in line 48 indicates that this is how she has interpreted Sara’s answer. It also indexes the idea that not telling the truth has consequences. In her response to the “uh oh” turn, Sara demonstrates that she interpreted Meagan’s turn as indexing these consequences. “Sometimes my mom gets mad at me, but sometimes she doesn’t.” This exchange contributes to the ongoing construction of Sara as a reliable legal witness by providing proof that she possesses the qualities of understanding the concept of lying, of distinguishing true from false, and of having at least a limited understanding of the effects of providing misinformation.

Excerpt 22 also demonstrates the second type of truth vs. lies determination. The set of turns in lines 32-59 demonstrates the highly ritualized structure of this type of sequence. First, the two participants negotiate a fact that they both agree to be true, in this instance what Sara had for breakfast—eggs (line 55). Second, the interviewer postulates a “what if” clause that contains an inaccurate representation of the negotiated fact, “Well what if I-, I said that you had pizza for breakfast?” (line 55) Third, the interviewer asks the interviewee to determine whether the statement embedded in the “what if” clause is a truth or a lie. “Would I be telling the truth or would I be telling a lie?” (lines 55-56). In the final (optional) move, the interviewer asks the interviewee to explain her truth or lie determination, “How come a lie?” (line 58). The highly ritualized nature of this interaction is exemplified by its use across interviewers. Consider another example of this truth vs. lie determination sequence as it is enacted by a different interviewer in Excerpt 23.

Excerpt 23

T: 10	Tracie (Social Worker)	Kirsty (7;4)
28	to make an agreement with them. So that both of us will tell the truth. Do you know what the difference between truth and the lie is?	
29	the difference between truth and the lie is?	
30	Um. Like if I said there are lots of bears in this room, would that be the truth or a lie?	Uh-uh (no).
31	Um. Like if I said there are lots of bears in this room, would that be the truth or a lie?	Lie.
32	Yeah. C-, how come?	
33	(Page 2 of 7)	
34	Yeah. What are-, these are bunnies, huh?	‘Cause there’s not bears in here at all.
35	Yeah. What are-, these are bunnies, huh?	Uh-huh (yes).
36	Yeah. What are-, these are bunnies, huh?	
37	Yeah. What are-, these are bunnies, huh?	

In line 28, Tracie interrupts an agreement to tell the truth procedure to begin a truth vs. lie determination. She rather awkwardly frames the first type of this procedure, “Do you know what the difference between truth and the lie is?” in line 29 and receives an “Uh-uh (no).” It is difficult to tell whether this is because Kirsty does not know the difference, which seems unlikely, or whether she cannot interpret the question. Either way, Tracie moves to the highly ritualized format of the truth vs. lie determination. In lieu of negotiating a fact that both of them can agree upon, Tracie chooses a fact that they are both readily aware of, the room is stocked with a number of stuffed bunnies. She uses this fact to accomplish the first step of this highly ritualized sequence. Second, she proposes the “What if . . .” clause and embeds an inaccurate description of the room, “Like if I said there are lots of bears in this room.” Third, she asks Kirsty to determine whether the embedded claim represents the truth, “Would that be the truth or a lie.” In line 32, Kirsty provides the determination, “lie.” And finally, after ratifying Kirsty’s assessment, Tracie asks Kirsty to explain her determination, “How come?” which Kirsty does, “Cause there’s not bears in here at all” (line 35). Tracie provides a possible alternative explanation and returns to complete the agreement to tell the truth procedure that she had interrupted with this sequence.

The ritualized format of this procedure, besides providing evidence that these interviewers have received specialized training in interviewing children, provides for discussions of genre in relation to interview events themselves, but more particularly to the ritualized sequences within these interviews. Rather than making the argument that interview events themselves are enactments of a genre, I argue that they represent a type

of speech event that frames, and in that framing provides opportunity for the enactment of, these highly specialized genres that I am calling pre-elicitation sequences, elicitation of an account(s) sequences, and post-elicitation sequences. The point of this claim is that it allows for discussions of not only intertextuality and power (C. Briggs & Bauman, 1992) but of socialization as well. For example, the presence of the truth vs. lie determination in multiple interviews provides evidence that interviewers have received training in and have the ability to put into practice, structuralized elements of the interview event with which the children have not yet become proficient.

More importantly, for discussions of the construction of the functional identity legal witness, these sequences provide children with the opportunity to practice the enactment of genres of interactions in which they must become proficient to be perceived as viable legal witnesses. If these interviews were made up of entirely non-structured, non-ritualized question-and-answer sequences, the claim that they could socialize children as legal witnesses would be almost impossible to support. It is partially the genre-like nature of these sequences, in particular those related to telling the truth, that allows children to participate in the practices that a witness must negotiate with confidence to be recognized, or interpellated, as a legal witness.

Agreement/Rules to tell the truth procedures.

Thirteen of the 19 interviews examined here used either agreements to tell the truth or rules about telling the truth procedures. Although agreements/rules focus on the importance of telling the truth, they are fundamentally different from the truth vs. lie determinations considered in the last section. Where the truth vs. lie determination

focuses on whether an individual has knowledge about the nature of truth and lies, agreements/rules to tell the truth focus on whether an individual child has an understanding that she must put that knowledge into practice in this interview. These sequences are about constructing the child as a truth teller and not just as a person who has knowledge about the truth. One of the qualities of these sequences is that the interviewer in each case, includes him/herself in the agreement or rule. In Excerpt 24, for example, Tracie uses a job reference “and also when I talk to kids” to both transition to this sequence and index its seriousness. In lines 28 and 29, she explicitly refers to an agreement that she makes with other children. She shifts the agreement so that it applies to both Kirsty and herself as well by shifting to the pronoun “us” as seen in line 28, “both of us will tell the truth.”

Excerpt 24

T: 10	Tracie (Social Worker)	Kirsty (7;4)
27	okay. ‘Cause there aren’t any right or wrong answers and also when I talk to kids I also like	
28	to make an agreement with them. So that both	
29	of us will tell the truth. Do you know what the difference between truth and the lie is?	

In Excerpt 25, Meagan makes a similar agreement with Tanya using the term “a good deal” in line 42. In this case, instead of referring to the agreement as one applying to telling “the truth,” she frames it as an agreement to talk about “real things” and not “pretend things” in line 42.

agreement between the two of them, but it is, nevertheless, clear that it applies to both participants. The use of “we,” by default includes both Orin and Cassie because they are in the appropriate environment for the rule to apply, but the ambiguity that the rule could apply to everyone in the center provides the rule with a kind of grandeur that a limited agreement lacks.

In Excerpt 27, Meagan also uses a series of rules to organize several types of truth related sequences. In lines 47-53 she provides the first “rule.” It is not specifically designated as a “rule” until line 54 when she says, “Another rule that I have . . . ” reframing her three previous turns as instantiations of a “rule.”

Excerpt 27

T: 9	Meagan (Social Worker)	Kortney (6;2)
44	That’s no fun, huh? Yeah. Well I’m going to be asking some questions today. And you can	
45	ask me some questions, too, if you want to. Okay?	
46		Okay.
47	But it’s really important that we tell the truth. Do you think we can do that? And only the	
48	truth. Okay?	
49		Okay.
50	Part of telling, the truth is telling everything that’s happened. Sometimes it’s hard to tell	
51	someone that you really don’t know what’s, what’s happened. But it’s really important that	
52	we talk about everything that’s happened. Okay?	
53		Okay.
54	All right. Another rule that I have when I talk to kids is that if I ask you a question you don’t	
55	know the answer to it, it’s okay to say I don’t know.	

Meagan’s first rule also has the procedure’s essential quality: it binds both participant to tell the truth in the interview event. In this case, Meagan achieves this by

her use of inclusive “we” in her paraphrase of the classic courtroom oath: “I swear to tell the truth, the whole truth, and nothing but the truth.” She provides a paraphrase of the first and third parts of the oath in lines 47-48, “It’s important that we tell the truth. Do you think we can do that? And only the truth? Okay?” In lines 47-52 over a sequence of two turns she completes the “whole truth” section of her paraphrase, “Part of telling the truth is telling everything that’s happened . . . but it’s really important that we talk about everything that’s happened. Okay?” Kortney is only 6 years old, and this rephrase of the classic oath may not index the courtroom oath for her. But the intertextual link that it provides both for the record, in the form of audio and video recordings and transcripts, and for the observing police officer, does frame Kortney as someone who can interact in that environment consequently constructing her as having one of the necessary qualities of a viable witness.

In their role of interviewer, however, the interviewers who participate in these agreements/rules to tell the truth, do so with discretion when negotiating the elicitation of an account(s). For example, Meagan, as seen in Excerpt 25, made an agreement with Tanya to only talk about “real things,” however, later in that interview, as seen in Excerpt 28, when Tanya is not participating in discussing a “pee pee game,” Meagan assures her in lines 357-359 that she is “not going to get anyone into trouble.” Clearly, this is not the truth.

Excerpt 28

T: 5	Meagan (Social Worker)	Tanya (4;11)
352	Well I don’t know they said that you told them about it. A pee pee game. Tell me about the	
353	pee pee game.	

354 I don't want to.
 355 How come? Are you embarrassed? How come
 you don't want to tell me about it?
 356 ... (coloring sounds throughout)
 357 Are you afraid that you're going to get someone
 into trouble? Okay. Well I just want to
 358 make sure that you know-, what, Tanya, by
 being here you're not going to get anyone into
 359 any trouble okay? But if something's happened,
 then we need to talk about it because it can't
 360 happen again, okay? So who plays the pee pee
 game with you?

This type of lie, often referred to as a “social lie” (Garbarino, Stott, & Faculty of the Erickson Institute, 1992), may be seen to fall under a category of untruths whose purpose is some type of social benefit. Apparently, in the interviewer’s responsibility hierarchy, the safety of children ranks higher than an absolute adherence to truth. Meagan indexes this responsibility in lines 359-360 when she provides the explanation, “But if something’s happened, then we need to talk about it because it can’t happen again, okay?” Assurances like this one occur frequently in the data examined here, particularly in exchanges when a child is hesitating or declining to participate, as Tanya is in line 354.

Quite often the child’s sense of responsibility is at stake in these hesitations or refusals. According to the police report, Tanya had not only disclosed more information about this game to her therapist, but also “said that ‘cops are bad’ because they are mad at her dad for teaching her ‘bad things like the pee-pee game.’” Despite her earlier alleged disclosures, in this interview, Tanya does not provides any further information about this game or about who may have taught it to her or played it with her. While the continuation of the legal process is not entirely dependent on these interviews, their gatekeeping nature

is evident in the police report related to this case, “There is no disclosure or evidence to support child physical or sex abuse. No further action will be taken at this time.”

The power inequity that is inherent in these interviews clearly operates in relation to the hierarchical ranking of truth requirements and social requirements. The adult is allowed, for example, to rank social responsibilities above truth responsibilities. In order to construct herself as a competent interviewer, she may need to do so. On the other hand, in order for the child to be constructed as a viable witness, she is required to rank her truth-telling responsibilities above her perceived social and family responsibilities.

Truth telling sequences reveal one of the conflicts inherent in the ongoing construction of children as viable witnesses: the performance of the viable witness identity can be in direct conflict with a child’s identity as a “good daughter” or some other long-established identity. This is not, of course, the only kind of identity construction conflict that occurs in these interviews. Another conflict, which figures very prominently in the elicitation of an account(s) sequences, arises due to the subject matter of these interviews. In order for a child to successfully be constructed as a legal witness, an identity that is constructed in its performance, she must essentially participate in co-constructing an account that constructs her, by that performance, as the patient/experiencer of very specific, morally weighted actions—as the legal victim. This conflict is discussed in more depth in Chapter 4.

Answering “I don’t know.”

The sequences coded under this rubric seem to reveal an intertextual link to research related to children’s suggestibility. See Ceci and Bruck (1993) for an overview

of the research related to these types of claims. These sequences seem designed to give children permission to not provide information they are not sure of and to correct adults when adults make incorrect assumptions about children's stories. These procedures take various forms. They show up as simple statements granting a child permission to say "I don't know" as seen in Meagan's interaction with Kirsty in Excerpt 29.

Excerpt 29

T: 10	Meagan (Social Worker)	Kirsty (7;4)
24	to-, to be safe and maybe sometimes that you don't feel safe. Um. Part of my job is I talk	
25	to kids about things that have happened to them and when I talk to you today if you don't	
26	know the answer to something I ask you, you can tell me that you don't know. Um. That's	
27	okay. 'Cause there aren't any right or wrong answers and also when I talk to kids I also like	

Meagan transitions to this sequence with a job reference in line 24-25, indexing her authority. She then grants Kirsty permission ("you can tell me" and "That's okay,") to say "I don't know." Finally in line 27, she provides a reason for this permission "'Cause there aren't any right or wrong answers." The assurance that there are no right or wrong answers seems disingenuous. Other interviewers use the same strategy. This is another example of interviewers using social lies to reassure. In the case of assurances that there are no right or wrong answers, however, the reassurance seems to apply to children's self-perceived responsibilities to fulfill adult expectations of their answers.

Some interviewers frame this sequence as a rule rather than as a granting of permission. Unlike the "rule" framing of the agreement-to-tell-the-truth procedures, which applied to both participants, rule-oriented constructions of this sequence are established by the adult and apply only to the child. In Excerpt 30 when Meagan refers to

this rule as one “that I have when I talk to kids.” This rule belongs to Meagan and applies to the child granting her permission, “it’s okay to say, ‘I don’t know.’”

Excerpt 30

T: 9	Meagan (Social Worker)	Kortney (6;2)
54	All right. Another rule that I have when I talk to kids is that if I ask you a question you don’t	
55	know the answer to it, it’s okay to say I don’t know. So if I was to say, “what’s the name of	
56	my dog?” What would you say?	
57		I don’t know.
58	‘Cause you don’t even know if I have a dog, do you? Nope. And if I ask you, and my last	
59	rule is that if I ask you, or if I say something that’s not true, it’s okay to say that’s not true,	
60	that didn’t really happen that way. Okay?	
61		Okay.
62	So if I, if I was to say that you were 10 years old, what would you say?	
63		No. I’m 6 years old.
64	That’s right. Very good. Okay. Can you think of any other rules we need to talk about? Or	
65	have while we’re talking today?	

In the construction of this turn, in lines 54 and 55, Meagan provides a model response: “It’s okay to say ‘I don’t know.’” The modeling of an appropriate response is one aspect of socializing Kortney into her role not only as responder, but also as witness. Meagan follows this rule with a practice sequence, in lines 55-56, “So if I was to say, ‘what’s the name of my dog?’ What would you say?” In line 57, Kortney demonstrates her ability to both interpret the turn as an invitation to practice and to participate when she responds “I don’t know.”

This portion of this turn sequence also seems related to notions of suggestibility. Legal critiques of interviews include a critique that past investigators have used leading questions which are highly coercive. Hearings that have overturned guilty verdicts have,

in part, focused on the issue of leading questions. See, for example, Ceci and Bruck's (1999) examination and discussion of several such interviews. Clearly that type of research has led to changes in interviewing techniques, and it is possible that this exchange reflects the interviewer's focus in relation to leading questions.⁶

The question, "What's the name of my dog?" can only be considered a felicitous question if its presuppositions "there is a dog," "the dog belongs to me," and "the dog has a name," are true. Kortney's practice answer responds to the question in a way that accepts the presuppositions as accurate; and it can only be seen as an appropriate answer, no matter how well-formed it is, in relation to those presuppositions. The presuppositions, however, make this a leading question. In Meagan's next turn, she responds to Kortney's practice by modeling a logical claim that disallows those presuppositions. If she were allowing Kortney to make those assumptions, her modeled logical claim would be something like, "Cause you don't know my dog's name, do you? Nope," but this is not her response. Instead, in lines 57 and 58, she models a logical claim that questions the presuppositions, "Cause you don't even know if I have a dog, do you? Nope." What is at issue from the perspective of analyzing how children are constructed as witnesses, is that Meagan models for Kortney what her behavior as a viable witness *should* be, and this socializes her to how she should be thinking and producing responses in order to construct herself as a viable legal witness.

Meagan's "last rule," as seen in lines 59-60 is "that if I ask you, or if I say something that's not true, it's okay to say 'That's not true, that didn't really happen that way.' Okay?" In this turn, Meagan's model answer is appropriate in relation to claims

regarding particular actions. She is modeling the kind of answer that will be acceptable during the elicitation of an account(s) portion of the interview when definitions of what has happened are very much at stake. The answer also has a particular structure. It begins with a statement that negates the incorrect assumption, and this is followed by a reason for making that negative statement. In order to practice this performance, Meagan, in line 62, asks Kortney a question that contains embedded information that both of them know to be incorrect, “So if I, if I was to say that you were 10 years old, what would you say?” to which, Kortney responds, in line 63, “No. I’m 6 years old.” While not being an answer that is perfectly representative of Meagan’s last modeling sequence, it does show the same kind of overall structure. It begins with a negation of the incorrect statement, a simple “no”; and this is followed by a reason for the negation, “I’m 6 years old.” Obviously, Kortney cannot be socialized to answer this type of question by a single turn sequence, but it does show that one of the *processes* in action during these pre-elicitation sequences is the process of modeling appropriate responses and practicing viable witness behavior.

Sequences Related to the Purpose of the Interview

There were three types of questions that made up the sequences related to the purpose of the interview: questions related to whether children knew the interview purpose; questions related to who had told them about the interview; and questions related to what that person had told them. These sequences were used frequently with at least one of the three types of questions occurring in 15 out of 19 interviews.

Cultural assumptions about child witnesses relate to doubts about whether children construct stories of their own volition or have been pressured by an adult to create the stories that they tell (Berliner, 1985). In another demonstration of intertextuality, parts of these sequences seem specifically created to make it clear for the record that a child has not been coached in what to say. In line 73 of Excerpt 31, this seems to be the focus of Orin's question, "Did anything- tell you what to say today?"

Excerpt 31

T: 18	Orin (Police Officer)	Cassie (12;8)
73	Exactly. Exactly. Um. And the other thing is did anything- tell you what to say today?	
74		No.
75	Okay. You're just here to tell the truth, right?	
76		Yep.
77	(Page 3 of 11)	
78	Okay. Do you know why you're here today?	
79		Yes.
80	How do you know why you're here?	
81		'Cause my parents told me.
82	Okay. Why are you here?	
83		To-, I don't know. I guess because-, to see-, well they have to question us to know exactly-, what exactly the things he did to know like how to sentence him or something.
84		
85	Uh-huh (yes).	
86		How long or something like that.
87	Okay. Who are we talking about first of all?	

Orin seems to be indexing cultural assumptions of coached testimony because his turn in line 75 is consonant with these concerns. He refers to Cassie's responsibility to tell the truth "You're just here to tell the truth, right?" If the adverb "just" followed the word "here," its scope would include the "(in order) to tell the truth" clause, limiting what she could talk about to only the truth. Instead however, he uses "just" in a way that has scope over both "here" and the "(in order) to tell the truth" clause. This limits her reasons for

being here to those related to her intent to tell the truth. The “just” in this position in the question creates a situation where Cassie is asked to agree that her motives have not been influenced. This assurance is followed by a question in line 80, “How do you know why you’re here?” Essentially, Orin is asking about the source of Cassie’s information and trying to establish whether this interview has been framed for her by some other individual. In line 82, he asks a direct question “Why are you here?” This entire sequence can be seen as indexing cultural assumptions about children as witness and providing a response to those biases. It constructs Cassie as an independent, legal witness. In Excerpt 32, both Meagan and Summer respond to similar concerns. In lines 111 and 112, Meagan asks Summer who told her about the interview and what she was told.

Excerpt 32

T: 13	Meagan (Social Worker)	Summer (8;3)
110	Okay. Who told you about coming here today?	
111		Um, my mom.
112	What did she tell you?	
113		She said I have to tell the truth.
114	Very good. Remember we talk-, kind of talked about that right? Okay. And I just want to	
115	make sure that you know that you-, whatever you say today isn’t going to get anyone into	
116	trouble okay?	
117		Okay.
118	(Page 4 of 14)	
119	All right. ‘Cause I know sometimes kids worry about getting someone into trouble and	
120	they’re-, and you’re not going to get anyone into trouble okay?	
121		Okay.
122	Did your mom say what we were going to talk about? What? Or what did she say?	
123		She said um, you’re going to tell ... um, what we should do ... stuff like that.
124	Okay. Okay. I heard maybe that um, something happened. Is that true, or false, or-?	

In line, 113, Summer responds, indirectly quoting her mother, “She said I have to tell the truth.” It seems unlikely that Summer’s mother simply drove up to the interview building, uttered the single sentence “You have to tell the truth,” and left Summer to deal with the interview. The fact that Summer chooses, out of the things her mother must have told her, an indirect quote about truth, indicates that Summer recognizes that Meagan’s two prior turns suggest the possibility that she could have been coached to tell something other than the truth.

In lines 114-120, Meagan engages in the social lie that Summer’s participation in the interview will not get anyone into trouble. As discussed, this type of reassurance is related to the child’s inherent conflict between her social responsibilities and her truth-telling responsibilities. Essentially, it is an attempt to resolve the issue by negating the social responsibility portion of the conflict leaving the child with only her truth-telling responsibilities. Finally Meagan uses a question that fits into the structure of this pre-interview sequence, “Did your mom say what we were going to talk about?” to transition to the topic of the elicitation sequence that begins in line 124, with her “I heard . . . something happened” shift to that sequence.

These who told you what about being here? pre-elicitation sequences of the interview provide evidence of the intertextual nature of the interview. In particular, they index cultural biases about children as witnesses. In indexing these biases, they create interactions that become part of the record of the interview, and consequently of institutional memory, providing evidence that an individual child has not been coached as is, therefore, a reliable, independent legal witness.

Post-elicitation/Closing sequences

Post-elicitation sequences tend to be much briefer than pre-elicitation sequences, and they generally have two goals: first, to make the child feel good about herself and second, to close the interview event.

Questions for Interviewer

Seven of the 19 interviews, representing four interviewers, contained a sequence in which interviewers offered children the opportunity to ask them questions. Sometimes children opted out of this opportunity seemingly trying to bring the interview to a close as Cassie does in Excerpt 33 with her quick “Nope” and “Nope” of lines 439 and 441.

Excerpt 33

T: 18	Orin (Police Officer)	Cassie (12;8)
438	Anything, else that you can think of?	
439		Nope.
440	Any questions for me?	
441		Nope.
442	Okay. Well let's head back downstairs then. (rustling)	
443		Yeah. (door being opened)

But other children took the interviewer's offer to heart, creating the only real role reversals of the interview events. As the laughter notations indicate, these exchanges moved topics away from the serious topics of the elicitation of an account(s) sequences.

They also served as transitions to the final closing sequences of the interview event.

Excerpt 34

T: 17	Meagan (Social Worker)	Chelsy (11;10)
506	Okay. All right. Well I've asked you tons of questions, do you want to ask- me any questions?	
507	(Page 13 of 14)	
508		What do you like to do and what are your

		hobbies?
509	(laughing) I really sports, like I like soccer and softball. And I like to read a lot. And that's	
510	probably about it. I like to shop. I go shopping a lot. (laugh)	
511		I like to shop, but I don't go shopping a lot.
512	Oh, do you?	
513		'Cause my mom works.
514	Oh.	
515		Hm.
516	Yeah. I shop a lot. And that's probably about it.	
517		Hm.
518	That's just kind of stuff I like to do. I like to play sports a lot, so-. Anyways-. Any other	
519	questions that I have-.	

None of the children who asked questions in the closing sequences interpreted the offer as an opportunity to inquire into future events in the legal process. None of them asked, as an adult might given this opportunity, a question like, "Okay, what happens now?" Each of them, as Chelsy does, seems to interpret the move as an offer to switch roles in the interview event. Consequently, they ask the interviewer specific questions, most typically personal ones. Notice that after Chelsy's questions, "What do you like to do and what are your hobbies? in line 508, Chelsy does not maintain a question-and-answer chain. Her "Hm" in lines 515 and 517, however, indicates that she recognizes these turn slots as positions that she has the right to, and she uses a continuer to maintain her interviewer role. When Meagan makes a closing move, "and that's about it" in line 517, Chelsy's continuer "Hm" forces Meagan into another turn, in which she basically repeats information she has already provided.

These sequences take on many of the qualities of the pre-elicitation rapport building sequences—with the added twist of the role switch. Some interviewers, however, replace this role-reversed sequence with a sequence that more closely resembles

a rapport building sequence with the interviewer asking all the questions. Like rapport building sequences, these questions-for-the-interviewer sequences, serve the purpose of shifting away from more serious topics, lightening the mood of the ongoing exchange.

Reassurances

In reassurance sequences, which are present in four of the 19 interviews, interviewers reassure children that they have done the right thing. These reassurances, however, are not framed in reference to participation in the interview itself; they are framed in reference to disclosures the child has made to an adult. In three of the reassurance sequences, the interviewers refer to the original complaint that led to the initiation of the legal process. In the fourth, as seen in lines 541-543 of Excerpt 35, the reassurance relates to Summer's telling her mother about a recent event. This exchange begins with Meagan voicing support of Summer's refusal to talk to Chuck, her step-father. She continues her support by providing a justification for Summer's refusal, "Cause it's not- it's not okay that he's done this kind of stuff okay?" Meagan's "you did the right thing" reassurance of line 543 is not framed in relation to Summer's recent refusal to talk to the alleged perpetrator, but in terms of telling her mom about the incident.

Excerpt 35

T: 13	Meagan (Social Worker)	Summer (8;3)
541	Okay. So you kind of just don't like him <noise> because of th-, the-, the stuff that he's done.	
542	Okay. Which-, which I can understand. 'Cause it's not-, it's not okay that he's done this	
543	kind of stuff okay? And I want you to know that you did the right thing by telling your	

544	mom, okay? What do you think you could do if something happened again with Chuck or	
545	with anyone else? Who could you tell?	
546		I could tell (rustling) um, my grandpa because he knows um, not to do it and he knows very

If This Happened Again, What Would You Do?

Eight of the 19 interviews examined here contain a sequence like the one in lines 544-546 of Excerpt 35 asking children what they would do if a similar event occurred. In particular, these are framed to elicit the specific adult the child would tell. This can be seen in the “Who would you tell?” of line 545. The purpose of both reassurance sequences and these if this happened again, what would you do? sequences (they often occurred in a paired format as they do in Excerpt 35) seems to be to rehearse what the child would do. These sequences serve as display sequences in which the interviewer allows the child to display her knowledge of the procedures she would use and as a sequence that uses the displayed knowledge to reassure the child that she has the skills and knowledge to get help in the future should she need it. This sequence constructs the child as an individual who has all of the necessary skills to not become a future victim.

Statements of Procedures (What to do now)

Statement of procedures occurred in 18 of the 19 interviews. Their purpose was most often simply to direct the child to where she needed to go now that the interview was over. They tended to be very practical in nature, as seen in the 560-561 of Excerpt 36, keeping control of things that children brought with them or should leave there. Often these exchanges were as simple as “Okay. Well let’s head back downstairs then.” But

they could contain a bit more explanation as seen in the “We’re going to go downstairs and I’m going to talk to your mom for a bit longer” of lines 557-558 in Excerpt 36. In most interviews these exchanges were the terminal turns of the interview.

Excerpt 36

T: 13	Meagan (Social Worker)	Summer (8;3)
557	Okay. We’re going to go downstairs and I’m going to talk to your mom for a little bit longer	
558	okay. Is that okay? All right. I’m going to take this. Can I keep this?	
559		Uh-huh (yes).
560	Okay and you can just set that on the table. Okay. Oh, right there. Yeah there you go.	
561	(rustling) Don’t forget-, is that your little doll? Don’t forget it. Okay. (door being opened)	
562	You want to go back downstairs?	

Thank You/Appreciation

Only five interviews of the 19 interviews contained sequences in which the interviewer thanked the child for participating in the interview. These were typically very brief, “I appreciate you talking to me,” or “Thank you for talking to me, Kirsty,” or “Thanks for talking to me today” and, as expected, they typically served as the final turns of the interview event.

One quality that all post-elicitation sequences have in common is that, other than generally maintaining the question-and-answer format of the interview event, they do not construct the child as a viable witnesses in the way that pre-elicitation and elicitation of an account(s) sequences do. If anything, as seen in the reassurance sequences, they construct the child as someone who has the skills to not be victimized in the future.

It should be remembered that these sequences are also very different from pre-elicitation sequences in that in the pre-elicitation sequences, children have not yet begun the process of constructing themselves as victims within this particular speech event. In post-elicitation sequences children have more or less actively participated in co-constructing themselves in this way, and it could be the purpose of the post-elicitation sequences to counteract some of the emotions connected with those constructions.

Conclusion

These interview situations provide an opportunity to examine the construction of functional identities. Interviews are made up of three major subsections, pre-elicitation sequences, elicitation of an account(s) sequences, and post elicitation sequences. This chapter has examined how functional identities are constructed in the pre-elicitation and post-elicitation sequences. Identity construction in pre-elicitation and post-elicitation sequences is focused on the construction of the legal witness identity. This construction occurs as a result of two major process. The first is the process of socialization. Legal witness is an identity of performance, and it is constructed in performance. Interviews provide for the socialization of the performances that are necessary for the constructions of this identity. First, intra-interview socialization processes introduce children to the overall question-and-answer interaction of the interview event. Second, pre-elicitation sequences, in particular rapport-building sequences, provide opportunities for children to practice the question-and-answer exchanges that are needed for the elicitation of the event(s) section of the interview. Open-ended questions, which occur more frequently in rapport building sequences than in other pre-elicitation sequences, allow children to

practice co-constructing stories with interviewers and this continues the process of socializing them as legal witnesses.

A second interview process that is related to the construction of the legal witness identity is an inter-interview process. The structure of pre-elicitation sequences reveal that interviewers have received training and have participated in multiple interviews. Many of these sequences seem to be designed to respond to cultural and legal concerns about children as witnesses. Research, for example, indicates that there are cultural biases against child witnesses, in particular these biases are related to children's abilities to tell the truth about sex crimes. Pre-elicitation sequences, in particular those related to telling the truth, provide evidence for the record that children understand the difference between the truth and a lie; that they understand that telling lies has consequences; and that they plan to tell the truth during the interview. These sequences, however, also reveal the conflict that a child may have between her identity as a legal witness, with its inherent responsibility to the truth, and her responsibility as it is related to some other identity such as a daughter or family member. Sequences related to telling the truth also indicate that interviewers, while making agreements with children to do so, do not always tell the truth. They tell children, for example, that no one will get in trouble if they tell their stories and that there are no right or wrong answers to questions. Apparently, interviewers rank their responsibility to elicit an account and protect children higher than an absolute adherence to either telling the truth or keeping their agreement with the child. Children, on the other hand, are required to rank their truth telling responsibilities higher than their social or familial responsibilities.

Sequences related to the purpose of the interview also seem to be designed to respond to cultural and legal concerns that child witnesses are coached to tell stories. These sequences establish for the interview record that the child has not been coached by another individual to produce a particular story.

These sequences construct children as witnesses by providing for the practice of an identity that is established in practice and by providing evidence for the record that child is a reliable legal witness who has not been unduly influenced by another individual.

Finally, post-elicitation sequences allow an opportunity for children to receive reassurances, display their knowledge of what they will do if they encounter occasions in which abuse is a possibility, and finally, they allow children an opportunity to practice an interview from the perspective of the interviewer as they ask the interviewer questions.

⁶ This interpretation, would, of course, be better supported if Meagan does not, indeed, have a dog. This would support the argument that her intentions in initiating the sequence were to make the point that one cannot make such assumptions. As a matter of interest, in another interview when she is asked whether she has a dog, she answers that her parents do—suggesting, of course, that she does not.

CHAPTER 4 – IDENTITY IN ELICITATION OF AN EVENT(S)

To discuss the interview as a site for identity construction, it is necessary to keep in mind that forensic interviews with children are one part of a legal process that determines whether specific, legally defined activities have taken place. As a part of this process, the purpose of the forensic interview is to determine whether a child's disclosure of events provides the elements necessary for bringing charges against an alleged perpetrator. To put this another way, the purpose of interview events is to determine whether a coherent account(s) of an alleged event(s) that meet specific legal definitions can be elicited. Therefore, these interviews are very different from the typical situations in which children relate stories or accounts of past events. The elicitation of an event(s) section of the interview is the section in which narratives and accounts of events are co-constructed by interviewers and children. This section of the interview constructs children as witnesses who can provide a coherent, consistent story of an event(s). As discussed in Chapter 1, the construction of functional identities is partially the result of constructional dependences between the identities of legal witness, legal victim, and legal perpetrator. The elicitation of an event(s) section of the interview provides an opportunity to examine these constructional dependencies. It also provides evidence that these constructions are not without conflict. For example, a child's resistance to being interpellated as a victim may conflict with her ability to be seen as a competent legal witness. Since the identity of legal victim and legal witness are mutually constitutive identities, resistance to interpellation as a witness has the potential to affect the construction of both legal victim and legal perpetrator.

Construction of Witness: Socialization to Legal Event-appropriate Information

The interview is subject to written and unwritten rules that do not correspond to the typical interactions of conversation or narration. As examples have shown, the interviewee's choices are much more limited. Most storytellers have what Walker (1982) refers to as "initiator rights": the rights to choose "the time, place, and partner of conversation; to open, maintain, or close encounters; to choose physical movement toward or away from the hearer; to choose the medium of exchange: speech or gesture; and finally, to chose (sic) the topic" (1982, p. 7). The interactions of the interview socialize interviewees to these written and unwritten rules of interaction and therefore socialize children as witnesses. As Walker has pointed out, witnesses in a courtroom have no choice to be there; they must respond verbally; they do not control the topic of discourse; they are not allowed to use reported speech or present personal opinions; and at any time, their testimony may be interrupted by objections from the other side. In relation to these initiator rights, the experience of the interview prepares children for the behavioral aspects of courtroom testimony. Interview interactions, however, remain fundamentally different from courtroom interactions. As Walker (1982) has pointed out, a courtroom trial is the structured telling of a story for reasons other than to entertain.

It is a cooperatively told narrative, a recapitulation of past experience, told sequentially with the intent of persuasion, having a beginning, a middle and in Labovian terms, a coda. Marked throughout by evaluation, the story belongs to the principal parties—the plaintiff and defendant, and most

especially it belongs to the plaintiff, whose reasons for wanting the story told is the reason for having the trial at all (Walker, 1982, p. 1).

Walker refers to the trial as “a narrative-in-pair, in which two versions of reality conflict, each version hoping for ratification as true” (1982, p. 1). Drew (1992) puts this a slightly different way, he argues that the American judicial system involves a contest between which of two sides can produce the most convincing story about whether an incident happened and whether that incident was a violation of some law. Since the interview elicits one version of an event(s), it can only prepare the child for one half of this contest. Although courtroom interactions are beyond the scope of this study, it should be noted that legal restrictions related to children’s testimonies have changed in recent years. For some courts, this means the use of a closed circuit video set up so that the child cannot see the defendant while testifying, but the defendant can see the child give testimony. In some states it means that videotaped testimony can be used rather than live testimony (Leippe et al., 1993).

As the notes to Federal Rules of Evidence Article VI, Rule 601 indicate, questions of children’s competency as a witness relate to notions of narration: “Interest in the outcome of litigation and mental capacity are, of course, highly relevant to credibility and require no special treatment to render them admissible along with other matters bearing upon the perception, memory, and narration of witnesses” (Notes to Rule 601).

The term *narrative* has been used in a wide range of ways. Narratives have been defined in very structural terms as temporally sequenced clauses that describe past events. The term has also been used to refer to a set of genres that can include stories,

sports reporting, plans and tellings of intentions to perform future actions. Ochs (1997) points out that whether a narrative is defined narrowly by its structure or more broadly as describing a range of genres, what all narratives have in common is that they “depict a temporal transition from one state of affairs to another” (p. 189). Although in many ways, including their interactional structure, interviews do not seem to fit the classic model of narratives, sequences within the interview “depict a temporal transition from one state of affairs to another.”

Labov and Waletzky (1966) define conversational narratives as consisting of five possible elements: an orientation that presents the basic who, what, where, when, and why information; a complicating action that describes what happened; evaluative elements that provide a justification for the telling of the story; a resolution which provides an explanation of the event’s outcome; and a coda that signals the end of the narrative. An additional element, the abstract, which provides a statement of the general idea of what a story is about, is added by Labov (1972). The crucial element of Labov’s definition of narrative is the complicating action. He describes this element as “matching a verbal sequence of clauses to the sequence of events which (it is inferred) actually occurred” (pp. 359-360). This definition structurally limits the range of conversational events that can be described as narratives to those that report past events using particular sequences of clauses. If this is the crucial element, interviews could certainly be said to contain narratives. In Excerpt 37, Summer is telling Megan about an incident that happened with her step-father. In answer to Megan’s question asking why Summer

thought that what had happened had been on purpose, Summer responds with a rather long turn in which she embeds a narrative about a prior event with her uncle.

Excerpt 37

T: 13	Meagan (Social Worker)	Summer (8;3)
138	Under your underwear? Okay. What-, do you think it was something that he did on purpose	
139	or accident or-?	
140		Purpose.
141	Why do you think that?	
142		Um. ‘Cause he use to do it-, well Alex he’s my uncle and a long time ago when I
143		was sleeping he was um, doing it and I grabbed his thingy and I woke up and I got up. And
144		I went to the bathroom and he was starting to tell me not to tell and said sorry and I went-,
145		and I got up to my mom and knocked on the door he’s begging me and begging me not to
146		tell and um, then mom got up and told him and my grandpa um, told them about it.

This narrative fits Labov’s definition of narrative. It begins in lines 142-143 with an orientation identifying the main protagonist, Alex, and the time period “a long time ago”; it has a complicating action—the essential sequences of past tense clauses—in lines 143-146. It ends in a resolution with her mother talking to the uncle and the grandfather about the incident. Finally, it is essentially told by a single story teller during an uninterrupted conversational turn.

While this narrative is embedded in a single turn, it not constructed in this single turn. It is a consequence of the interview itself. It is difficult, for example, to imagine this child sitting down with this adult in any other context and producing this narrative. This narrative is embedded in a sequences of questions that are focused on eliciting both this

and related accounts. It is the interviewer who controlled the sequence of questions that lead up to this narrative.

The fact is that this narrative is generated is due to the purpose of the interview and to the interactions of the interview's co-participants. Jefferson (1978) discusses how storytellings both articulate with the context of their tellings and are shaped by the teller's co-participants. Jefferson, building on Labov and Waletzky's (1966) narrow structural definition of narrative, identifies a particular sequence of turns within a conversation as a "storytelling." Storytellings include prefaces in which tellers indicate that they are preparing to tell a story; a turn in which co-participants align themselves as story recipients; a turn(s) in which the teller narrates the story; and a turn in which the recipients respond to the story.

Jefferson proposes that these storytellings reveal how narratives are affected by the context of the telling. For example, recipients affect the nature of the story because storytellers must negotiate with them about the fact that a story will be told. Recipients and storytellers also negotiate the nature of the story's telling, for example, whether it is told in an extended turn or across multiple turns. Additionally, recipients affect the content of the story in that storytellers are aware that recipients will evaluate the story's relevance to the extended conversational context. Polanyi (1985) examines stories as cultural texts with culturally contexted meanings. Bakhtin has argued that both the form and the context of discourse are social phenomena, and this includes the entire range of language from sounds to abstracts meanings (1981). Polanyi argues, in much the same way, that American stories include both structural elements and culturally contexted

meanings. Her definition of a “story” requires that stories be responsive to story recipients, that they encode a past time narrative, that they make a point that is relevant to the ongoing conversation, and that they have a conventional structure that is smoothly integrated into the conversation. Polanyi’s definition of the structural requirements of a story is very like other definitions that have built on Labov’s model, but she also defines stories as social phenomena that are produced to accomplish communicative aims. While Jefferson’s discussion provides for the interactions of participants, and Polanyi’s definition provides for discussions of contexted cultural meaning, both of these describe teller instigated stories as relatively long turns in an ongoing conversation.

In the narratives examined in this study, however, the event’s purpose is the impetus for the stories, and it is the interviewer’s role to elicit the account(s). Consider, for example, the context of narrative seen in Excerpt 37. Excerpt 38 shows the sequence of questions that preceded that narrative. In lines 124-135, Summer is telling about an event that allegedly occurred with her step-father. In line 138 Meagan asks a question about the step-father’s intent. To answer that question, Summer produces the embedded narrative about her uncle having behaved with intent to support her claim that her step-father behaved with intent.

Excerpt 38

T: 13	Meagan (Social Worker)	Summer (8;3)
124	Okay. Okay. I heard maybe that um, something happened. Is that true, or false, or-?	
125		True.
126	Okay. Tell me what happened?	
127		One-, one ... Well yesterday um, yesterday my um, was ... bad because um, my step-dad

- 128 Chuck he um, he wanted me to, give him a ...
and I came over to him and ...I-, my um,
129 private part.
- 130 He lifted you up by your private part? Okay.
What were you wearing?
- 131 I was wearing um, I was wearing this and it had
um, a shirt and it was pink and it has a little
132 bit of purple in it.
- 133 Okay were you wearing underwear? Okay.
Now he lifted you up by the private part. How
134 did he do that.
- 135 He put one arm on my sh-, on my shoulder and
the other one right there.
- 136 Okay. Was it over your underwear, or under
your underwear, or something else?
- 137 Under.
- 138 Under your underwear? Okay. What-, do you
think it was something that he did on purpose
- 142 Um. 'Cause he use to do it-, well Alex he's my
uncle and a long time ago when I

It is the interviewer who initiates the account generated in this sequence when she says, "I heard maybe that um, something happened. Is that true, or false, or-?," and when Summer responds "true," it is the interviewer who elicits the telling of the account with the command form "Tell me what happened?" of line 126.

Ochs (1997) distinguishes various roles that narrators have when telling a story, and building on the work of Goffman, she also considers various recipient roles. She distinguishes between narratives that are teller driven, with the teller sustaining the story over several consecutive turns, and those that are recipient driven, with the recipient and the teller working out the story together. Ochs and Taylor (1992) add an additional consideration to this type of analysis. In their discussion of dinnertime stories, they argue that mothers often act as story introducers eliciting narratives from a child at the same time that they designate the father as the primary recipient. This also gives the father the

role of a problematizer, who can challenge the narrated actions as well as the actions of the narrator. In interviews, of course, interviewers serve as both story introducers and as primary recipients. In line 126 of Excerpt 38, Meagan's "Tell me what happened?" constructs her as both story introducer and primary recipient of the story. Ochs and Taylor also argue that these roles are socially organized and reflect social actions that contribute to particular identities. For example the problematizer role in these family dinner time interactions may contribute to concepts of "father." It is in this way, they argue, that stories also serve a socialization function. In the forensic interviews looked at here, the interview roles that are being socialized are the participant roles of interviewer and interviewee, but at the larger level related to the content of the account and the manner in which questions are answered, children are also being socialized into the identity of legal witness—in particular they are being socialized to interpret questions and produce answers that are appropriate to the legal requirements of the stories elicited in the interviews.

Ochs and Capps (2001) argue that the narratives that are created in ordinary conversations exhibit a central tension between the storytellers' needs to "tie events together in a seamless explanatory framework" and the need to "capture the complexities of the events experienced, including haphazard details, uncertainties, and conflicting sensibilities among protagonists" (p. 4). In the interview situations examined here, the dynamic is somewhat different.

The purpose of the interview, with its inherent ties to the legal definitions of the actions in question, focuses the accounts generated both in terms of their relevance to the

ongoing interaction and in terms of the specific details that become a part of the account. In this way, the accounts that are generated are inherently shaped by the legal context of which they are a part. For example, when Summer is asked, in line 130 of Excerpt 38, what she was wearing, she replies with a description that sounds like one any little girl might provide in answer to that question, “I was wearing um, I was wearing this and it had um, a shirt and it was pink and it has a little bit of purple in it.” The interviewer’s next question, however, reshapes the nature of the required description to one that fits the context of the interview, “Okay, were you wearing underwear?” The account then proceeds in relation to what happened with her underwear. On one hand, it is clear that the content of the ongoing account is shaped by the context of the legal situation; on the other hand, the second question is also socializing the child to an understanding that the meaning of a question like “what were you wearing?,” relative to the interview, requires an answer that relates to the specific subset of actions (commit, touch, take or cause) that are the focus of the interview.

Two Styles of Telling about an Event(s)

Embedded narratives are not representative of the typical style of recounting an experience found in these interviews. For example, the question-and-answer sequence of lines 126-136 of Excerpt 38 is part of an account of Summer’s stepfather touching her private parts under her underwear, and it is this account that is the focus of the overall interview. The embedded narrative in lines 127-138 of Excerpt 37 recounts an experience that occurred further in the past, and the purpose of its telling is Summer’s justification for believing that her stepfather’s actions were done with intention. Each of these

sequences represents one of the two major styles of storytelling found in these interviews: highly interactive accounts and embedded narratives.

Since the less interactive, embedded narratives require longer turn lengths, one way to get a quick feeling for how children are employing these longer responses is to get a measurement of the average number of words per turn that each participant is producing during the elicitation of the account(s) section of the interview. After separating each interview transcripts by person, I separated the pre-elicitation, elicitation of an account(s), and post-elicitation sections of the interview. I took the total number of words for each individual in each of these three sections and divided that total by the number of turns the individual had taken. Since interviews are dyadic, children and their interviewers have essentially the same number of turns per section in most of interviews. For this analysis, only verbal utterances were counted as turns. This decision was partially due to the limitations of the data. No non-verbal backchannels, such as nods, were transcribed. Determining the number of turns also requires making decisions about whether to include utterances such as “uh huh” as a turn. These utterances, often referred to as backchannels, or more specifically as “behavior in the back channel” (Yngve, 1970, p. 574), can be seen to indicate a listener’s attention and interest in the ongoing conversation. I decided to count such responses as a turn for two reasons. First, as Yngve (1970) indicates, this class of response can include longer utterances such as short comments or questions. Second, while such responses, which Schegloff (1982) calls “continuers” because they are used in part to encourage the speaker to continue his or her ongoing account, may be used to indicate that the person uttering them is foregoing his or her rights to a full turn, they also

shape the ongoing interaction by indicating that the person providing the continuer is foregoing an opportunity to initiate repair. One conversational implication of these utterances is an implicit acquiescence with the well-formedness of the ongoing interaction (Schegloff, 1982). So for the purposes of these calculations, I defined “turn” in the way that Schegloff (1986) does. “. . . it should be clear that a turn may contain anything from a single “mm” (or less) to a string of complex sentences” (pp. 350-351). Children’s turn lengths are also affected by the fact that their turns are most often responses to the questions that make up the interaction of interviews. Yes-no questions, for example, can be answered with a single word, and with the younger children, they quite often are. Wh-questions also do not require answers that are complete sentences. They can be answered with the phrases or clauses that respond to the particular wh-word. As Goffman (1981c) has noted, the elided elements of answers can be recovered in relation to their first pair parts. So, for example, if someone is asked a “when” question, “When did that happen?,” she can simply answer, as one 7 year old did, “A long, long time ago” and not “It happened a long, long time ago.”

Figure 4 provides the average number of words per turn for each child and her interviewer organized by interviewer and the age of the child. For the sake of simplicity and since post-elicitation sequences are very short relative to pre-elicitation and elicitation of an account(s) sequences, I have not included them in the chart. In instances where there were more than two individuals present and interacting in the interview, for purposes of simplicity, I have shown only the average number of words per turn for the primary interviewer. Table 2 in Chapter 3, shows the word counts for each of these

individuals in each section of the interview. Transcript 14, which includes and interpreter, is not included in these data since the child and the interviewer are using different languages.

Figure 4: Average Number of Words per Turn in Pre- and Elicitation Sections

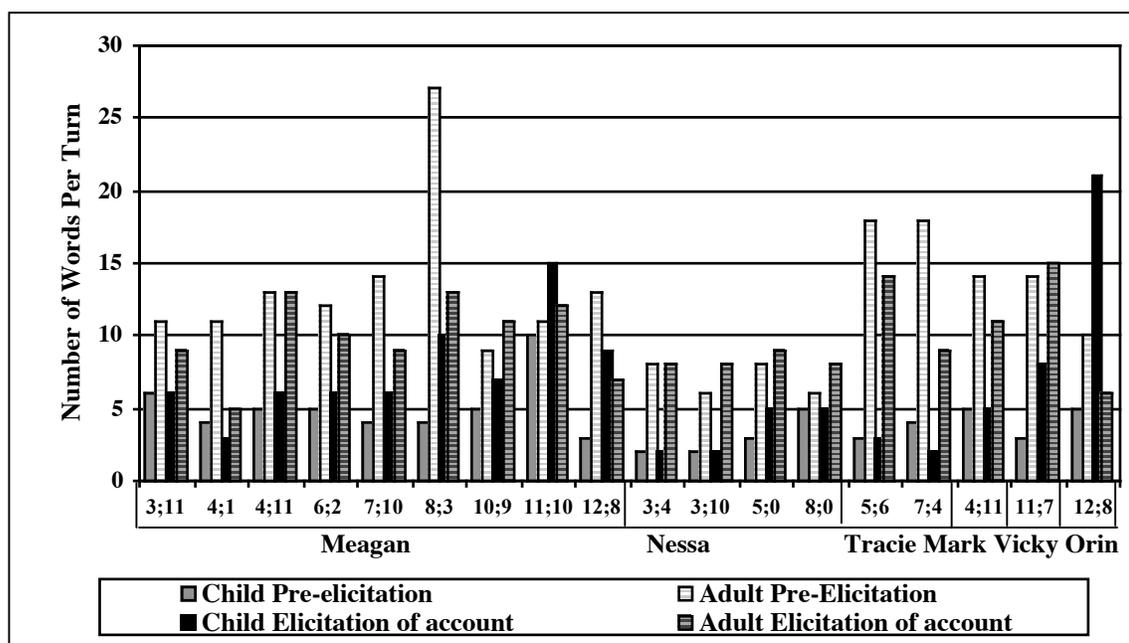


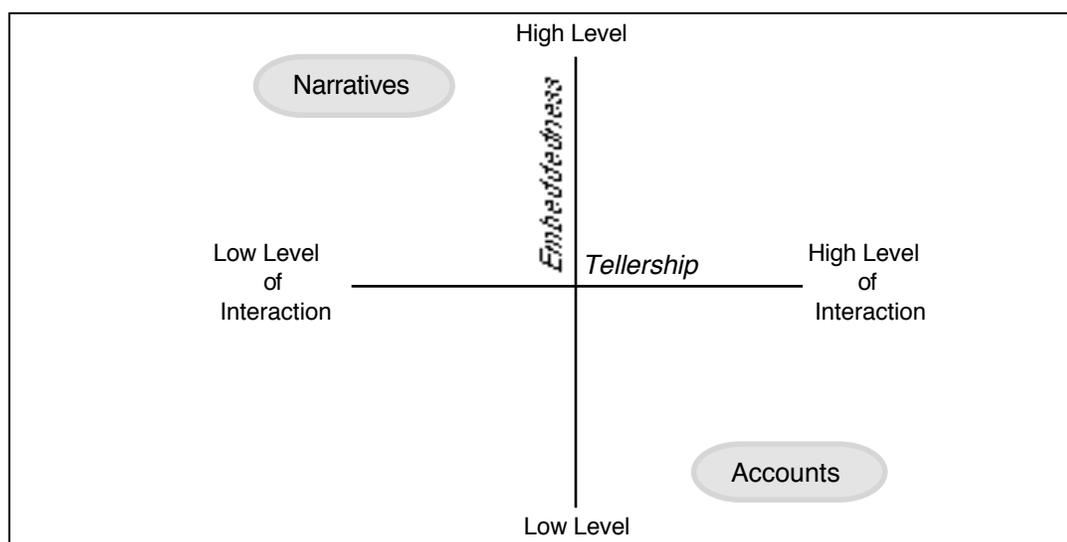
Figure 4 suggests that the six children over the age of 8 in these interviews produced longer turns in the elicitation of an account(s) sequence than in the pre-elicitation sequences of the interview. Ten of the 12 children who were 8 or younger used relatively the same turn lengths or minimally longer turns.

Ochs and Capps' (2001) discussion of personal narratives provides a set of dimensions that are useful for making clear the distinctions between the two methods of storytelling that are represented in these interviews. They argue that narratives, whether written or spoken, can be analyzed and classified according to narrative dimensions such

as tellership, embeddedness, and linearity. For Ochs and Capps, each dimension represents a continuum along which individual types of storytelling can be situated. The dimension of *tellership* varies along a continuum that is related to the extent of involvement of tellers and listeners in the recounting of a narrative. Toward the low-level-of-involvement end of this continuum are texts that are shaped by a single individual for a non-present audience. Toward the high-level-of-involvement end of this continuum are narratives that are co-produced by the interactions of several individuals in a particular conversational event. The dimension of *embeddedness* relates to “the extent to which a personal narrative is an entity unto itself, separate from prior, concurrent, and subsequent discourse, is related to turn organization, thematic content, and rhetorical structuring” (p. 36). In combination, the tellership and embeddedness dimensions are very useful in distinguishing the styles storytelling in these interviews. Toward the end of the tellership continuum representing a low level of interaction and toward the end of the embeddedness continuum representing a high level of embeddedness are the more classical embedded narratives that are told in a relatively uninterrupted turn. An example of this style is the story that the interviewer and Summer co-produce in Excerpt 37. For the sake of clarity, I adopt Conley and O’Barr’s (1990a) use of the term “narrative” to refer to these relatively uninterrupted sequences that follow a more classic definition of narrative. Toward the end of the tellership continuum representing a high level of interaction and toward the end of the embeddedness continuum representing a low level of embeddedness are the accounts that occur as question-and-answer sequences consisting of a great deal of involvement on the parts of both participants and very little

embeddedness. An example of this style is the story that the interviewer and Summer co-produce in Excerpt 38. I adopt Conley and O’Barr’s use of the term “account” to refer to these interactive, relatively unembedded sequences. Figure 5 represents narratives and accounts along the continua of tellership and embeddedness.

Figure 5: Narratives and Accounts in Relation to Tellership and Embeddedness



Interview events socialize children to the highly interactive style of accounts.

Peterson (1990) discusses the types of prompting, or “scaffolding,” that often occur when adults interact with children telling stories. In this scaffolding process, adults ask children questions to generate additional story elements or in which adults supply additional pieces of information. The question-and-answer type of scaffolding that occurs when parents interact with their children may be part of the process in which children are socialized to tell stories. I argue that the scaffolding of the question-and-answer sequences of forensic interviews socializes children to the story elements that are required for testimony. However, while the question-and-answer sequences can be seen to socialize children to the highly interactive, relatively unembedded types of accounts,

short summaries (as in line 588 of Excerpt 40) aside, the interviews considered here do not contain examples of anyone other than the child constructing the relatively long-turn, uninterrupted type of narrative. Therefore, while it can be argued that some type of response by their interlocutor, such as allowing the child to take a relatively uninterrupted turn, may be socializing the child to *use* this type of narrative, it is much more difficult to argue that the child is being directly socialized in relation to how to *construct* such a narrative.

The distinction between the interactive and embedded styles is not trivial for at least three reasons. The first is that the processes of socialization for narratives and accounts are different in relation to the forensic interviews examined here. The second is that processes of socialization are linked to the construction of the legal witness identity. The third is that the two types of styles affect how witnesses may be evaluated by audiences including juries. The cultural attitudes connected to each style can affect how individual children are viewed as witnesses. O'Barr (1982) defined four dichotomies that affect the way juries respond to witnesses. These include the use of powerful versus powerless speech, narrative versus fragmented testimony style, hypercorrect testimony style and finally, interruptions and simultaneous speech between the witness and the attorney. The dichotomy of narrative versus fragmented testimony style is most directly relevant to the present discussion. O'Barr uses the term "narrative" to refer to testimony that uses low interactive, uninterrupted, embedded sequences of narrative. His term "fragmented testimony style" refers to the highly interactive, relatively unembedded accounts produced in question-and-answer sequences. O'Barr asked his subjects to rate

model witnesses in relation to convincingness, truthfulness, competence, intelligence, and trustworthiness. Witnesses who used a narrative style were judged as more convincing, truthful, competent, intelligent, and trustworthy than witnesses who used the fragmented style.

Research indicates that jurors evaluate child witnesses in similar ways. Leippe et al. (1993) designed a study to determine whether jurors' negative stereotypes of children's memories are disconfirmed by the "live memory performances" of witnesses. They found that negative stereotyping is not the only cause of the negative attitudes that jurors have about children's believability. *How* young children communicate also seems important. They found that jurors rated the younger children's testimony styles as less narrative and more fragmented and choppy than adults' styles. They also found that jurors rated the younger children as "more inconsistent" than adults. They conclude that "if children look this way, it is perhaps not surprising that they routinely draw less positive credibility ratings" (p. 185).

Both embedded narratives and question-and-answer accounts are the products of the interaction between the two participants. They are co-constructed by the main participants of the interview. Jacoby and Ochs (1995) define the process of co-construction as "the joint creation of a form, interpretation, stance, action, activity, identity, institution, skill, ideology, emotion, or other culturally meaningful reality" (p. 171). Two examples they provide that are particularly relevant to this study are "expansion," which is "a caregivers linguistically enriched reframing of a child's unintelligible or partially intelligible utterance" (p. 172) and "vertical constructions,"

which are “when children and their caregivers contribute different linguistic components of an expressed proposition” (p. 172). Instead of applying the notions of expansion and vertical constructions to the utterance level, I use them in reference to the larger discourse level of story construction. The question-and-answer sequences of the interview enrich the narrative detail of the ongoing account that is being elicited in very specific ways. In particular the question-and-answer sequences elicit details related to alleged actions to determine whether they match legal definitions. For example, in Excerpt 39, Summer has already said that her step-father has put her in his lap and touched her kiki. In lines 206-210 of this excerpt, she provides an example of one specific incident.

Excerpt 39

T: 13	Meagan (Social Worker)	Summer (8;3)
203	What was her name?	
204		Alison.
205	Alison. Okay.	
206		And um, wh-, he told both kids to go play in the room and um, when I was going in the room with Alison um, Alison went before me and
207		
208	Uh-huh. (yes).	
209		-my room. And he just came over and um, picked me up and <...> to the couch and Um.
210		And um, we-, watching TV and um, um, um, he was doing it.
211	What was he doing?	
212		He was just um, putting his hand in my kiki and um, he was rubbing it.
213	Okay. Was it on the inside of your kiki, or on the outside, or something else?	
214		In.
215	Inside. What did it feel like to your kiki?	
216		Um. Tickled.

In line 210, however, Summer’s utterance, “he was doing it” is not specific or detailed enough to determine whether legal definitions of molestation apply. Meagan must expand the story and ask for more detail, “What was he doing?” The answer that she elicits in

line 212, “He was just um, putting his hand in my kiki and um, he was rubbing it,” constructs the step-father as the agent of actions that meet the specifics of the legal definition. It defines the instrument, his hand, a “touching” verb, “rubbing,” and a physical location, “my kiki.” What needs to be more clearly defined for legal purposes is both the nature of the touching and the intent of the agent. Even though Summer has used the preposition “in,” Meagan must determine exactly what this means, and she creates a question with much more specific prepositions “inside” or “outside” in line 213. As , Summer replies “in” indicating that her use of “in” in her last turn was congruent with the concept of “inside.” The specification, “inside,” constructs the step-father as having participated in an action that can be used to categorize him as a specific type of legal perpetrator. Meagan’s question in line 215, about how this felt continues that construction. The laws in question not only define a discrete set of actions but a discrete set of intentions as well: the intent to cause pain, arousal, or gratification. Meagan’s question elicits information that can be used to categorize the alleged perpetrator in relation to this particular aspect of the law. Summer’s answer in line 216, “Um. Tickled,” can be used to define the step-father’s intent as arousal or gratification rather than pain. In this example, Summer and Meagan co-construct an expanded account of a particular event with the kind of details that Summer did not provide alone in the embedded narrative; and these expansions are specifically designed by Meagan to elicit the types of details that are necessary to construct a legal perpetrator. Claiming that the information elicited from Summer constructs the step-father as a particular type of perpetrator, is not equivalent to saying that Summer herself is aware of all of the constructional implications

of each of her answers. It is not, however, a requirement of co-construction that she has this kind of awareness. As Jacoby and Ochs (1995), have defined co-construction, “the *co-* in *co-construction* is intended to cover a range of interactional processes, . . . co-construction does not necessarily entail affiliative or supportive interactions” (p. 171 italics in original).

To say that the account(s) elicited in these interview situations are co-constructed, however, is also not necessarily to say that the interviewers are *co-authoring* the narratives. In his discussions of the production format of utterances, Goffman (1981a) refines the concept of “speaker.” He defines the notions of “animators,” “authors,” and “principals.” Animators are participants who are responsible for the physical production of the words. An animator “ . . . is the talking machine, a body engaged in acoustic activity, or, if you will, an individual active in the role of utterance production” (p. 144). Basically, an animator is the performer of a locutionary act. In the exchange seen in Excerpt 39, both Summer and Meagan are producing the acoustic elements necessary for the co-construction of the story; from this perspective they can be seen as co-animators of the account that is generated. An author, on the other hand, is “someone who has selected the sentiments that are being expressed and the words in which they are encoded” (p. 144) or “the agent who puts together, composes, or scripts the lines that are uttered” (Goffman, 1981b, p. 226). Authors are the performers of illocutionary and perlocutionary acts. Meagan is part of the larger *process* of authoring this account, but this is not the same as claiming that she is an author of the account. She creates the questions that generate the authored responses. So, for example in line 215 when she asks, “What did it

feel like to your kiki?” It seem unlikely that Summer would have volunteered the idea that the action “tickled” without the question to generate this element of the account. The question is part of the process that generates the Summer’s authoring of the concept of “tickled,” but Meagan does not author the idea of “tickled.” She does not, to use Goffman’s definition of author, “select the sentiments that are being expressed and the words in which they are encoded” (p. 144).

In this co-animating role, interviewers also help shape the overall ordering, the vertical construction, of a given account. For example in line 588 of Excerpt 40, Nessa provides a kind of summary up to this point in the telling of this particular event. She then asks for what happens next creating a temporal linearity in the account.

Excerpt 40

T: 12	Nessa (Social Worker)	Amy (8;0)	Mother
588	So it was you, and Katie and her dad? Right? And Katie just got back with the toilet paper		
589	and what happened?		
590		Um. ... just right there.	
591	Oh. Okay. So she comes back with the toilet paper and then what?		
592		Well she already did come back with the toilet-	
593		(Page 15 of 30)	
594	Okay.		
595		-paper and-	
596	And then what? Then what happened?		

As noted, linearity is one of the dimensions proposed by Ochs and Capps (2001) for examining narrative. They define this dimension as one that concerns the extent to which narratives “depict events as transpiring in a single, closed, temporal, and causal path or,

alternatively, in adverse, open, uncertain paths” (p. 41). The narratives and accounts that are generated in these interviews can be described as depicting events as closed, temporal events that follow a causal path. I refer to this type of linearity as temporal, causal linearity. There are multiple reasons that interviewers co-construct temporal, causal linearity for a sequence of events in interview accounts. First there is the possibility, as Bruner (1986) suggests, that narrative is one of the organizing principles of the human mind. Second, since this temporal, causal linearity is not a canonical element of all stories within their given cultures, however, (Becker, 1979; Ochs, 1997; Ochs & Capps, 2001) there must be a cultural element to this linearity. The American legal culture, at least, requires this kind of temporal, causal linearity. Hendersen (1997) has argued that juries need stories to link the legal elements of a case in order “to make the guilt of the defendant comprehensible” (p. 483). She argues that “to have a story requires having witnesses who can help to tell the story in terms of the ‘facts,’ and, even if the evidence is not presented in a linear form, the ultimate narrative must be linear” (p. 483). Interviewers are responsive to this legal need. A third reason that these interviews have a temporal, causal linearity could be related to the place that these interviews hold within the legal process. Due to the original complaint, to information gathered from prior interviews and therapy sessions, and to information provided by individuals related to the case, interviewers are familiar with many of the facts of a case before they begin the interview process. Often this knowledge is indexed in the interview, “Okay. I heard maybe that um something happened. Is that true, or false, or -?” or more specifically, “It seems like your mama told me that a little more went on then that. Did you tell her

something else happened?” It seems possible that interviewers are asking questions in relation to narratives that they have pre-constructed based on other evidence they have received, and that these narratives may shape the kind of temporal, causal linearity that is noticeable in the question-and-answer sequences. Further research in this area would be necessary, however, to make such claims.

Interviewers and children co-produce and co-animate accounts, but do not necessarily co-author accounts. This is not, of course, to claim that all interviews contain no co-authoring of ideas. That issue is beyond the scope of both these data and the study as a whole. What is of importance, from the perspective of this study, is the question of how identities are constructed in these events. In Goffman's (1981a) refinement of the concept of “speaker,” he defines the notions of “animators,” “authors,” and “principals.” Of these, his “principal” is most closely linked to concepts of speaker identity. A principal is “someone whose position is established by the words that are spoken, someone whose beliefs have been told, someone who is committed to what the words say” (p. 144). Unlike the animator, who produces the utterance, and the author, who creates the ideas that are expressed and chooses the words used to express them, the principal is “a person active in some particular social identity or role” (p. 145). Goffman is specifically referring to some “socially based source of self-identification” (p. 145) in his use of this term. The clearest distinction between interviewers and interviewees in the co-construction of accounts relates to this notion of principal. While the child is active in the role of interviewee and is, in this performance, being constructed as a witness, she is also by this performance constructing herself as the legal victim. Consequently, since the

two identities are mutually constitutive, she is constructing the alleged perpetrator as a legal perpetrator.

Construction of Legal Victim and Legal Perpetrator

As discussed in Chapter 1, legal perpetrator and legal victim are mutually constitutive identities. It is not possible with this type of crime to have a legal perpetrator without a legal victim. Legal perpetrator is the identity most directly in question in the interviewer situation. The exploration of this identity is the purpose of both the interview and the extended legal process of which it is a part. The successful construction of this identity, within the forensic interview itself, however, depends on the successful construction of legal victim. Although these are a mutually constituted pair of identities, the direction of the constructional dependencies is driven by the event context. The legal victim identity is constructed in relation to whether particular actions fitting the legal definitions of child molestation or related crimes can be co-constructed in the ongoing interaction of the interview. For example, in Excerpt 41, Jackie is eliciting an account that very specifically relates to the construction of both Nicole as a legal victim and her father as a legal perpetrator. At this point in the interview, Nicole has said that her father touched her “cosa” or “thing.” This is, of course, a non-technical term for one of the areas stipulated in the legal definition of molestation, but interviewers in this study used the child’s terms when referring to intimate body parts. In line 468, Jackie elicits the instrument(s) of the touching, with her question, “What did he touch your cosa with?”

Excerpt 41⁷

T: 14	Jackie (Social Worker)	Iliana (Interpreter)	Nicole (10;0)
462	Okay. How many times did he touch your cosa ?		
463		¿Cuántas veces te ha tocado tu parte, tu cosa? <i>How many times has he touched your part, your thing?</i>	
464	About-?		
465		Como.	
466			Como cuatro veces. <i>About four times</i>
467		About four times.	
468	About four times? Okay. What did he touch your cosa with?		
469		¿Con que te tocaba? <i>What did he touch you with?</i>	
470			Con las manos. <i>With his hands</i>
471		With his hands. (papers rustling)	
472			Y a veces con su pene. <i>And sometimes with his penis</i>
473		With his hands and sometimes with his penis.	

This exchange constructs Nicole's father as a legal perpetrator in relation to the legal definition. An action "touching" is established with an object/patient "cosa" that corresponds to the legal definition of private places. Finally, the instruments of the touching "las manos" (hands) and "su pene" (his penis) are established in the account. These elements construct Nicole's father as a legal perpetrator and Nicole as the victim. This excerpt illustrates another aspect of how legal requirements shape the context of the question-and-answer sequences. In line 462, Jackie asks Nicole how many times her father touched her cosa. Under other circumstance in which Nicole could tell this story to

an adult—to her mother, for example—it might be enough for the adult to simply become aware that such events had occurred. The need to know how many times they occurred might be a secondary consideration. With the legal requirements of this interview, however, the question of how many times an event occurred is related to the number of legal charges that can be brought. The legal perpetrator is constructed not simply as a person who matches a legal description, but as a person who matches that description multiple times—as a multiple legal perpetrator.

In Excerpt 41, Nicole is constructed as a legal victim by the establishment of her *cosa* as the patient of the touching. In instances where a child is caused to perform certain actions, however, the child must also construct herself as the agent of a particular action in order to construct a legal perpetrator. For some children, this creates a possible conflict. Consider the exchange that begins in line 309 of Excerpt 42. Here Nessa is asking a question to determine whether Katie's father can be constructed as the legal perpetrator of an event in which he is alleged to have caused a child to participate in specific actions. Katie must construct herself as the agent of those actions.

Excerpt 42

T: 7	Nessa (Social Worker)	Katie (5;0)
307	Did daddy say anything?	
308		He just pulled up his pants and we just watched the movie.
309	And did daddy have you do anything?	
310		Um.
311	Or Amy?	
312		We only rubbed it for one second and that's all.
313	Rubbed what?	
314		Our things.
315	You rubbed your things?	
316		Only our things for one second.

317	And did daddy ask you to do that?	
318		Yeah.
319	Yeah? And what did he say?	
320		Nothing else.
321	He didn't say any-, anything when-, when he asked you to do that?	
322		Yea-.
323	How did he ask you?	
324		He asked you if we read all the magazines and we said yes.
325	Okay, and what did he say to get you to rub your things?	
326		He said 'rub-, rub your things'. It's-.
327	What did he call them?	
328		He called them pee-pees.

In her line 309 construction of the perpetrator as the agent of the action, “And did Daddy have you do anything,” Nessa cannot escape the fact that in order for Katie to answer this question, and consequently construct herself as the victim of the causation, Katie must construct herself and Amy as the agents of the action they were caused to do. In Katie’s line 312 answer, she constructs herself and Amy as the agents of the action of rubbing, “We only rubbed it.” At the same time, however, she mitigates their action by describing this action as lasting “for one second.” She makes this construction more emphatic by adding “and that’s all.” In her next answer, seen in line 316, when she is required to define the object of their rubbing, she repeats the mitigating phrase “for a second.” Even though Katie has constructed herself as the agent of the rubbing, in order to establish Katie and Amy as victims of an adult who acted with intent, Nessa must ask the question in line 325, “What did he say to get you to rub your things?” and Katie provides a response in which Amy’s father is constructed as the agent of the causation, “He said ‘rub-, rub your things.’” In this example, Katie’s mitigation of her construction of herself and Amy as agents of the rubbing, and consequently as legal victims, does not affect her

construction as a legal witness. She can be seen as a reliable legal witness even if she resists this aspect of the co-construction of herself as a legal victim.

The conflict that Katie demonstrates in participating in the construction of herself as the agent of the rubbing to further the ongoing construction of herself as the legal victim reveals the inter-dependencies of the constructions of the functional identities examined here. Resistance to interpellation of some aspects of the legal victim identity has different effects on the overall construction of a child as a witness. Some of the children who participated in the interviews had much greater difficulties with co-constructing themselves as legal victims. Their resistance to this interpellation had different effects on their construction as a viable legal witness, and consequently, on their abilities to co-construct the alleged perpetrators as legal perpetrators.

First, there were types of resistance to interpellation as a legal victim that, like Katie's, had very little effect on the child's construction as a legal witness. For example, a child could construct herself as someone who was resistant to the actions within the event as Alicia does in Excerpt 43.

Excerpt 43

T: 15	Meagan (Social Worker)	Alicia (10;9)
252	Okay so you're up in his room and he grabbed you and then what happened after he grabbed	
253	you?	
254		I tried to get away.
255	Okay.	
256		And then he-, and then he would hold me and-, and I couldn't-, I couldn't t-, I couldn't get away so I kicked his face and stuff, and finally he let me go.
257		

Here, Alicia resists victim interpellation by constructing herself as resistant to the action within the event. She constructs herself as both grammatical subject and semantic agent in relation to the actions of trying to get away (in line 254) and in kicking her father's face (in line 257). Ultimately, in the ongoing question-and-answer interaction, Alicia gives an account in which she is the legal victim, but she also constructs herself as a resistant victim. Without interviewing Alicia, it is difficult to determine the cause of her resistance. Possibly the construction of herself as resistant to these actions is the result of notions of privacy that she has been taught—these notions seem linked to the social pressures that often require victims of sex crimes to resist. This interpretation seems likely given her explanation of why she tried to get away as seen in line 235 of Excerpt 44: “you’re not supposed to let anybody touch you.” Either way, Alicia’s construction of herself as agentively resistant to the actions within the event does not significantly affect her interpellation as a reliable legal witness.

Excerpt 44

T: 15	Meagan (Social Worker)	Alicia (10;9)
230		... um, I didn't see him come in and so-, then he just grabbed me. (crying)
231	He said he would grab you?	
232		Yeah.
233	Did you try to get away or why would he grab you?	
234		1-, I would try to get away because my mom always tells me that-, that's-, that's not what-, you're not supposed to let anybody touch you and that-
235		
236	Uh.	
237		-(crying)

As Excerpts 43 and 44 illustrate, the victim interpellation that Alicia is resisting is one in which the victim can be seen as a willing participant of the action. In line 230, she says, “I didn’t see him come in and so-, then he just grabbed me.” She explains the fact that she becomes an object of the grabbing by expressing her lack of awareness that the event had begun: “I didn’t see him come in.” Meagan’s question, “Did you try to get away . . .” seems inappropriate here because although it may be meant to establish Alicia’s father’s level of violence, it also seems to index social mores that victims of sex crimes should resist. Alicia’s next turn indicates that this is how she interpreted the question: My mom always tells me that . . . you’re not supposed to let anyone touch you.” In shifting to the pronoun “you,” Alicia is both distancing herself from the responsibility and indexing the larger social more of what one should do in this situation. So Alicia’s interpretation of Meagan’s turn in line 233 indicates that she has been socialized to the idea that victims are somehow accountable to resist. It is this larger social notion of the victim identity that she is resisting in these exchanges. To put this another way, hegemonic notions of victims of sex crimes create a particular pre-existing identity of “victim” and place this identity within the larger social structure in positions relative to non-victim identities. This placement, is not, of course, without social and cultural consequence for individuals. In this example, Alicia is resisting an interpellation of herself as a victim relative to the pre-existing identity. In the ongoing interaction of the interview, however, this kind of resistance does not ultimately affect her construction as a legal victim because this form of resistance to the identity of a legal victim does not significantly affect her co-construction as a viable legal witness at this point. She can still be seen as providing a

coherent, reliable account of the events in question. Consequently, her further co-constructions of the account provide for her construction as a legal victim and this, in turn, provides the mutual co-construction of the legal perpetrator.

Some of the forms of resistance to the legal victim identity, however, do create more serious conflicts with the construction of the child as a legal witness. Sara's resistance to the process in Excerpt 45, for example, affects both her interpellation as a viable legal witness and as a legal victim. In the account that has been co-constructed so far in the interview, Sara has basically communicated that her father molested her on an occasion when she was riding a bike. The co-construction of that event has already reached a coda when Sara says that her mother told everyone to get in a big line and then "everyone chased daddy back home." Following this coda, as seen in line 518, Meagan rather awkwardly attempts to transition back to some central portion of the narrative to ask more specific questions about the touching.

Excerpt 45

T: 3	Meagan (Social Worker)	Sara (3;11)
516	She told everyone to get into a line?	
517		Mom told them to.
518	Okay. Um. (rustling) Now, when he touched	
519	y-, his penis to your vagina was it on the outside of your vagina or inside or something else?	
520		Um. In.
521	In? How did that happen if your clothes were still on? (tapping) Sara? How did that happen	
522	if your clothes were still on?	
523		Um. That means-. I don't know.
524	Okay.	
525		I'll tell you later.
526	Tell me later?	
527		Oh.

528 You need to tell me now.

529

Uh. Oh. Maybe when we're done talking about-

When you say, 'Okay. Time to go.' And

530

I'll tell-, and I'll tell you the rest. I think.

In line 521, Meagan challenges the consistency of Sara's account by asking her how she could have been touched when according to an earlier statement, she had her clothes on. The inconsistent interview temporal linearity caused by Meagan's placement of this question out of its temporal, causal narrative context could be one source of Sara's inability to answer the question. There is also, of course, the possibility that Sara's story is inconsistent because it is fabricated. To argue that Sara is resisting when she says, "I'll tell you later," however, is not dependent on either of these interpretations. Her use of "I'll tell you later," followed by a definition of when that later time might be as seen in line 529, "When you say, 'Okay. Time to go. And I'll tell you the rest,'" does not mean that she will not talk more about the topic during the interview, so she is offering the possibility of later cooperation. It does indicate, however, that she will not answer that particular question now. This resistance to participation affects her interpellation as a witness. First, she cannot be seen as a viable witness if her account remains essentially inconsistent. Second, in not answering this question at this point in the interview, she is no longer participating in the ongoing co-construction of the account. If no account is being constructed, it is impossible for her to continue being co-constructed as a legal victim. Consequently, it is also not possible for her father to be co-constructed as a legal perpetrator. Meagan and Sara do continue on a slightly different topic, but Meagan cannot, for whatever reason, get Sara back into an ongoing temporal, causal linear

account. The police report connected with this case reports that no decision was made to file charges.

Another type of resistance that is seen in these data, concerns children's resistance to talking about the topics that arise in these interviews. This resistance is not specifically a resistance to the interview process itself, but a resistance to verbalizing details of the account that the child clearly finds stressfully embarrassing. It is resistance to the construction of the child as a legal victim in the sense that it is a resistance to the requirements of the process of this construction. So, for example, in Excerpt 46, it is not the case that Amy is resisting being interpellated as a legal victim, since she is willing to negotiate a way to communicate the needed information. It is also not the case that Amy is resisting the process of being a legal witness since she is participating in the co-production of the ongoing account; it is more that she is struggling with the fact that the nature of the events being co-constructed is forcing her to deal with topics that she is not comfortable verbalizing. In other words, the process of co-constructing herself as this particular type of legal victim is interfering with her performance as a witness. At this point in the interview, Amy is discussing a movie that Katie's dad has shown Amy and Katie.

Excerpt 46

T: 12	Nessa (Social Worker)	Amy (8:0)
341		Well the dad showed us this movie.
342	Her dad showed you a movie?	
343		Yeah that only grown ups do.
344	That only grown ups do what?	
345		Nothing
346	Do you remember the name of the movie?	

347		Well I don't know what it's called but I know what it's about. It's hard to pronounce though.
348	Okay well try it. What was it about?	
349		It starts with an S-.
350	It starts with an S-?	
351		It's kind of hard.
352	Huh (what)?	
353		It's kind of hard to pronounce but it starts with an S-.
354	An S- and it's hard to pronounce. Can you spell it for me?	
355		Well I think I can, but I really want to write it though.
356	Okay.	
357		Or something.
358	Well, write it. We'll have to use a crayon.	
359		Okay.
360	Okay? (writing sounds) Okay.	
361		I don't know how to write that. I don't know how to spell that good.
362	Oh. And that's hard to pronounce, or you just don't like to say it?	
363		I don't want to say it.
364	Okay.	
365		And it's hard to pronounce it to other people.
366	Oh. Okay. 'Cause that looks like it says sex.	
367		Pretty much.

In line 353, Amy frames her difficulty as one related to pronunciation. In line 362, however, when Meagan can see that Amy is trying to communicate the word “sex,” she reframes Amy’s difficulty as one in which Amy “just (doesn’t) like to say it.” Amy replies that she does not *want* to say it, and finally, in line 365, she frames this as a difficulty in pronouncing “it” with other people. Amy’s resistance to verbalizing intimate topics may make her a difficult witness to deal with, but she has not co-constructed herself either an unreliable or uncooperative witness. She has also not affected her co-

construction as a legal victim. Consequently, she has also not significantly affected the construction of the legal perpetrator in the ongoing co-production of the account.

Amy faces a similar conflict, as seen in Excerpt 47, when she is expected to explain to Nessa that Katie's father was masturbating in front of Katie and Amy after watching a pornographic movie. In this excerpt, Amy uses the strategy of trying to get Nessa to infer what she is talking about without having to verbalize any specifics. In line 548, Nessa is asking Amy what happened when Katie came back to the room after being sent to bring back toilet paper.

Excerpt 47

T: 12	Nessa (Social Worker)	Amy (8;0)
548	Okay and then what happened when Katie came back?	
549		He showed us something with himself.
550		(Page 14 of 30)
551	And what did he show you with himself? Was it a picture or something else?	
552		Well can I tell you a thing first?
553	Sure.	
554		Why would he need toilet paper if he was going to show us a picture?
555	I don't know. That's why I'm asking.	
556		Just wondering.
557	He could have needed to blow his nose. He could have needed to wipe something off of his face.	
558	There's all kinds of reasons that people use toilet paper.	
559		Uh-huh (yes).
560	Okay. I just need to know what he was doing.	
561		My mom said he's not supposed to do it in front of little girls like me.

In Amy's line 552 response to Nessa's question, "And what did he show you with himself? Was it a picture or something else?" Amy uses the word "tell," "Well, can I tell

you a thing first?,” instead of “ask” even though her next turn has the grammatical form of a question, “Why would he need toilet paper if he was going to show us a picture?” In this turn, she implies the answer to Nessa’s question. Here, again, Amy constructs herself as a witness who is willing to provide the asked for information, but she is hesitant to participate in constructions that require her to verbalize details that she clearly finds difficult to verbalize. For children like Amy, it is not simply an issue of the co-construction of the functional identity of legal witness that is at stake in these interviews. It is also the co-construction of the functional identity of legal victim. From one perspective, this difficulty does not significantly affect Katie’s overall construction as a viable witness because she can still be seen as cooperating in the process of the interview. Consequently, her ability to co-construct the identity of legal victim co-constructs Katie’s father as a legal perpetrator. From another perspective, however, this struggle could have consequences for how Katie is evaluated as a legal witness. If legal witnesses are judged by their narrative style, Katie’s highly fragmented style in this exchange could negatively affect her evaluation should she use a similar style in a courtroom. The police report related to this case, however, indicates that charges were brought against Katie’s father.

Conclusion

These interview situations provide an opportunity to examine the construction of functional identities. In particular they provide an opportunity to examine the constructional dependencies that hold between the inter-related functional identities of legal witness, legal victim, and legal perpetrator.

Analysis of the elicitation of account(s) section of the interview also reveals that there are two major styles of co-constructing a story about a particular event. The first is the highly interactive, relatively unembedded style of the accounts. The second is the less interactive, but more embedded style of the narrative. These style are not without consequence. Research has shown that jurors evaluate both adults and children who testify using a narrative style as more credible than those who use an account style. While the question-and-answer sequences of the elicitation of an account(s) section of the interview can be seen to socialize children to co-producing accounts, and while they may provide practice and support for constructing narratives, they cannot be seen to socialize a child in how to construct narratives.

Saying that a story has been co-constructed is not the same as saying that it has been co-authored. Interviewers and children co-animate stories. Interviewers are also active in the process of authoring stories. For example, they create the questions that generate the information that is authored by the child. While participants, co-animate and co-produce accounts and narratives, children author stories. Since interviewers are part of the co-authoring process, however, the accounts and narratives that are co-produced in interviews are inherently shaped by the questions that interviewers ask. The purpose of the interview is to determine whether an account of an event can be co-produced that relates to the particular actions of the crime in question. This purpose focuses the interview by its ties to the legal definition of the actions of the crime. The co-produced accounts and narratives are inherently shaped by the legal context of which they are a part.

This focus on the legal elements of an account or narrative, however, has consequences for how identities are constructed. Legal, social, and cultural concepts of victim, for example, place this identity in a position within a legal, social, and cultural framework that is different from the position of non-victims. Children seem to be aware of the consequences of being interpellated as victims. This affects their constructions of legal victim, in turn, affecting both their identities as legal witnesses and their alleged perpetrators identities as legal perpetrators.

Resistance to the co-construction of the legal victim identity can take several forms. In the first type, children resist interpellation as a victim. One form is this type is children's resistance to being constructed as agentively responsible for certain actions. This form of resistance may be evident as children add mitigating qualifiers to their accounts of their actions. This form of resistance, however, does not preclude the child's interpellation as a victim, and therefore, it does not significantly affect the construction of a child as a legal victim or witness. Consequently the alleged perpetrator can be constructed as a legal perpetrator. Another example of this type of resistance to interpellation as a victim is a child's portrayal of herself in an account or narration as resistant to the events themselves. A child can co-construct herself in the ongoing account as fighting back, for example. At the same time that this construction resists interpellation as a victim, however, it can still be part of an extended co-construction of the child a legal victim. When the extended co-construction process is successful, the child can be constructed as a viable legal witness. This means that the child can be constructed as a

legal victim, and consequently, the alleged perpetrator can be constructed as a legal perpetrator.

A second type of resistance, however, can affect a child's construction as a legal witness, and this is resistance to some element of the interview process itself. One example of this type of resistance is a child's refusal to continue answering questions. In this example, a child cannot be co-constructed as a viable witness because she has discontinued the practice in which legal witnesses are instantiated. She can also not be constructed as a legal victim because stopping the question-and-answer sequences that generate accounts and narratives stops the process of co-constructing the legal victim identity. If a co-construction of legal victim cannot be accomplished, no construction of legal victim is accomplished. A second example of this second type of resistance to the interview process is resistance to talking about the topic of the interview. In the example in these data, however, a resistance to verbalizing information did not preclude the communication of that information. This means that the child is participating in the construction of the account and can be seen as participating in the practices that constitute her as a legal witness. In the example where the communication process can be continued, a legal victim and, consequently, a legal perpetrator can still be constructed in the ongoing account. The question of how the child is constructed as a legal witness, however, is somewhat open to question. If jury members view the co-production of accounts as less credible than the production of narratives, one is left to wonder how a child who is communicating in an extremely fragmented way is being co-constructed in

the interview as a legal witness. Perhaps, however, this is a separate question related to legal perceptions of the relative value of legal witnesses.

⁷ In order to facilitate reading by individuals who are not fluent in Spanish, I have included *in italics* English translations of each of the Spanish turns. These translations are not part of the original transcript and were provided by Ana Cecilia Villarreal-Ballesteros and Ruben Alvarado to whom I owe a great deal of thanks.

CHAPTER 5 – THE EFFECTS OF ADDITIONAL PARTICIPANTS

As seen in Chapters 3 and 4, the canonical forensic interview can be seen as speech event with a participant structure (1972; 1983) that has two internal participants, typically one or more external observers, and unknown referees. The interactional flow of an interview without an internal third participant is typically dyadic with an overall pattern of adult-question and child-answer sequences. Interviewers generally maintain clear control over the interview structure, turn sequences, and topics. In this chapter, I address the effects of adding a third participant to the two-participant events typical of these interviews. In the data collected here, there are three types of additional individuals: second interviewers, parents or close relatives of the child, and an interpreter. The addition of any of these obviously affects participant roles within the ongoing interactional sequences of the interview event. They alter the canonical interactional patterns of interviews, affect the power dynamics between the main interviewer and the child, and affect the negotiation of meaning between participants. Consequently, they affect the co-construction of the identities of legal witness, legal victim, and legal perpetrator.

Second Interviewer

In two of the 19 interviews events examined here, a second interviewer is present. In one, the second interviewer, a male detective, interacts only for a few turns and then leaves the room as seen in Excerpt 48.

Excerpt 48

T: 1	Nessa (Social Worker)	Sophie (3:4)	Richard (Detective)
1			China. They're way on the other side of the world. And they look-. The real bear looks Just
2			like that one and they're this big. They're this big. (voices outside) Like a giant bear, but they
3			look like that.
4	That's a Panda bear,, huh?		Yep. Should-. We've been picking out which ones are special like the Santa Claus hat and
5			the green one.
6			And the real looking one. (rustling) Do you see one with the big nose?
7	Uh-huh (yes).		
8			
9		These bears?	
10			Back there.
11	Did you find the Pooh like the one on your shirt?		
12			Oh, yeah. You were supposed to find Pooh bear. That's night. Pooh bear.
13	Yeah. There it is. So what do you think Sophie can we come in and talk for a little bit and		
14	look at the bears, okay?		
15			You can pick up and play with any of the bears you want to too. They're all here for you to
16			play with.
17			
18			All right. (voices outside room)
19	Come on. We're going to color for a minute too. How's that? (door being closed) Can we		
20	color for a minute too? (rustling) Can you come sit over here Sophie?		

The two main participants of the interview are Nessa and Sophie. The detective interacts with the other two participants in the initial stages of the pre-elicitation/opening sequences in which the child is situated to the room and its contents. It would be easy to assume the detective's turn in line 1 was a turn which initiates a rapport building sequence. This turn fails to initiate a rapport building sequence, however, because it lacks the fundamental element of a turn-final question. In a closer examination of the first four turns, it can be determined that Richard is interacting with Nessa as if he were the interviewee. His first turn is an unsolicited account related to the contents of the room. To this turn, Nessa replies, in line 4, as she would reply to an interviewee; she makes a statement acknowledging the turn, "That's a panda bear" and then adds a tag question "huh?" Richard's responds, "Yep . . . We've been picking out which ones are special" in lines 5 and 6. This "we" is inclusive of Richard and Sophie. The sequence of turns can be seen as an attempt to build rapport with Sophie. Nessa participates in this structure until in line 13, she initiates her interviewer role by establishing the beginning boundaries of the interview event. "What do you think Sophie, Can we come in and talk for a little bit and look at the bears, okay?" Nessa's question frames "we" as inclusive of Nessa and Sophie and exclusive of Richard. Richard, seemingly recognizing this as a move to open the interview, provides one last command to Sophie. In line 18, he says, "All right" and exits the room. In line 19, immediately following Richard's exit, Nessa begins the interview event by controlling where Sophie will sit when she asks, "Can you come sit over here, Sophie?"

It would be easy to assume that Richard has not affected the actual interview since his exit marks the beginning boundary of the formal interview event. However, overhearers affect the conversational interactions. By interacting with Sophie in this way, Richard has become a known overhearer to the interaction, and as Bell (1984) has argued, the effect that an audience has on an interaction is dependent on how close the audience is to the center of the interaction. In his analysis, known overhearers have more of an effect than unknown overhearers. While Richard's pre-interview interaction with Sophie has changed the audience design of the interaction, its effect on this interview is probably relatively minimal.

The data, however, contain another interview in which there are two interviewers present. Meagan, a social worker is the main interviewer for Kimmie. During this interview, Andrew, a police officer is also present. Interviewer guidelines suggest that when two interviewers are present, one should be designated as the primary interviewer and the second should not ask questions until the end of the interview (Poole & Lamb, 1998). While Andrew does not wait until the end of the interview to ask questions, except for introducing himself, in lines 7 and 10 of Excerpt 49, he remains silent for large portions of the interview.

Excerpt 49

T: 11	Meagan (Social Worker)	Kimmie (7;10)	Andrew (Police Officer)
1	Okay. Is it okay if I come sit over here next to you? Okay. All right. Do you remember		
2	what my name is?		
3		Meagan	
4	Yes that's right and-, and do you remember his name?		

5		Uh-uh (no).	
6	(laughs)		
7			My name's kind of hard. (mic bumped) I'm Andrew. Or Andy
8		(giggles)	
9			That's probably easier huh?
10	(giggles) Can you tell us what your full name is?		
11		Kimmie Jones	

Andrew's silence does not mean that his presence does not affect the interview. For example, in line 10, Meagan's choice of the pronoun "us" in "Can you tell us what your full name is?" indexes not only his presence, but his role as one of the two adults that Kimmie must address in the interview. Even during his silences, Andrew's choice to be in the room instead of observing from the hallway or a video monitor affects the audience design of the interaction. Where he would have been an unknown overhearer, he is now what Bell (1984) calls a ratified auditor of the interaction. Bell argues that an auditor affects speech in the same ways, but not to the same extent as an addressee. "Speakers treat auditors as second-class addressees" (Bell, 1984, p. 174). Andrew is a secondary addressee of any answers Kimmie gives in the interview process. The exchange in Excerpt 50 shows Andrew interacting as a secondary addressee. In this excerpt, they are in the sequences related to telling the truth pre-elicitation portion of the interview.

Excerpt 50

T: 11	Meagan (Social Worker)	Kimmie (7;10)	Andrew (Police Officer)
68	All night. Um. What happens at your house when someone tells a lie?		
69		Uh. I-, I don't know.	
70	Like did something happen?		
71		No.	
72	No? If you get caught lying.		

73		Uh-uh (no).	
74	Okay. Well sometimes kids tell me that they get into trouble. That's no fun, huh? Okay. Can we make a deal today? That-, we're going to be asking you some questions okay?		
75		I didn't get in trouble today because I got a lost tooth.	
76	You didn't?		
77		It was a cavity one.	
78	Oh. Did it hurt?		
79		And I got it out.	
80	Did it hurt?		
81		Uh-uh (no).	
82	Oh.		
83	I just pulled it right out.		
84			So you-, you're glad-. You glad to have it out?
85		Uh-huh (yes), because . . . I pushed it out.	
88	Oh. Okay. Is the tooth fairy going to come tonight?		
89		It already did.	
90	Oh.		
91		It gave me one dollar.	
92	Cool. Good deal. Um so is it okay if we make a deal today that while we're talking about-		

In lines 68-74 Meagan's and Kimmie are participating in a truth vs. lies determination. In lines 69, 71 and 73, Kimmie seems to indicate that she does not know what happens at home if she tells a lie. This is not a resolution to the truth vs. lies determination that constructs Kimmie as a viable legal witness. Meagan's response, "Well sometimes kids tell me that they get into trouble, that's no fun huh?" in line 74, requires that Kimmie demonstrate her knowledge that lying can have consequences. Although, Kimmie's agreement is not verbal (or not loud enough to be transcribed) it is obvious from Meagan's "Okay" in line 74 that she is satisfied Kimmie has demonstrated

this knowledge. Meagan now begins a transition to the agreement/rules to tell the truth sequence by shifting to the question in line 74, “Can we make a deal today?” Kimmie, as the only participant in the room who is not familiar with the event structure, does not recognize this move and instead produces a response that indicates she has interpreted Meagan’s comment “sometimes kids tell me they get in trouble” as a topic shift to “getting into trouble.” Kimmie begins a story telling turn. The fact that she uses this idea of trouble to “trigger” (Jefferson, 1978; Sacks, 1995) a story telling turn can be seen in her opening line. In this turn, she uses an embedded repetition of the trigger when she repeats the words “get in trouble” in her story initiation turn, “I didn’t get in trouble today because I got a lost tooth.” Meagan can either construct a response that returns the topic to the agreement/rules to tell the truth sequence, or she can produce a continuer allowing Kimmie to tell her story. This second choice allows the sequence to take on the characteristics of a rapport building sequence. In line 78, Meagan produces a continuer, “You did?,” allowing Kimmie to continue with her embedded narrative. Kimmie’s turn in line 77 shows that she has interpreted Meagan’s response in this manner because she produces her two next story turns, “It was a cavity one” and “and I got it out,” as if Meagan’s turn in line 78 “Oh. Did it hurt?” had not intervened. When Meagan repeats the question. Kimmie responds, “uh-uh.” At this point, Meagan could easily take the turn and return to the interview’s topic. Instead, she allows the sequence to continue, and Kimmie concludes “I just pulled it right out.”

In a story that is embedded in an ongoing conversation, there is a participant shift as the story-teller’s co-participants are aligned as story recipients (Jefferson, 1978).

Meagan's line 76 ratification of Kimmie's initiation of the story re-aligns both herself and Andrew as story recipients. It is during this story recipient realignment, that Andrew produces his first turn since his introduction, "So you-, You're glad-. You glad to have it out?" This question can be seen as having multiple functions. First, it can be seen as a scaffolding question that helps a child continue a narrative in a proper narrative format. In this case, providing the "So what?" evaluation of a narrative (Labov, 1972). Andrew's scaffolding question socializes the child to an additional story element and constructs Andrew as an evaluator of the child's narrative competence. It can also be argued that this question serves a socialization process for the interview as a whole. During the elicitation of an account(s) sequences, it is not uncommon for children to be asked how they felt about some particular action or event that they are describing. So while Andrew's question can be seen as socializing a kind of "So what?" narrative purpose, it can also be seen to socialize Kimmie to include certain kinds of emotional information in her narratives.

Meagan supports the story for two more turn pairs and then returns to the agreements to tell the truth procedure. In allowing Kimmie to continue telling a story, Meagan's turn management is very similar to her turn management in a rapport building sequence. As discussed in Chapter 3, rapport building sequences allow children the opportunity to practice the types of turns that will occur in the elicitation of an account(s) sequence. Essentially, this story sequence is co-animated by all three participants allowing Kimmie practice with this interaction and preparing her for the elicitation of an account(s) sequences.

This interview also reveals the different orientations that interviewers take in response to their responsibilities. During the question-and-answer elicitation of an account(s) portion of this interview, when Kimmie begins the topic having a rash, she identifies as shingles, and expresses the need to shower to wash them off, Andrew takes over as main interviewer with the question, “Do you put medicine on those?” as seen in Excerpt 51.

Excerpt 51

T: 11 776 777 778 783	Meagan (Social Worker) Good.	Kimmie (7:10) And so I had to wash that off and then I got it off shower 'cause I needed to get . . . take a shower to wash those shingles off. Yeah.	Andrew (Police Officer) Do you put medicine on those?
-----------------------------------	---	--	--

Andrew controls the interview sequences for 13 turn pairs that seem designed to find out if there is the possibility of getting medical evidence. His question sequence ends in line 803 after he has established the nature of the possible evidence.

Excerpt 52

T: 11 799 800 801 802 803	Meagan (Social Worker) Good.	Kimmie (7:10) Well they're not healed up but our principal gave me a blessing so they're almost healed up.	Andrew (Police Officer) Okay. Are they healed up now or do you still have them? Oh, good. Okay. Thanks.
--	---	---	--

In line 801 Andrew provides a response, but does not produce a turn terminal question. This allows Meagan an opportunity to take the floor. She begins this process by producing a repeat “good” in line 802. In line 803, Andrew closes his turn as interviewer by producing a post-elicitation sequence “Thank you.” This sequence of questions takes place almost as a separate mini-interview with Meagan taking on the role of auditor, or secondary interviewer, until Andrew’s sequence is clearly complete.

All of Andrew’s subsequent role shifts from auditor/secondary interviewer to primary interviewer are also directly related to legal questions. In particular, he asks questions related to how many times something happened and on what dates particular events took place. The questions that Andrew poses are of particular legal consequence since they are related to the consistency of the account and, hence, the child’s ability to perform and be seen as competent legal witness. Andrew’s questions also co-animate an account that co-constructs the legal perpetrator. In his questions relating to the number of legal charges that can be brought against the alleged perpetrator, for example, he participates in Kimmie’s process of authoring this account, and they co-construct the legal perpetrator as a multiple abuser.

The presence of a second interviewer, however, also means the presence of another adult with whom the child must negotiate meaning. For example, in Excerpt 53, Meagan has already asked what room Kimmie and her father were in and what kind of clothing each of them was wearing. Now she asks Kimmie to articulate her physical position relative to her father when the alleged abuse occurred.

Excerpt 53

T: 11	Meagan (Social Worker)	Kimmie (7;10)	Andrew (Police Officer)
541	And shirt and garments. Okay. Um. So tell me how you were sleeping.		
542		Um. I was sleeping like this.	
543	Okay and how was your dad sleeping?		
544		Just like me.	
545	Was he facing you-, could you see his face or-?		
546		He was facing me. I couldn't see his face he was facing me.	
547	Okay.		
548			So he was looking at the back of you?
549		<unintelligible>	
550	Okay. So he was looking at the back of you and then tell us what happened?		

In line 543, Meagan begins to specifically negotiate the father's position relative to Kimmie by asking a rather general question ". . . how was your dad sleeping?" But the response in turn 544, "just like me" is rather ambiguous since it can refer to the shape of the position and not the direction of the body or it can refer to both. In line 545, Meagan attempts to clarify her question by asking whether the father was facing her, and she receives another ambiguous answer—"he was facing me, but I couldn't see his face." There are at least two possible interpretations of this. In one interpretation, both participants are facing one another. In this interpretation, Kimmie's second clause "I couldn't see his face" means that she had turned her head away or something was blocking her view in some way. The second interpretation involves the assumption that the father was facing Kimmie, but she was not facing him. In this interpretation, she had

her back to her father. It is difficult to tell which of these two interpretations Meagan makes because her response in line 547 is a simple, "Okay." At this point, Andrew intervenes, and his intervention affects the interpretation of Kimmie's response. Andrew takes over the role of both evaluator and interviewer by taking the next question of the interviewer's turn. "So he was looking at the back of you?" This question does not presuppose that Kimmie's answer was inconsistent and thereby construct her as an unreliable witness. However, it does construct Meagan as not recognizing the ambiguity. Following Kimmie's answer, Meagan immediately adopts this second interpretation, and she responds, in turn 550, "Okay, So he was looking at the back of you." She then takes the floor with the imperative, "and then tell us what happened." After a few more turns in this interview, however, the first interpretation becomes more salient when Kimmie reports that she rolled over to make her father leave her alone. This later change in meaning reinforces the fact that meaning is constructed in these interviews not only as it is negotiated on a turn-by-turn basis, but also over a sequence of questions about a particular event. One consequence of the police officer's presence in the room is that it makes him a more salient audience member, story recipient, and evaluator.

The shifts in floor as each adult takes on the role of interviewer also reinforces the importance of considering the concept of floor as it is tied to a particular activity. Jones and Thornborrow (2004) argue that defining floor as either a one-at-a-time or as a collaborative organization is limiting. They propose that the concept of floor be considered as a range of possible types of organization along a continuum between these two types. They define floor as "a possible set of rights to speak for a certain activity" (p.

402), and they tie this definition to the Philip's (1972) discussion of participant structures. In this interview with one child and two interviewers, the presence of a second interviewer provides a participant structure that allows for questions and negotiations of meaning that co-animate a more consistent account and consequently construct the child as a more consistent legal witness. This interviewer role shift also maintains the gatekeeping function of the interview because questions related to the construction of the legal perpetrator, specifically those related to possible charges, can be asked. This is not to imply that these questions would not have been addressed had the police officer not been present in the room. Interviewers often leave the room at some point in the interview process to consult with the observing police officer. The floor shifts in this interview were accomplished by two interviewers who had roughly equivalent levels of expertise in relation to this event. If floor is defined as a set of rights in relation to a particular activity, then each interviewer could be said to be familiar with his or her set of rights relative to the other participants in the activities within the interview event, and each knew how to cooperatively negotiate the floor in ways that supported the goals of the interview. This bilateral understanding of the participant rights and the goals of the event, however, is not the case with every example of an additional adult.

Parents or Close Relatives of the Child

A second type of additional adult who participated in the forensic interviews examined in this study involves family members of the child who is being interviewed. In these data, there are three interviews in which a family member participates in the interview event. In the first of these, the mother interacted only for the first few turns and

then left. Since her interaction consisted of only four turns, one of which was “Good by,” I do not address this interview in detail here. The second interview includes the mother of the girl being interviewed, and the third interview involves a grandmother who was brought in late in the interview event.

Close relatives of the child seemed to be included for two major reasons. First, to make the child feel more comfortable and second, to encourage the child to be more forthcoming with her account. In the same way that the addition of a second interviewer affects the interview event, relatives of the child can alter the typical interactions of the interview event. They can affect power structures, both ask and answer questions, and affect the negotiation of meaning. Finally, their interactions affect the ongoing constructions of legal witness, legal victim, and legal perpetrator.

One of the differences between a second interviewer and a family member, is related to whether the additional participant answers questions. In the interaction between Meagan, Kimmie, and Andrew examined in the last section, Andrew never answered Meagan’s question unless they related to the immediate context of the room. Presumably, Andrew did not answer questions because he was not intimately familiar with Kimmie’s account and because as a trained interviewer, he understood the requirement for a primary interviewer to maintain control of the interview. Finally, when Meagan and Andrew negotiated shifts in who controlled the floor, the role shift was from one interviewer role to another interviewer role.

The participation of relatives is different. A mother, for example, may be able to answer questions because she is familiar with the account. An additional participant’s

move to answer a question, while requiring a shift in floor, does not require a shift in interviewer role. It does however, require a shift in the interviewee role, and this shift can affect how a child is constructed as a viable legal witness. Family members, however, not only answer questions, they also ask questions.

In Excerpt 54, for example, Amy's mother both asks and answers questions in the ongoing exchange.

Excerpt 54

T: 12	Nessa (Social Worker)	Amy (8;0)	Mother
17	And how old are you?		
18		I'm eight years old.	
19	You're eight.		
20		I like to say ocho.	
21	Oh. Hablo Espanol?		
22		What does that mean?	
23	That means, 'Do you speak Spanish?'		
24		Well-.	
25	You said you like to say ocho. (laughs) Yeah, so. Yeah. I do speak Spanish.		
26			Just numbers, huh?
27		Gracias.	
28	Just the numbers huh? So are you part Hispanic?		
29		What does that mean?	
30	Or are you just- ' Are you S-, ha-, do you have Hispanic heritage? Like relatives that are		
31	Hispanic?		
32		What?	
33			No. They just learned how to count
35	Oh.		
36			in Elementary school.
37	I see.		

In line 20, Amy has just given her age as eight and added that she likes “to say ocho.” The interviewer has previously stated that she does not speak Spanish. Her question, “Hablo Espanol?” (Do I speak Spanish?) apparently meant as “Do you speak Spanish?” according to her own translation in line 23, supports this statement. However, using her recognition of the word “ocho” as evidence and making what is possibly a move to solidarity, she laughs and says “Yeah, so. Yeah. I do speak Spanish” completing the response part of her turn. As discussed in Chapter 3, interviewers’ turns contain simple responses, repetitions, restatements, evaluations, explanations, draft versions of a question, and other questions, but they tend to end in questions. Since the final part of Meagan’s turn in line 25 is not a question, there is an opportunity for a third participant to take the floor and ask the next question. This is exactly what the mother does in line 26 when she says, “Just numbers, huh?” The use of the tag question, “huh” allows the mother a grammatically appropriate form to take the floor at a possible question turn. Although she has taken the floor, however, she has not taken on the role of interviewer. The content of the declarative portion of her turn in line 26 provides information that she is trying to add to the interview. The purpose of the turn is to clarify the child’s last answer. Amy replies, “gracias” providing evidence that she knows at least one Spanish word other than numbers. Neither the mother nor the interviewer responds to the child’s answer. In the next turn, in line 28, the interviewer restates the mother’s question. This both gives her an opportunity to take back the floor and to acknowledge the information she has received. She does not wait for a response to the repeated question because it is no longer serving as a question. The repetition ratifies the information. In the same turn,

she produces her next question by asking Amy if she is “part Hispanic.” When Amy produces a clarification question “What does that mean?,” the mother maintains her auditor status allowing the interviewer to negotiate meaning. When the interviewer’s first attempt at clarification is followed by Amy’s “What?” in line 32, however, the mother takes the floor answering the question in the child’s place. In this exchange, independently of the discourse strategy used, when the mother takes the floor she is fulfilling some part of Amy’s role. Although the mother’s attempts to add or clarify information contributes to the interview’s goal of gathering information, it interferes with Amy’s practice as a legal witness in that it disallows Amy’s opportunity to negotiate meaning independently with the interviewer.

Amy’s mother also shifts to the role of interviewer. As discussed in Chapter 4, interviewers use questions to elicit story details co-animating the account of the event(s) and socializing children to the types of legally relevant details that are relevant for narratives and accounts. In Excerpt 55, Amy is telling about an event in which she was allegedly asked by a friend’s father if she would touch his penis. She is having a great deal of difficulty addressing the question regarding what he asked her to do. She answers the question directly in line 1234, but an important part of her answer is unintelligible. Nessa begins providing possible words that could replace the unintelligible portion of Amy’s answer. This creates an exchange of implied yes/no questions changing Amy’s responsibility from repeating her answer to simply answering “yes” or “no.”

Excerpt 55

T: 12	Nessa (Social Worker)	Amy (8;0)	Mother
1231	Tell me.		
1232		All right	
1233	Do you want to try? What?		
1234		If I was going to <unintelligible> him.	
1235	Did you want to try?		
1236		No.	
1237	The stuff?		
1238		No.	
1239	Tasting?		
1240		No.	
1241	Touching?		
1242		No.	
1243	I don't know what you're saying.		
1244			What did he mean by that, Amy?
1245	Yeah.		
1246		Oh. Um. He meant by the T.	
1247			Well, they both start with T honey.
1248	Yeah.		
1249			Tasting- and touching. So which one?
1250	Yeah.		
1251		The first one she said.	
1252	Tasting?		
1253		Uh-huh (yes).	

While this strategy, should it prove successful, may allow the interviewer to co-construct a relevant account detail, it exemplifies the conflict between Amy's need to construct herself as a reliable witness and her hesitancy to construct herself as the legal victim. In line 1243, Nessa seems to have run out of possible options to offer, and she makes a simple statement "I don't know what you're saying" without producing a turn-final

question. This is atypical of the interviewer role in the elicitation of an account(s) section of the interview structure. It is at this point, that the mother seemingly shifts into the interviewer role by asking a direct question in line 1245 “What did he mean by that, Amy?” The interviewer’s strategy in the following sequence allows her to maintain her interviewer role even though she is not the author of the questions being generated. Before Amy answers the question, Nessa takes a turn uttering the single word “Yeah.” Presumably, the use of “Yeah” in lines 1245, 1248, and 1250 means something like “Yes, that is the correct question” or “Yes, that is what I want to know.” This mother-interviewer sequence is the first in a series of three instances in which the mother poses the question, and the interviewer ratifies the question before Amy provides an answer.

Again in these exchanges, when the mother appears to take on the role of interviewer, the role shift is not a complete one. In each instance, it is the combined mother-interviewer sequence that completes the question. Although the mother is generating the questions, the interviewer is still maintaining her role. Amy’s use of pronouns in line 1252 suggests that she is still addressing her answers to the interviewer. When she says, “The first one she said,” the immediate context of the answer suggests that Amy is referring to her mother’s last remark which sets “Tasting- and touching” up as a first and second choice pair. Amy’s response both indicates that the answer is addressed to the interviewer and ratifies her mother’s contribution. The mother’s role, even in this question and answer sequence, can be seen as one in which she facilitates the child’s ability to answer the interviewer.

While this mother's facilitation seems to serve the interview's major purpose of eliciting an account of an event(s), it also affects the processes of constructing Amy as a legal witness. The police report related to this case notes that the case remained active.

The third interview in which a family member actively participates involves a grandmother who is brought into the interview after the child stops participating during the elicitation of account(s) section of the interview. After the grandmother is brought in, however, the child does not reinitiate participation. As soon as the grandmother is brought into the interview room and everyone is situated, Meagan returns to elicitation of an account(s) section of the interview as seen in line 389 of Excerpt 56.

Excerpt 56

T: 4	Meagan (Social Worker)	Keira (4;1)	Grandmother
389	Now, Keira, remember how we were talking before? Do you remember?		
390			It's okay to talk Keira, Hey. It's okay.
391	Remember how I said if I got-, if you-, I got someone you would tell me what happened?		
392	Do you think you can do that for me now Keira? I know it's kind of hard to talk about but		
393	you know what? I talk to kids all day long about this kind of stuff, okay? All right. But		
394	remember how we were talking about Mark? Okay. And I know-, I bet he's a really nice		
395	guy, huh? Will you tell me what you guys like to do? (rustling) (squeaky noises) (door		

The most noticeable quality of this exchange is the language production imbalance. In a very long turn involving at least nine ongoing questions, Meagan asks questions to generate some kind of response. Clearly this strategy is not productive with Keira. The remainder of this interview is an attempt to cajole Keira into talking. The adult turns remain quite long. In fact, in the approximately 100 lines that remain of this interview, Keira produces only six turns for a total of 10 words. At one point as seen in Excerpt 57, the grandmother, apparently taking her cue from Meagan's line 423-424 comment that Keira was talking earlier on familiar topics, initiates the topic of dogs.

Excerpt 57

T: 4	Meagan (Social Worker)	Keira (4;1)	Grandmother
423	and they come in here and we were chatting before. Remember you were telling me about		
424	your family and what you like to do. And we were talking, talking, talking so what		
425	happened?		
426			Do you have a dog? Did you tell her about your puppy? Huh? Did you tell her about your puppy?
427			
428	Do you have a puppy?		
429			What's your puppy's name? Tell her your puppy's name. Tell her your puppy's name.
430		I already told her.	

The grandmother's turn, like the interviewer's previous turn, is made up of a series of questions, many of them repeated forms of the same question. So, for example, in line 426, she repeats a question word for word when she asks, "Did you tell her about your puppy? Huh? Did you tell her about your puppy?"

Meagan's turn simplifies the question, "Do you have a puppy?" However, it is embedded in a sequence of questions that make it seem like a repetitive part of the ongoing sequence of unanswered questions. Keira does not respond to any questions in this sequence of turns. In fact, she does not respond at all until her grandmother makes a grammatical shift moving away from question forms and producing a sequence of repeated command forms in line 429 "Tell her your puppy's name. Tell her your puppy's name." Keira produces a response, but does not comply with the command, when she says, "I already told her." In the transcript of this interview there is no example of Keira talking about her puppy. Her answer, however, may indicate that part of the problem is the interview's repetitive nature. Not only is it repetitive in the types of turn sequences that occur—a chain of question-and-answer sequences for example, but interviewers repeat questions either to generate further details or to check for consistency of details. This use of repetitive questions, is in part, a necessary element of the interview as the interviewer and child co-produce a story that is coherent and consistent. In instances where repetition produces a story that is more coherent and consistent, it constructs the child as reliable legal witness. However, in Keira's example, it co-constructs a non-cooperative legal witness.

Many turns later, Keira is still not answering questions, and the construction of Keira as a witness becomes overt with the grandmother's comment that Keira is "a stubborn little girl" in line 470. While the grandmother may have no intention that this comment have any legal significance, in the context of this interview, the comment is part

of the co-construction of Keira. As Jacoby and Ochs (1995) have noted, “co-construction does not necessarily entail affiliative or supportive interactions” (p. 171).

The interviewer reframes the comment as a question for Keira, “Are you stubborn?” possibly giving Keira the opportunity to resist the construction and reconstruct herself as cooperative as seen in Excerpt 58.

Excerpt 58

T: 4 467 468 469 470 471 472 473	Meagan (laughs) Would it be better if I look away and you tell your grandma? Do you think that will help? Do you think you can do it then? (laughs) Are you stubborn? (sighs)	Keira	Grandmother She’s a stubborn little girl. When she decides not to talk. Sometimes it’s hard to-. That’s why we really haven’t talked to her.
---	--	-------	--

This interview ends after Keira’s continued resistance to the interview process. Keira’s resistance is difficult to assess. It seems possible, however, given the grandmother’s explanation in 471, that the topic is a difficult one for Keira to discuss with anyone. In this instance, the introduction of a family member did not alter the information that can be elicited about an individual account, but the third participant affected the co-construction of legal witness identity.

Interpreter as Third Participant

Second interviewers and relatives are not the only type of third participant that may be included in an interview situation. A third type is an interpreter. Many of the

bilingual children who are interviewed in this center are interviewed in their first language. However, interpreters are still used in some cases. While interviews conducted in a language other than English are carried out at this center, they are not transcribed at this location. Consequently, the legal agreements for the release of transcripts did not extend to those transcripts, and I was unable to collect transcripts of interviews which were carried out in languages other than English. During the three-month period in which I collected transcripts, only one interview with an interpreter occurred. This interview was transcribed by a different individual than the other interviews collected for this study.

Interpreters and formal training.

An issue related to how interpreters impact interview situations relates to the forensic interview's place within the legal process. In this process, forensic interviews are pre-trial events. This means that they are not part of either federal or state trial events, and there is no legal requirement that interpreters in pre-trial events are subject to either federal or state guidelines or licensure.⁸

The Court Interpreters Act of 1978 and the Court Interpreter Amendments Act of 1988 established a program to facilitate the use of interpreters in courts of the United States for a witnesses or defendant who "speaks only or primarily a language other than the English language" (Section 1827 (d)). These acts have resulted in licensing requirements for federal court interpreters. Under these guidelines, interpreters must demonstrate an acceptable level of proficiency in both languages. Many states, including Western State, have adopted the federal requirements for interpreter training so

participants in courtrooms are guaranteed trained and licensed interpreters. These requirements do not extend to pre-trial events, however.

The discrepancy between the interpreter licensing requirements in trial events and pre-trial events is typical in many countries around the world (Alexieva, 1997). The trial/pre-trial distinction has implications for practice. It means, for example, that in these pre-trial events, there are no guidelines that require that the individuals who are interpreting receive any formal training. In fact, there are no guarantees that they have the level of competence in both languages that would allow them to produce interpretations that are equivalent to the original utterance in meaning, style, register or word choice. In her examination of interpreting for the pre-trial police interrogations, Berk-Seligson (2000) found that the individuals who act as interpreters in pretrial events, such as suspect interviews, can include bilingual police officers, other employees of the police department, or even relatives and friends of the individuals who are being interrogated.

The role of the interpreter.

Many people assume that the role of an interpreter is to provide a word-for-word translation of the original message, “the notion that court interpreters must provide a ‘verbatim’ interpretation of proceedings and witness testimony is a pervasive myth within the judiciary” (Mikkelsen, 2004). Guidelines for federal court interpreters, however, suggest that the goal of a court interpreter is to produce an interpretation that is “legally equivalent” to the original statement. Concepts of “equivalence” are not limited to the meaning level of an utterance. “The court interpreter is required to interpret the original source material without editing, summarizing, deleting, or adding while conserving the

language level, style, tone, and intent of the speaker” (González, Vásquez, & Mikkelsen, 1991).

As Berk-Seligson (2000) has noted in her discussions of bilingual court interpreters, the system would like interpreters to be “physically invisible and vocally silent if that were at all possible” (p. 156). She has also argued that the system would ideally prefer that an interviewer “should not exist as a distinct verbal participant in her own right during the course of a judicial proceeding” (p. 156), but as Berk-Seligson (1990; 2002a) has shown, interpreters are participants in their own rights and they affect courtroom events. She has shown that attention can be shifted to them. For example, in the *voir dire* process prospective witnesses are asked about attitudes toward the use of interpreters. In addition, interpreters must be sworn in, they may be asked for clarification, they may be asked to testify about the accuracy of the work of other interpreters, and they are often directly addressed by both attorneys and defendants or witnesses. Interpreters can also shift attention to themselves. They may attempt to discuss possible errors, they may attempt to clarify witnesses’ or defendants’ answers or clarify an attorney’s question, and they are required to inform the judge of any conversations or comments on the side that have occurred in the examination procedure. Interpreters can control the flow of the testimony by prompting a witness or defendant to speak or by silencing a witness or defendant. Interpreters also affect power relationships. They can, for example, affect whatever power an interrogating attorney may have over a testifying witness or defendant. Finally, the presence of interpreters and the interpretations they

provide have the potential for affecting how juries perceive witnesses or defendants (Berk-Seligson, 2002b).

As the data from the interview considered in this section indicate, interpreters in pre-trial events also affect the interview: attention is shifted to them, they shift attention to themselves, they can control the flow of the testimony, and they affect power relationships. The interpreter in the interview considered in this section, however, also affected the interview in other significant ways: she altered the nature of the language being translated in a manner that affected event participants' roles, and this had consequences for both participants. For the interviewer, it affected her ability to carry out both her legal responsibilities to help the child co-animate a story of the event(s) that allegedly occurred. In addition, it affected her ability to communicate carefully worded questions that fulfilled her therapeutic role as a social worker. For the child, it created difficulties in communicating her account accurately affecting her ability to construct legal victim and legal perpetrator identities. It had possible consequences for how the child could be perceived as a reliable witness.

The case considered in this section involves Nicole who is being interviewed by Jackie about the possibility that Nicole's father had sexually molested and raped her. Nicole attended a local English-speaking school, but because she spoke Spanish as her first language, an interpreter was used both for the instigating report to the police and for the forensic interview at this center. Her unfamiliarity with some English words for body parts and her instinct to talk about emotionally difficult situations in Spanish, as

evidenced in this interview, support the need of either a Spanish speaking interviewer or the inclusion of an interpreter.

Interviewer altered the normal flow of events.

As discussed, the interactional flow of an interview without a third participant is typically dyadic, with an overall back-and-forth pattern of question-and-answer sequences. With an interpreter behaving as invisibly as the system would like, the overall pattern would become question-interpretation answer-interpretation, with a triadic or mediated/interrupted dyadic flow as seen in Excerpt 59.⁹

Excerpt 59

T: 14	Jackie (Social Worker)	Iliana (Interpreter)	Nicole (10;0)
357	Okay. Where did that happen in your house?		
358		¿En donde paso eso en tu casa? <i>Where did that happen in your house?</i>	
359			En los cuartos. <i>In the bedrooms</i>
360		In the roo- bedrooms.	
361	Whose bedrooms?		
362		¿De quienes eran los cuartos? <i>Whose bedrooms were those?</i>	
363			Uno era de mi papa y uno era de- <i>One was my father's and one was of-</i>

The pattern of interviewer =>interpretation=>child =>interpretation sequences in the forensic interview event considered in this study, however, is affected by several issues. The first relates to the method of interpreting that is used. Alexieva (1997) identifies two major styles of interpreting: simultaneous and consecutive. Simultaneous interpreting is “characterized by non-stop delivery of the source text and parallel production of the target text” (p. 157). She points out that simultaneous interpreting can

only be carried out with the use of electronic equipment including headphones and microphones. Consecutive interpreting, on the other hand, provides “a consecutive delivery of the source text (in chunks of varying lengths) followed by the production of the target text” (p. 157). Training for Federal Court interpreters stresses the importance of consecutive interpreting arguing that it more closely represents the legal event in which one person is allowed to speak at a time, that it provides for better accuracy, that it allows interpreters more control over the situation, and that it saves time by reducing the amount of time necessary to renegotiate portions of discourse that may be lost due to overlap (González et al., 1991). A consequence of the fact that pre-trial events, such as this one, are not subject to federal or state guidelines is that, as seen in this transcript, interpreters are free to employ a form of modified consecutive interpreting. In the type of consecutive interpreting advocated by the training for Federal Court interpreters, the “chunk” size of each interpreted unit should be a full turn (González et al., 1991). In this interview, however, the interpreter is using a modified form of consecutive interpreting in which she provides interpretations for chunks of talk that are smaller than a full turn. As is evidenced in these data, this form of interpretation presents difficulties for both the interviewer and the interviewee. In Excerpt 60, for example, even though this excerpt represents a point well into the interview, Jackie is still uncomfortable with this method of interpreting as can be seen by her having to regroup her ideas with the “-um” in line 212.

Excerpt 60

T:14 Jackie (Social Worker)

Iliana (Interpreter)

Nicole (10;0)

210	Okay. What we need to do if it's okay with you	
211		Lo que necesitamos hacer si esta bien contigo. <i>What we need to do if it is okay with you.</i>
212	-um, we need to do a small activity.	
213		Necesitamos hacer una actividad pequeña. <i>We need to do a small activity</i>
214	To help me understand what you call the body parts?	
215		Para ayudarle a entender lo que tu le llamas partes del cuerpo. <i>To help her understand what you call parts of the body.</i>

Attention shifted to interpreter's role and to interpreter as audience/observer

Interpreters are clearly not invisible in this process, and their presence affects the interview in ways other than affecting the fluidity of the interaction. As Berk-Seligson has noted (1990a, 2002), interpreters can shift attention to themselves, and attention can be shifted to them by others. This can happen, for example, when interpreters are sworn in. These attention shifts are the result of requirements related to courtroom participants and to individuals who have access to the legal record. In much the same way, attention is drawn to the interpreter of the forensic interview both for the benefit of the present participants and for the recording.

Berk-Seligson also argues that interpreters can shift attention to themselves, for example, by negotiating meaning with the witness or with one of the questioning attorneys. I argue that what each of these instances has in common is that it involves a kind of drawing attention to the *role* of interpreter. In Excerpt 61, for example, the interpreter draws attention to her role when she says in line 96 “Puedes decirlo en español y-” (*You can say in Spanish and-*).

Excerpt 61

T: 14	Jackie (Social Worker)	Iliana (Interpreter)	Nicole (10;0)
95	One is can you tell me the different between a truth and a lie?		
96		¿La diferencia entre la verdad y una mentira? Puedes decirlo en español y- <i>The difference between a truth and a lie? You can say it in Spanish and-</i>	
97			Una mentira- una mentira es no diciendo la verdad. <i>A lie- a lie is not telling the truth</i>

For the pre-elicitation sequences in this interview so far, the interpreter has been providing Spanish translations of many of Jackie's turns. However, except for her first turn, Nicole has been speaking in English for all of the pre-elicitation sequences up to this point. Her turn in line 97 represents her first code switch from English to Spanish. Jackie's move from a rapport building sequences to a truth vs. lies determination is a pivotal point in the interview. As discussed in Chapter 3, truth vs. lie determinations are important events for constructing the child as a legal witness. A truth vs. lie determination is a point in the interview at which the event ceases to be about topics that could occur in a typical conversation between a child and an adult, and the interview becomes a more formalized legal event that constructs the child as a legal witness in relation to the truth. It is at this crucial juncture that the interpreter draws attention to her role as the interpreter—as the person to whom Nicole can speak in Spanish, and Nicole responds in Spanish with a definition of *una mentira*. Iliana has been interpreting all of Jackie's turns up to this point in the interview, her choice to draw attention to her role for

Nicole here, may be a response to her awareness that the topic of this section is more difficult. Nicole acquiesces to this offer. The interpreter's drawing of attention to herself at this point may serve the construction of Nicole as a witness by facilitating her code switch to Spanish allowing her to answer in her more fluent language.

Unlike the examples that Berk-Seligson describes, however, this interpreter both has attention drawn to her and draws attention to herself, not simply in her *role* as interpreter, but as an *audience/observer* of the event account given in the interview. In Excerpt 62, Jackie assures Nicole that she does not need to be embarrassed by anything that she will say. In line 130, Jackie apparently begins to include the interpreter as part of the set of people who will not be embarrassed, "or embarrass-." The interpreter seems to perceive the interviewer's move in this way, when she adds "o a mi" to her interpretation in line 131.

Excerpt 62

T: 14	Jackie (Social Worker)	Iliana (Social Worker)	Nicole (10;0)
128	But just to let you know I don't get embarrassed.		
129		Pero a mi no me da verguenza. <i>But I am not embarrassed.</i>	
130	So nothing you're going to say is going to embarrass me or embarrass-		
131		So nada que dices le va a avergonzar a ella o a mi. <i>So nothing you say it is going to embarrass her or me.</i>	

Interpreter controls content.

The interpreter in this interview is participating in both the roles of interpreter and observer, but she also takes on the role of evaluator/judge of the appropriateness of the

child's answer. For example, in Excerpt 63 line 974, when Nicole answers that she was lying down on the bed and her father was on the other side, "y el estaba al otro lado," the interpreter judges this as an insufficient answer to the question, "Where was your dad standing?" Instead of interpreting Nicole's answer for Jackie and allowing Jackie to negotiate meaning with Nicole, the interpreter commands "Uh, dile como estaba" (Uh, say how he was). In this example, the interpreter is controlling the content of the child's answer by basically demanding that she replace it with a better one.

Excerpt 63

T: 14	Jackie (Social Worker)	Iliana (Social Worker)	Nicole (10;0)
968	Okay. And how was your dad?		
969		¿Y como estaba tu papa? <i>And how was your dad?</i>	
970			Parado. (He was) Standing
971		Standing.	
972	Where was your dad standing?		
973		¿Donde se ha parado tu papa? <i>Where was your dad standing?</i>	
974			Yo estaba acostada en la cama y el estaba al otro lado. <i>I was lying down on the bed and he was on the other side.</i>
975		Uh, dile como estaba. <i>Uh, say how he was.</i>	
976			Um, here I was and then my dad was standing right here.

Nicole's response in line 976 is the only time in the question-answer elicitation of an account(s) portion of the interview that Nicole code switches and interprets/rephrases her own already given answer. Her code switch seems to attribute part of the difficulty to the interpreter's understanding of her answer. She does not, for example, repeat her answer in Spanish providing more information. Where in the first answer in line 974, she is verbally descriptive in relation to the bed, in her second answer in line 976, she code

switches to English and uses the deictics “here” and “right here” presumably indicating their relative position with gestures. By demanding a different answer, the interpreter is adopting a role of evaluator/judge of the Nicole’s answer. She is also affecting Jackie’s responsibility to negotiate meaning. The consequence of this role adoption is that the interpreter constructs Jackie as less competent to negotiate meaning at the same time that she constructs Nicole as less competent as a legal witness. Nicole’s response of using deictics and gestures and her choice to code switch to English, however, reconstruct her as a competent legal witness, a more fluent speaker of English than the interpreter has assumed, and consequently, as a legal witness that is not dependent on the interpreter. Finally, and perhaps more importantly, this code switch shows that Nicole is capable of taking on the role of evaluator in relation to the interpreter.

Asymmetrical maintenance of pronouns.

One of the significant choices that this interpreter makes relates to her asymmetrical maintenance of first-person for each individual. Guidelines for federal court interpreters suggest that the goal for a court interpreter is to produce an interpretation that is “legally equivalent” to the original utterance. This includes equivalence on such levels as meaning and word choice and also on levels such as style and register (González et al., 1991). In terms of maintaining deictic references, this guideline requires that interpreters provide an interpretation that represents that deictic position of the speaker. If the witness is using a first-person singular pronoun, for example, the interpreter should provide an equivalent first-person interpretation. It could be argued that a child would find the maintenance of her own use of the first person

comfortable but be confused by the maintenance of the other speaker's use of the first person. First, it should be noted that in everyday speech, children are very comfortable with their interlocutor's use of first person. Second, federal court interpreters are taught that even when the person being interpreted is a child, the deictics, including person, of the speaker should be interpreted for their legal equivalents. It is also possible for interpreters to sit down with children before the event to talk about what the interpreting process will be like (R. D. González, personal communication, February 27, 2004)

In the pre-trial event considered, here, however the interpreter does not follow these guidelines. These data show that the interpreter does not generally maintain the interviewer's use of the first person singular. For example in line 12 of Excerpt 64, the interviewer says "when I am talking to kids, I might ask them a question," and this is interpreted into the third person as shown in line 13, "cuando le habla a los niños, a veces hace preguntas (when she talks to children sometimes she asks questions)."

Excerpt 64

T: 14	Jackie (Social Worker)	Iliana (Interpreter)	Nicole (10;0)
12	Okay. Sometimes when I'm talking to kids I might ask them a question that they don't know the answer to or they can't remember.		
13		¿Que haces- cuando le habla a los niños a veces hace preguntas que no se acuerdan o no saben que decir. What do you do – when she talks to children sometimes she asks questions that they do not remember or do not know what to say	

In contrast, however, the interpreter generally maintains the child's use of the first-person. In order to examine whether these changes in person were systematic, I used a Conc concordancing program to concordance both the interviewer's and child's portions of the interview for both singular and plural first-person forms. I then compared them to the Iliana's Spanish interpretations. Since English requires overt pronouns, concordancing the English data was relatively straightforward. Spanish, however, is a null-subject language, which means that under specific conditions, overt subject pronouns are not required. However, since Spanish verbs are conjugated for person, it is easy to determine whether first person is maintained. The absence of some overt pronouns in Spanish makes it difficult to concordance for the use of first person. In order to facilitate the concordancing of the Spanish data, the transcript was translated into detailed English equivalents providing overt pronouns. This English translation was then concordanced. The data obtained by concordancing the English translations were then used as reference points for coding the use of first person in the Spanish portions of the transcript.

Once first-person elements were identified, each instance of first person in the first language was compared to Iliana's interpretation in the second language. Each interpreted element was coded for speaker (interviewer/child) and for whether the original use of first person was maintained (1=> 1) or changed in some way by the interpreter.

I found three major types of changes:

1. Changes from 1st person to 3rd person (1=> 3) as exemplified in Excerpt 65.

Excerpt 65

T: 14	Jackie (Social Worker)	Iliana (Interpreter)	Nicole (10;0)
114	Okay. Sometimes when I'm talking to kids I might ask them a question that they don't know		
115	the answer to or they can't remember.		
116		¿Que haces- cuando le habla a los niños a veces hace preguntas que no se acuerdan o no <i>What do you do – when she talks to children sometimes she asks questions that they do not remember or do not</i>	
117		saben que decir. <i>know what to say</i>	

2. Changes from 1st person to 2nd person or combination of persons (1=> other) as seen in Excerpt 66.

Excerpt 66

T: 14	Jackie (Social Worker)	Iliana (Interpreter)	Nicole (10;0)
105	Okay. That's great. Can we make a deal or an agreement today?		
106		¿Puede hacer un trato entre tu y ella? <i>Can you make a deal between you and her?</i>	
107			Uh-huh (yes).

3. Changes in syntax that produced a syntactic structure that does not contain 1st person.

(1=> Ø) as exemplified in Excerpt 67.

Excerpt 67

T: 14	Jackie (Social Worker)	Iliana (Interpreter)	Nicole (10;0)
122	Exactly. If I ask you anything you can't remember you can just tell me that's fine.		
123		Esta bien o sea si de algo no te acuerdas puede decirle que no te acuerdas y esta bien. <i>It is Okay, well if you do not remember something you can tell her you do not remember and that's fine.</i>	

The types of changes are summarized in Table 4.

Table 4: Summary of Coding Types for Pronoun Changes

1 st person maintained		1s => 1s (s=singular) 1p => 1p (p=plural)
1 st person not maintained	1 st person to 3 rd person	1s => 3s 1p => 3p
	1 st person to 2 nd person or combination of persons	1s => other s 1p => other p
	structural changes	1s => Ø 1p => Ø

The results, as seen in Table 5, indicate that the interpreter maintained Nicole's use of first person singular in more than 74% of the instances that she chose first person, but maintained Jackie's use of the first person singular in only 14% of the instances that she chose first person. The interpreter chose most often to represent the interviewer in the third person singular (46.4%) or to syntactically restructure the clause so that no first person was used (39.2%).

Table 5: Asymmetrical Maintenance of Pronouns

	Interviewer		Child	
Singular	Tokens = 56		Tokens = 89	
1s=> 1s	8	14%	66	74.1%
1s=> 3s	26	46.4%	9	10.1%
1s=> Ø	22	39.2%	8	8.9%
1s=> other s	0		6**	6.7%
Plural	Tokens = 19		Tokens = 2	
1p=> 1p	13	68.4%	0	
1p=> 3p	1	5.3%	2	100%
1p=> Ø	4	21%	0	
1p=> other p	1*	5.3%	0	

* “you and her”

** gender/animacy changes

In translating the interviewer’s use of the first person plural, however, the interpreter shows a different pattern. Since the participant structure of the interview now includes a second adult, the interviewer’s use of the word “we” can be seen as ambiguous in a different way than it is ambiguous in a typical two-person interview. In a one interviewer-one child interview, it is typical for an interviewer to refer to herself as part of a group of adults who are concerned with children’s welfare. She may say, for example, “It’s our job to try to keep kids safe.” In a one interviewer-one child interview, this use of the first-person plural is an exclusive one that does not include the child. With the inclusion of a second adult, these types of sentences are still exclusive in relation to the child; what becomes ambiguous is whether they include or exclude the interpreter. Interpreters’ guidelines stipulate that pronouns be interpreted for their linguistic equivalents. However, in this interview, it seems that the interpreter made decisions about whether to maintain the first person plural based on her own inclusion or exclusion in the

group in question. An example of this can be seen in Excerpt 66 line 106 where the interpreter changes the “we” of “can we make a deal or an agreement” to “entre tu y ella.” (“between you and her”). This can be contrasted to the interpreter’s maintenance of “we” when it is possible that the interpreter is including herself. For example, in Excerpt 68, when Jackie is talking about safety, she uses “we” in lines 807 and 809. “If there’s something we can do . . . we’re going to do that.” Instead of making a first person to third person shift, as she does with first person singular, however, the interpreter maintains the first person plural “algo que podemos hacer . . . lo vamos a hacer.”

Excerpt 68

T: 1717 Jackie (Social Worker)	Iliana (Interpreter)	Nicole (10;0)
807	And if there’s something that we can do to help keep you safe	
808	Dice que si hay algo que podemos hacer para mantenerte con seguridad- <i>She says that if there’s something we can do to keep you safe-</i>	
809	-we’re going to do that, okay?	
810	-Lo vamos a hacer tambien. <i>-We are going to do that too.</i>	
811		Okay.

This choice to maintain the first person plural may be an example in which the interpreter indexes herself as part of the group of people who want to keep Nicole safe. If this is the case, her choice to maintain or change the first person plural structures can be seen as another form of the interpreter drawing attention to herself as a different kind of participant in the interview. The interpreter has shifted footing and switched participant roles from that of interpreter to that of interpreter/interviewer(caregiver). More seriously,

however, it can be argued that this change in participant roles may also foreground the interpreter as a receiver/possible evaluator of the event narrative. The shifts in person reveal a situation in which different choices may not be seen as random but as indexing particular participants structures.

Changes that Affect Interviewer's Therapeutic Role and the Construction of Identity

The three types of changes discussed in this section are changes that affect the interviewer role and affect the participant's ability to construct functional identities.

Yuille, Hunter, Joffe and Zaparniuk (1993) argue that the primary goal of an investigative interview is to minimize "the trauma of the investigation for the child" (p. 100). A second goal is to "maximize the information obtained from the child about the alleged event(s)" (p. 100). They propose that training interviewers is one part of achieving these goals, "a knowledgeable and sensitive interviewer is equipped to help the child through the interviews" (p. 100). This section examines changes that the interpreter makes to the interviewer's questions that alter meaning in fundamental ways. Each of the changes affects the interviewer's goal of minimizing the potential emotional effect of the question. The interpreter, however, is affecting not only the therapeutic role of the interviewer, but also the interviewer's role in eliciting an account that reflects the legal needs of the interview event.

Personalization: 3rd person => 2nd person.

The grammatical changes that the interpreter makes affect the interviewer's ability to create questions that are carefully phrased for both their therapeutic and legal values. As discussed in Chapter 3, one of the purposes of the sequences related to safety is to introduce into the ongoing interview topics of relevance to the question-and-answer elicitation of the account(s) portion of the interview. In particular, they introduce the concept of physical safety. In her interview with Nicole, Jackie is very careful about the wording of her questions in this section. For example in Excerpt 69, she uses a general job reference to shift to the topic of physical safety. In this reference, she generalizes the issue by using third person plurals to refer to all of the children that she talks to.

Excerpt 69

T: 14	Jackie (Social Worker)	Iliana (Interviewer)	Nicole (10;0)
7	And my job is to ask them questions about things that have happened.		
8		... las cosas que han sucedido. ... <i>Things that have happened</i>	
9	And to help make sure that they're safe.		
10		Y para ayudarte para que estés sin ningun peligro. <i>And to help you, so you are out of any danger.</i>	

In line 7, Jackie says that her job is to “ask *them* questions about things that have happened and to help make sure that *they're* safe.” In her interpretation, however, Iliana makes significant changes to the interviewer's turn. First she personalizes the issue by transforming the third person “they” to the second person, “Y para ayudarte . . .” (and to help you). Iliana's interpretation should have been “Para asegurar que estén de peligro.”¹⁰

Now instead of the question of safety applying to Jackie's general job description and all of the children she helps, the tone of the statement is very personal. It is Nicole who must be kept safe. The interpreter makes changes to Jackie's carefully worded introduction of the topic of all children's physical safety and creates a question that applies to Nicole's safety.

Personalization: Genitive NP=>2nd person pronoun.

In the elicitation of an account(s), Jackie is also very careful about how she phrases very sensitive questions related to what has happened to Nicole. Jackie's role in this part of the interview is very important. She must ask questions that allow Nicole to author details that relate to the legal specification of the crime—co-constructing Nicole as a legal victim. At the same time, she must not create any more trauma related to the events Nicole has allegedly experienced. In line 468 of Excerpt 70, for example, she responds to Nicole's answer regarding how many times a particular action has occurred. As discussed in Chapter 4, such questions relate to the number of charges that can be brought and construct the perpetrator as a repeated perpetrator. She uses the turn to move to the next question regarding the instruments of the touching and what parts of Nicole's body have been touched.

Excerpt 70

T: 14	Jackie (Social Worker)	Iliana (Interviewer)	Nicole (10;0)
468	About four times? Okay. What did he touch your cosa with?		
469		¿Con que te tocaba? <i>What did he touch you with?</i>	
470			Con las manos. <i>With his hands</i>
471		With his hands. (papers rustling)	

472		Y a veces con su pene. <i>And sometimes with his penis</i>
473	With his hands and sometimes with his penis.	
474	What did he do with his hands when he touched your cosa?	
475	¿Que hizo con sus manos cuando te tocaba? <i>What did he do with his hands when he touched you?</i>	
476		Um. Me hacia asi como cosquillas pero yo me iba, y no queria que me tocaba. <i>Um, he would do like tickling me but would leave, and I did not want him to touch me.</i>

In line 468, in accordance with the legal definition, Jackie's question specifically defines the syntactic object of the touching as the noun phrase "your cosa" and not "you." González (personal communication, July 20, 2006) has pointed out that a careful therapist speaking in Spanish would most likely choose to phrase the question in much the same way that Jackie has in English. For the interpreter to have provided a legal equivalent, the interpretation would have to have been, "te tocaba tu cosa." In this turn, however, Iliana provides an interpretation that is not a legal equivalent of Jackie's question changing its legal impact. She changes the object of the touching from "your cosa" to "te tocaba" (touch you). A change from "your cosa" to "te tocaba" (touch you) can be seen as a form of metonymy that could be acceptable in everyday conversation, in both English and Spanish, and Nicole's use of this form in line 496 supports this claim. However, its use in the context of this event is not an appropriate one. Iliana creates a question that no longer has the same legal significance. Had the stipulated crime been done with a more limited set of body parts, only the hands, for example, this change in question form could have legal implications. Jackie's question in line 474, "What did he do with hands when he

touched your cosa?,” is affected in similar ways. The first is a repeat of the change from “your cosa” to “te tocaba” instead of “te tocaba tu cosa.” A second change relates to the aspect of the verb. The question-and-answer sequence has already established that the act of touching happened multiple times in the past, so when Jackie uses the clause, “What did he do with his hands . . .” the implication is that this action of “doing” was a repeated action. In Spanish, this repetition is reflected in the aspect of the verb. Instead of the interpreter’s “Que hizo” (what did he do—simple past tense), the interpreter should have said “Que hacia” (what did he do—repeated times in the past). This interpretation both conserves the meaning and has greater legal significance (R. D. González, personal communication, July 16, 2006) involving the construction of the legal perpetrator. The interpreter’s Spanish version allows for a construction of the perpetrator as someone who has not participated in this act multiple times. Nicole’s use of “hacia” in line 476, however, reconstructs this action as a repeated one. Essentially, Nicole’s use of “me hacia” in this turn, reconstructs herself as both a reliable witness and a repeated legal victim, and this construction mutually constitutes the perpetrator as a repeated perpetrator.

Upgrade: Syntactic simplification.

Another change that this interpreter made to the interviewer’s questions was to simplify their grammatical complexity. In Excerpt 71, line 125, for example, the structure of Jackie’s question is simplified.

Excerpt 71

T: 14 125	Jackie (Social Worker) Okay. Also sometime I talk to kids about things that they think are embarrassing.	Iliana (Interpreter)	Nicole (10;0)
126		Tambien le habla los niños de cosas que son avergonzados. <i>Sometimes she talks to children about some things that are embarrassing.</i>	
127			Uh-huh (yes).

Where Jackie's question defines the "things" that she talks about as being things that children "*think* are embarrassing," the interpreter's grammatical simplification has the things defined as "cosas que son avergonzados" (things that are embarrassing). There is a great deal of semantic difference between the two constructions. Things that someone only *thinks* are embarrassing may not, of course, be embarrassing. This is Jackie's point. She has been careful not to cause any more trauma. The interpreter's change, however, modifies this question's meaning and possibly affects Nicole's understanding of what is embarrassing in this interview.

Conclusion

This chapter has examined the effects of having a third participant in the interview. Third participants change the participant structures of the interview creating the possibility of changing footing throughout the interview event. They affect the power dynamics and shift the audience framework of the interview. They also, however, affect the construction of the functional identities under examination: legal witness, legal victim, and legal perpetrator. In particular, the addition of a participant affects the process of the interview. Consequently, the functional identity of witness is most strongly affected by an additional participant.

The second interviewer seen in these data shifted footing into the interviewer role in a relatively structured way and typically in relation to his police officer's orientation to legal questions. The organized shifts in floor provided co-constructions with three animators for the accounts and narratives that were generated. From one perspective, two interviewer, with their different orientations to the legal process, provide two "socializers" to the interview process. The addition of an individual who could participate in the practice of authoring questions allowed Kimmie to co-produce a story that was more detailed and cohesive than it might have been with only a single interviewer. From this perspective, the presence of the second interviewer provided for an integrated practice that allowed Kimmie to be co-constructed as a competent legal witness, and it produced accounts and narratives that produced the legal details necessary to construct Kimmie as a legal victim and the alleged perpetrator as the legal perpetrator. The addition of a second adult, however, also introduces a second story recipient and audience member. While it is difficult to interpret how this might have affected Kimmie's comfortableness with talking about the topics of the interview, it seems impossible that it had no consequences.

Relatives of the child, on the other hand, interacted in ways that positioned them to both ask and answer questions. When family members asked questions it was generally to co-animate an account or narrative. In much the same way that a second interviewer provided for a more detailed account of the event(s), the presence of a family member co-animating an account can result in an account that is more detailed than it might have been without the family member present. In the example of the mother who was present

during the interview, this is particularly the case. However, unlike a second interviewer, the co-animation of the account was also accomplished by the mother's answering questions. In other words, while the second interviewer co-animated the account he did not co-author the account. However, while the mother's answers provided necessary details for the co-construction of the account and resulted in the construction of the legal victim and the legal perpetrator, they affected the construction of the child as a witness. The mother's introduction of information took on the quality of co-authoring information, and this affects how the child can be seen as the author of the information. Consequently this affects the child's construction as a viable legal witness.

In the interview in which the grandmother of the child was brought in to facilitate the child's account, she was not able to cajole the child into talking. However, she inadvertently participated in the co-construction of the child as non-cooperative legal witness.

Finally, the addition of an interpreter affected the interview in a more fundamental way. She affected the audience structure, the power dynamics, and the flow of the interview. From one perspective, her presence allowed the child to participate in the interview in her first language, and this allowed the child to answer questions more comfortable and more fluently. From this perspective, the presence of an interpreter is a very positive one for the construction of the child as a witness. The legal distinction between pre-trial and trial events, however, affects the kind of training that interpreters must have. This interpreters lack of legal training affected the interview in important ways. She affected the nature of the language of the interview creating language that was

less precise, more personal, and had the potential for creating questions about the legal implications of some answers. From this perspective, she affected the child's ability to co-construct an account putting into jeopardy the construction of the legal perpetrator. She also affected the interviewer's legal and therapeutic roles. The affect of an interviewer, then, may depend on training. Perhaps examining interviews from the perspective of identity construction can provide arguments for the necessity of requiring training for interpreters in pre-trial events.

⁸ I am grateful to Dr. Roseann D. González, Director of the National Center for Interpretation Testing, Research, and Policy, for her discussions relative to parts of these data. I am also grateful for her help and comments regarding the role of interpreters and interpretation in both trial and pre-trial events.

⁹ As noted earlier, in order to facilitate reading by individuals who are not fluent in Spanish, I have included (in italics) English translations of each of the Spanish turns. These translations are not part of the original transcript and were provided by Ana Cecilia Villarreal-Ballesteros and Ruben Alvarado to whom I owe a great deal of thanks.

¹⁰ I am thankful for Yvette Citizen, FCCI, United States District Court Tucson, for her help with this interpretation.

CHAPTER 6 – CONCLUSION

This study focuses on the functional identities of legal witness, legal victim, and legal perpetrator and their constructional dependencies in the forensic interviews that take place after allegations of child sexual abuse have been made. These identities are constructed in relation to the purpose of the interview, they are dependent upon one another, and they are not necessarily created as part of the children's or alleged perpetrators' individual social or cultural identities.

Functional Identities

Legal Witness

The construction of the functional identities examined here is a complex, interdependent process that partially depends on categories of identity that contextually pre-exist their interactional construction. Within the socio-political structures of the United States, for example, there are both general and legal definitions of what a witness, victim, or perpetrator should or can be. For cases related to the sexual abuse of children, these socio-political contexts have particular effects on the construction of these identities. For example, the issue of whether a child can be seen as a reliable witness, has an extensive legal background going back to early English common law. From a legal perspective, the identity of child witness is still being shaped in current debates that attempt to balance the emotional needs of a child witness against the constitutional rights of suspects or defendants. From a cultural perspective, there are often biases related to children as legal witness. Some of these biases are related to children's capacities to understand and tell the truth and others to children's abilities to narrate events.

Political and legal aspects of the state come into play as well. The Bill of Rights, for example, guarantees individuals both the right to not incriminate themselves and the right to face their accusers. Therefore, the onus of construction falls on the witness rather than on an alleged perpetrator. The construction of an individual child as a witness must be accomplished in relation to these structures.

Clearly it is not the purpose of this study to attempt to resolve these issues; it is the purpose of this study, however, to consider how notions of witness are affected by these cultural, political, and legal biases and determine how an individual may be interpellated as a subject of this type—to determine how they may be constructed in the ongoing face-to-face interactions of the interview event as a reliable witness.

Austin's (1975) work with performatives offers a place to begin such examinations. He provides the idea that the *choice* of performing one illocutionary or perlocutionary action over another has the consequence of communicating particular types of information about the speaker and constructs the speaker in particular ways. Goffman (1959; 1963; 1974) also argues that particular individuals have the ability to define or project certain definitions of social contexts and that these projected definitions have "a distinctive moral character" such that "any individual who possesses certain social characteristics has a moral right to expect that others will value and treat him in an appropriate way" (1959, p. 13). This "front," as Goffman labels it, is constituted in the interaction between the performance and the responsibilities of the audience.

The functional identity of witness is in part constructed by the socialization processes of the interview itself. This construction happens in at least three ways. First,

certain question-and-answer sequences, such as those in the pre-elicitation sequences related to telling the truth, serve as “proof” that a particular child has qualities that make her a reliable witness. Second, participation in the question-and-answer sequences of the interview is a process that socializes the child to appropriate ways to be a witness. Third, these interviews serve as the practice for the appropriate performance that constructs these identities.

Sequences related to telling the truth are important ones for constructing children as reliable witnesses. They reveal the interview’s place in the socio-political structure in that they index cultural biases about children as witnesses. In particular, they address the cultural concerns related to whether a child understands the concept of truth, whether she understands some of the possible consequences of not telling the truth, and whether she plans to tell the truth during the interview. Essentially, these sequences construct the child as a truth teller both for the record and in practice. These truth telling sequences, however, reveal one of the conflicts inherent in the ongoing construction of children as viable witnesses: the performance of the viable witness identity can be in direct conflict with a child’s identity as a “good daughter” or some other long-established identity. Children, however, are required to rank their truth-telling responsibilities above these perceived familial or social responsibilities. Interviewers, on the other hand, seem to be allowed to place their responsibility to elicit an account and protect children higher than an absolute adherence to either telling the truth or keeping their agreements with children.

Interviews also construct individuals as witnesses by providing them with the kind of practice they need to participate in legal exchanges. As noted, the interview is

subject to written and unwritten formal rules that do not correspond to the typical interactions of conversation or of narration. Interviewee's choices are much more limited. Questions of how the event account is generated, however, are not limited simply to storytellers initiator rights. A second issue relates to the narrative style of the account. As discussed in Chapter 3, there are two main narrative styles at work in the interactions of the interview. One style is the highly interactive, relatively unembedded accounts that are generated in the question-and-answer sequences of the interview. The second style is the relatively less interactive, embedded narratives seen when children, especially the older children, negotiate longer turns. In practice, these narrative differences have consequences for the construction of the legal witness identity. The processes of socialization for the embedded narratives and interactive accounts are rather different in relation to the forensic interviews examined here. Children's participation in question-and-answer sequences socializes them to the account style, but since interviewers do not produce longer turn, embedded narratives, it is difficult to claim that children are socialized to the less interactive, more embedded style of narratives. This is a crucial point since the cultural attitudes connected to each style affect how individual children are viewed as witnesses. O'Barr (1982), for example, found that adult witnesses who used a narrative style were judged as more convincing, truthful, competent, intelligent and trustworthy than witnesses who used a fragmented account style. Leippe et al. (1993) found that children are judged in similar ways. In their research, child witnesses were perceived by jurors as more inconsistent. According to Leippe et al., these judgments may have been partially based on children's styles of story telling.

When considering how stories are produced in interview situations, it is clear that both narratives and accounts are the products of the ongoing interaction between the two participants; stories are co-produced. The question-and-answer sequences of the interview enrich the details of the narratives and accounts in very specific ways. In particular, the question-and-answer sequences elicit details related to alleged actions in order to determine whether they match legal definitions. Saying that a story has been co-constructed is not the same as saying that it has been co-authored, however. Interviewers and children co-animate stories. Interviewers are also active in the process of authoring stories. For example, they create the questions that generate the information that is authored by the child. While participants, co-animate and co-produce accounts and narratives, children author stories. Since interviewers are part of the co-authoring process, however, the accounts and narratives that are co-produced in interviews are inherently shaped by the questions that interviewers ask.

For example, as interviewers order their questions in particular ways, they create an apparent temporal, causal linearity to the accounts and narratives that are produced. Further analysis related to whether this type of linearity is actually constructed or just appears to be constructed, however, needs to be done. If interviewers do create this kind of temporal, causal linearity, questions of how this is accomplished deserve further research. It seems possible that interviewers, for example, given their experience, have a type of meta-narrative of abuse situations they use to order their questions in a way that creates this kind of temporal, causal linearity. A second possibility is that interviewers are familiar enough with the details of the case to have a general understanding of the story

before the elicitation process begins and that this allows them to ask questions in particular ways. This is not, of course, to imply that interviewers impose versions of the story onto the co-production process. Further research in this area is necessary to answer questions related to linearity.

The purpose of the interview is to determine whether an account of an event can be co-produced that relates to the particular actions of the crime in question. This purpose focuses the interview in relation to the legal definition of the actions of the crime. The co-produced accounts and narratives are inherently shaped by the legal context of which they are a part.

This focus on the legal details of accounts also leads to conflicts for the child in the inter-related construction of functional identities. One conflict, which figures very prominently in the elicitation of an account(s) sequences, is due to the nature of the subject matter of these interviews. In order for a child to successfully be constructed as a witness, she must construct herself as the patient/experiencer of very specific, morally weighted actions—as the legal victim. Resistance to the construction of legal victim took several forms in the data. One was for the child to construct herself in the event account as resistant to the alleged perpetrator's actions. This form of resistance to the legal victim identity seems to index cultural proscriptions that victims of sex crimes have a responsibility to resist such crimes. While this type of resistance may make it somewhat more difficult to construct the child as the legal victim, it does not affect the construction of the child as a legal witness. The child is still participating in the performance of the legal witness identity within the interview.

A second type of resistance to the legal victim construction can be seen as resistance to the interview process itself. In this type of resistance, a child may resist answering questions about the details of the event itself. This affects the child's construction of legal victim since if there is no performance, there can be no construction by that performance. Obviously, this resistance also affects the child's construction as a witness since it does not provide for participation in the performance of the interview.

Finally, there was a resistance to verbalizing specific details of the event that particular children seemed to find painfully embarrassing. This type of resistance, however, does not affect the child's construction as witness since she is participating in another mode, nor does it affect the child's construction as victim since the details of the event are eventually communicated in another mode. This type of resistance, however, could affect a child's construction as legal witness in a courtroom since it could affect a jury's evaluation of the child as a witness. Research would need to be done to explore this effect.

Legal Victim and Legal Perpetrator

Much has been made here about the mutually constitutive relationship between the identities of legal victim and legal perpetrator. In a legal sense, this is particularly the case. Laws related to child sexual abuse, as seen in Chapter 2, define specific acts that must occur against particular aspects of a child's body before the act of child molestation can be said to have taken place. Certain types of causation and intent must also be established. In discussing these action-based legal definition, I modified Sack's idea of category bound activities and defined these types of actions as patient-bound activities.

The legal definitions are bound, partly by the nature of the crime and partly by cultural perceptions of the crime, to a set of actions that occur. These patient-bound actions are used to categorize an individual as a patient/victim of the actions and, consequently, another individual as the agent/perpetrator of those actions. This law reveals a social construction of “child as victim”—a child is the acted upon and a patient of the action of another even when he or she is an agent of additional actions. From a Gramscian perspective, the nature of the laws themselves can be seen as part of the hegemonic ideologies that affect cultural concepts of both the actions and the actors of those actions. Identity construction depends on the cultural ideology of difference in that ideologies reinforce concepts that individuals who are found guilty of certain crimes must be different from the average person. Typical cultural descriptions of serial killers as “monsters,” for example, depend heavily on this ideology. Cultural constructions of child molesters as strangers who offer children candy to get into their vehicles are to some extent constituting child molesters as the unknown. However, statistics do not reflect this constitution of child molesters. According to U.S. Department of Health (2003) statistics, family members account for 68% of all perpetrators. When this is added to the occurrences by other adults in the child’s life such as day care providers, coaches, teachers, youth leaders and clergy, it becomes apparent that strangers do not make up the largest portion of individuals who molest children. What consequence these types of hegemonic conceptions of perpetrators have on the incidence of child sexual abuse is beyond the scope of this study.

The legal victim identity is constructed for the purpose of determining whether charges can be brought against a possible perpetrator. Because of this, the nature of both this identity and its construction are affected by the structure of the legal definitions of child molestation. In practice, this identity is constructed by the elicitation of an account(s) sequences of the interview. The exploration of whether the legal perpetrator identity can be constructed is the purpose of both the interview and the extended legal process of which the interview is a part. Because the functional identities of legal victim and legal perpetrator are mutually constitutive, the construction of the victim in the question-and-answer sequences of the interview process mutually construct a perpetrator. It is a two-step process that first involves categorizing the “injurious action” and “the acted upon,” or legal victim, in order to establish the identity of “agent,” or legal perpetrator, of the action. This directional dependency can be seen when the context of forensic interviews is contrasted to what might happen if a suspect being interviewed by the police decided to confess to a crime. In that case, the perpetrator would be constructing him- or herself as having performed certain actions upon a child; and this would mutually construct the child as a victim. The identities are mutually constructed, but the focus of the construction and the direction of the constructional dependencies are dependent on the context of the event.

The direction of the constructional dependencies is one consequence of how this crime is defined in relation to hegemonic notions of the crime type, of the individuals who commit the crime, and of a justice system in which the burden of proof lies with the accuser. The directional dependencies create a focus on the legal victim since it is this

construction that serves as a function to the construction of legal perpetrator. Perhaps it is the reflexive focus on the legal victim that is in partly responsible for the types of research that focus on children as witnesses. One is forced to wonder what would happen if adult witnesses were subject to the same time of research scrutiny that child witnesses are.

Effects of a Third Interview Participant

The data collected here reflect three types of additional participant in interview situations: second interviewers, family members, and an interpreter. A second interviewer affected the interview as highly organized shifts in floor provided co-constructions that had three animators for the accounts and narratives that were generated. From one perspective, two interviewers, with their different orientations to the legal process, provide two “socializers” to the interview process creating a second layer of integrated practice in which the child could be co-constructed as a competent legal witness. The second interviewer also facilitated accounts and narratives with the legal details necessary to construct the child as a legal victim and the alleged perpetrator as the legal perpetrator.

Relatives of the child, on the other hand, interacted in ways that positioned them to both ask and answer questions. The presence of a family member co-animating an account can result in an account that is more detailed than it might have been without the family member present. However, unlike a second interviewer, the co-animation of the account can also negatively affect the construction of the child as a witness. An individual who is familiar with the account can provide information and thus co-author

some of the details of the account. This can affect how the child is constructed as a viable legal witness.

The addition of any second adult also introduces a second story recipient and audience member. While it is difficult to interpret how this affect a child's comfortableness with talking about the topics of the interview, it seems impossible that it would have no consequences.

An interpreter can affect interviews in a fundamental way. The interpreter may allow the child to participate in the interview in her first language, allowing the child to answer questions more comfortable and fluently. The consequence of this is that a child can be constructed as a reliable legal witness. The legal distinction between pre-trial and trial events, however, affects the kind of training that interpreters must have. An interpreter's lack of legal training can affect the interview in important ways. An interpreter can affect the language of the both the questions and the answers in an interview in ways that have the potential for creating legal questions related to some details of an event. The interpreter examined in this study, for example, affected the child's ability to co-construct an account putting into jeopardy the construction of the legal perpetrator. She also affected the interviewer's legal and therapeutic roles. The affect of an interviewer, then, may depend on training. Perhaps examining interviews from the perspective of identity construction can provide arguments for the necessity of requiring training for interpreters in pre-trial events.

Implications

Interpreters and formal training.

With only one interview in the data set, it is not possible to generalize the effects found in this interview to other pre-trial events in which there are interviewers, yet the seriousness of the types of language changes made by the interpreter suggests that further research into this area may be beneficial.

It is also important to note, however, that the lack of training apparent in this interviewer may not be atypical of these types of pre-trial events. In her examination of interpreting for the pre-trial police interrogations, for example, Berk-Seligson (2000) found that the individuals who act as interpreters in pretrial events such as suspect interviews can include bilingual police officers, other employees of the police department, or even relatives and friends of the individuals who are being interrogated.

One implication of this study, then, is the need for interpreters in these pre-trial events to be subject to some type of evaluation of their language skills as well as receive formal training in interpreting. The fact that an individual appears capable of speaking more than one language does not guarantee that person is either proficient in both languages or capable of producing the type of interpretation that such an event requires.

This interpreter's lack of skills also calls into question the skills of individual social workers or police officers who question children in their L1 to avoid the use of an interpreter. More research is required to examine this issue as well.

Data Collection.

A second implication of this study is that it highlights the need for collecting a wider sample of data that can be used to examine how identity is constructed in forensic interviews. Although the data collected here are representative of the day-to-day cases of Western State, more data from other regions of the country would need to be considered before general claims could be made related to identity construction in forensic interviews. These data, however, foreground the importance of collecting “real life” data that reflect the types of cases professionals deal with on a daily basis as opposed to examining only cases that have been collected due to their difficulty. In relation to considerations of identity construction, it seems valuable to examine successful cases, like many of those in these data, as well as the more difficult cases collected in other studies.

Therapeutic implications.

During the course of presenting parts of this study at conferences and in discussing these data with other individuals, it has been suggested that the concept of functional identities may have value in therapeutic situations. It is beyond the scope of my training to make any claims in this effect.

I have, however, made the claim that some of the language changes made by the interpreter in these data seem to affect the interviewer’s therapeutic role. This claim implies that interviewers are conscious of their therapeutic role in forensic interviews. It seems possible that an examination of the conflicts that can occur between the constructions of witness and legal victim may provide a method of framing therapeutic

research in relation to the negative pre-trial and courtroom experiences that witnesses, particularly those who have been involved with sex crimes, report they experience when being interviewed or giving testimony.

Theoretical implications.

From a theoretical perspective, functional identities provide the opportunity to examine the processes of identity construction. Some identity theorists examine identity with the understanding that the process of identity construction is reflexive of the category of identity under construction. Others argue that identity is not merely a reflexive property of these categories that inhere in individuals, but that it “inheres in actions” (Bucholtz & Hall, 2004). Functional identities provide a site for examining how these processes interact. Functional identities inhere in action in the sense that they are constructed in and by performance, that they must be constructed in particular processes, and that they are subject to interdependencies with other functional identities. However, functional identities are also reflexive of pre-existent categories that operate in relation to the social, cultural, and political contexts of the events in which the identities are constructed.

Functional identities, due to the relative frequency of the processes of which they are a part, are constructed by many individuals over the course of any given time period. Therefore, they provide an opportunity for the examination of how individual differences affect the process of each of these identities. In other words, functional identities provide, due to the frequency of their construction, an unusual opportunity to examine how the interaction between the pre-existing hegemonic definitions of a particular identity interact

with the ongoing action of the shifting and recombining of identities to suit a particular function.

Social, cultural, and political implications.

Chapter 4, in particular, examines the conflicts that arise for children as they struggle to produce narratives and accounts of the events they have allegedly experienced. Some of their struggle is related to the nature of legal process of which these interviews are a part. In a legal system that guarantees that individuals have the right to not incriminate themselves, or construct themselves as legal perpetrators, and the right to face their accusers, the responsibility for the construction of both the identities of legal victim and legal perpetrator in crimes of this type falls to the child. Many states have created provisions for children testifying in court that make the act of facing the accused less stressful. In some states, for example, children may testify via closed circuit television. This does not, however, release children from their constructional responsibilities, and the pre-trial processes are unaffected. Changing the legal system so that the onus of construction falls on accused individuals, as it does in some countries, would solve the problem, but the solution is neither tenable nor desirable.

While multiple avenues of change would be needed, at least three important changes seem to be imperative. Each of them relates to changes in the context of the interviews themselves. The first relates to changes in the immediate physical and experiential context of the interviews. Children's centers, like the one that agreed to participate in this study, provide relatively comfortable physical surroundings where children can receive medical exams and be interviewed in an environment that is less

clinical and less threatening from children's perspectives than either hospitals or police or sheriff's stations. They provide an environment where several agencies can have access to a single interview reducing the overall number of interviews a child must experience. One solution then, is to provide more children with access to such facilities.

A second solution is related to the immediate context of the interview itself. As these data indicate, training for both interviewers and interpreters has consequences for how interviewers ask questions in a manner that both generates necessary legal details and attempts to reduce the trauma that children experience. As these data also indicate, children's abilities to generate the language needed to produce accounts and narratives varies by age. This implies that children's abilities are also significantly different from adults'. The data collected for this study represent interviews conducted by individuals who have received specialized training in working with children. However, in everyday life, apart from children's centers, children are regularly interviewed by individuals who have received very little, or no, training in interviewing children. Perhaps training and testing in relation to interviewing children should be a requirement in much the same way that training and testing is required for federal and state level interpreters. One would think that interviewing skills are as imperative as interpreting skills in these environments.

As these data suggest, children's conflicts between constructing themselves as legal victims and constructing themselves as legal witnesses seem to be linked to social and cultural attitudes about the responsibilities that victims of sex crimes have in relation

to the crimes themselves. Clearly, social and cultural attitudes toward the victims of sex crimes need to adapt to the reality that is experienced by victims of these crimes.

It is to be hoped that more research in relation to the social and cultural effects on identity construction in these environments will serve to explicate understandings of how the complex processes of context and construction interact. Perhaps this could lead to clearer understandings of what types of interview techniques could lessen the impact of these interactions.

Finally, although the focus of this study is the construction of functional identities, I hope that choosing to examine child sexual abuse cases may foreground these cultural issues and, in doing so, initiate some modicum of social change.

APPENDIX A: REDACTION METHODOLOGY

Methodology for Redacting Identifying Information from Transcripts and Police Reports

The Code of Federal Regulations Title 45 §46.102 (f) defines a human research subject as “a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.”

In order that the researchers do not have access to any “raw” data (data containing identifiers), The following steps will be implemented.

- I. The systematic assignment of pseudonyms to the city, county, and state.
- II. The systematic assignment of pseudonyms to each children’s center
- III. The systematic assignment of pseudonyms to each law enforcement agency
- IV. Assign a code number to each transcript and police report pair (these can be drawn from a list of randomly generated 4 digit numbers).
- V. Assign a set of pseudonyms to each code number that replaces the names of
 - a. each child
 - b. each interviewer
 - c. each interviewer’s law enforcement agency
 - d. each individual mentioned in the transcript or matched police report
 - e. this code will be used to keep track of such information such as age and gender of child and gender and agency (identified only with assigned pseudonym) of the interviewer. The researcher will only have access only to the information in the pseudonym category.
- VI. Replace other identifying information (as describe in 5 below)
 1. Case Numbers, Police Report numbers:
 - a. In the transcript, these will be deleted and replaced with the assigned code number
 - b. In the Police Report, these will be blacked out and replaced with the assigned code number.

APPENDIX A – *Continued*

2. Social Security numbers, Birthdates, Date of Interview:
 - a. In the transcript, these will be deleted and replaced with the letters “SS” and “BD” (age at time of interview will be recorded).
 - b. In the Police Report, these will be blacked out.
3. Addresses, telephone numbers etc.:
 - a. In the transcript, these will be deleted and replaced with the word “address,” “telephone number” etc.
 - b. In the Police Report, these will be blacked out.
4. Names^{11 12} can be replaced with assigned pseudonyms
 - a. In the transcript,
 - i. a gender appropriate pseudonym will be assigned for:
 1. the child
 2. the interviewer
 3. each individual named in the transcript.
 - ii. A search and replace function will be made for each the last name.
 - iii. A search and replace function will be made for the first name. If any nicknames are found, a search and replace function must be made to replace the nickname with the first name of the appropriate pseudonym.
 - b. In the Police Report,
 - i. names will be blacked out with permanent markers. Since code numbers connect police reports with their transcripts, only pseudonyms that are unclear in context will need to be handwritten in.
5. Other Identifying Information: Other examples of information that could be used to identify a particular case are related to the details of the case. These could include descriptive details of places or descriptive details of events.
 - a. Descriptive details of place—Many place descriptions are fairly typical and cannot identify a particular case. A child may say, for example, that a certain event took place in a “garage where my dad fixes cars.” This description is fairly typical and does not identify a particular case. However, if a child describes a certain event that took place in a “garage where my dad works on model airplanes” this is fairly atypical and makes the case more susceptible to identification. In this case, redaction can simply consist of replacing the atypical description with an equivalent typical one or deleting the piece of the descriptive element that is atypical.
 - b. Descriptive details of events—A similar argument can be made for certain types of actions. Atypical descriptive details that make an individual case susceptible to identification must be replaced or deleted.

APPENDIX A – *Continued*

- c. Special attention will need to be made for any case that has had details released to the media—It would be safest in these instances to simply drop from the data base all transcripts and their police reports that contain details that have been released to or obtained by the media.
- d. In the transcript,
 - i. descriptive details can be replaced or deleted on a case by case basis
- e. In the Police Report,
 - i. descriptive details that are replaced or deleted in the transcripts will also be blacked out of the police report.

¹¹ Words that define relationships such as “grandpa” or “mom” do not need to be replaced since they are not unique identifiers.

¹² It is important that a search and replace function be performed on each first and last name separately since first names are used alone in parts of the transcripts.

APPENDIX B: QUESTION CODES

Code	Question Type and Form	Focus	Examples
WSF	WH-Questions Full Forms	Subject focus	<p><i>What's your answer to that?</i> <i>O.K. Who took you to that room?</i></p> <p><i>Were you there when that happened?</i></p> <p><i>Who did?</i></p>
	1. What		
	2. Who		
	3. When		
	4. Where		
	5. Which		
	6. Why (How come)		
	7. How		
WSS	WH- Questions Short Forms		
	1. What		
	2. Who		
	3. When		
	4. Where		
	5. Which		
	6. Why (How come)		
	7. How		
WNFF	WH- Questions Full Forms Fronting	Non-subject focus: objects, complements, adverbials	
	1. What		
	2. Who		
	3. When		
	4. Where		
	5. Which		
	6. Why (How come)		
	7. How		
WNFN	WH- Questions Full Forms No Fronting		
	1. What		
	2. Who		
	3. When		
	4. Where		
	5. Which		
	6. Why (How come)		
	7. How		

APPENDIX B – *Continued*

WNSF	WH- Questions Short Forms Fronting		<i>What friend?</i>
	1. What		
	2. Who		
	3. When		
	4. Where		
	5. Which		
	6. Why (How come)		
	7. How		
WNSN	WH- Questions Short Forms No Fronting		
	1. What		
	2. Who		
	3. When		
	4. Where		
	5. Which		
	6. Why (How come)		
	7. How		
YN +	Yes-no Questions	Positive	<i>Is your answer yes? Did other things happen? Have you been around B and D?</i>
YN -		Negative	<i>Wasn't anybody else around? Now when your Grandpa K. came, didn't he see a picture of your dad with his penis up B's butt? Didn't you just say that he did?*</i> <i>OK. Didn't they give some of that money to your folks? Isn't it true that you didn't see him?***</i>
CT ++	Confirmatory Tag Questions	Pos. Declarative w/ Pos. CT	<i>So then there were only those six naked people and you and B. were naked, right?</i>
CT +-		Pos. Declarative w/ Neg. CT	<i>Essentially you're testifying to what was in the statement. Isn't that right?</i>
CT - +		Neg. Declarative w/ Pos CT	<i>You never saw him do that to B's butt. Is that right?</i>
CT --		Neg. Declarative w/ Neg CT	<i>So he didn't go into the alley. Isn't that correct?</i>

APPENDIX B – *Continued*

T + -	Reverse Polarity Tag Questions	Pos. Declarative w/ Neg T	<i>It's kind of a wood fence like thing, isn't it?</i>
T - +		Neg. Declarative w/ Pos T	<i>He didn't go into the alley, did he?</i>
D +	Declarative/prosodic Yes-no Questions	Positive	<i>Oh, they came to the room after your mom and dad took you there?</i> <i>OK You know that didn't happen to you?</i>
D -		Negative	<i>OK. You weren't sure about that?</i> <i>It didn't seem like a long time?</i> <i>You didn't see it?</i>
YNI +	Yes-no interrogatives (Yes-no questions with embedded WH triggers)	Positive	<i>Can you describe to me what kind of stuff they were doing?</i> <i>Can you show me how he did that?</i> <i>Is that what he would use?</i> <i>OK. Uh. were you looking at him when that happened?</i>
YNI -		Negative	<i>Can't you remember what time it was?</i>
DI	Disjunctive interrogatives	Disjunctive interrogatives	<i>Was the room lit up by lights, or was it dark in the room?</i> <i>Well, did he go into the room, or did you stay with him?</i> <i>Who was doing that, a man or a woman or both?</i> <i>Yeah, but would he tie your hands together or what?</i> <i>When was the last time somebody touched you or you had to touch somebody?</i>
C	Questions with cleft structures		<i>Was it for this that we suffered and toiled?</i> <i>Who was it who interviewed you?</i>
			* Coded preposed "didn't you" tokens separately ** Coded "isn't it true" preposed types separately

APPENDIX C: MODIFIED CODES

W	Full-Short	Subject-Other	Fronted-Not Fronted (for O only)	1. What 2. Who 3. When 4. Where 5. Which 6. Why (How come) 7. How
Y+/- YI	Positive y-n y-n interrogative	Wants an answer other then y-n		
YW	y-n interrogative with embedded WH-question			
YR+/-	y-no polite request			
O 2/3	Disjunctive interrogatives (offer options)			
C	Confirmation that is not a tag			
CS	Confirmation summary			
C++/+/ /-+/-	Confirmatory tags (statement + tag coded together)			
T+/-+	Tag questions statement + tag coded together)			
DI	Declarative Informative			
DA	Declarative acting as an affirmative			
DE	Declarative acting as an evaluative			
DY +/-	Declarative Prosodic y-n			
DW	Declarative Prosodic wh*			
RS	Repeat self			
RO	Repeat other			
A	Affirmation	“okay” “uh- huh”		
P	permission			
M	Imperative/ command			

REFERENCES

- 104th U.S. Congress. (1996). *Public Law 104-105, "Megan's Law" (Page 110 STAT. 1345)*. Retrieved July 14, 2006, from http://www.megannicolekankafoundation.org/federal_law.htm
- Advisory Committee on Rules. (2004a). *Notes to Rule 601*. Retrieved July 15, 2006, from <http://www.law.cornell.edu/rules/fre/ACRule601.htm>
- Advisory Committee on Rules. (2004b). *Notes to Rule 603*. Retrieved July 15, 2006, from <http://www.law.cornell.edu/rules/fre/ACRule603.htm>
- Alexieva, B. (1997). A typology of interpreter-mediated events. *The Translator*, 3(2), 153-174.
- Althusser, L. (1971). Ideology and ideological state apparatuses (Notes towards and investigation) (B. Brewster, Trans.). In *Lenin and philosophy and other essays* (pp. 123-173). London: NLB.
- Austin, J. L. (1975). *How to do things with words* (2nd ed.). Cambridge, MA: Harvard University Press.
- Bakhtin, M. M. (1981). Discourse in the novel (C. Emerson & M. Holquist, Trans.). In M. Holquist (Ed.), *The dialogic imagination: Four essays by M. M. Bakhtin* (pp. 259-422). Austin: University of Texas Press.
- Becker, A. L. (1979). Text-building, epistemology, and aesthetics in Javanese shadow theatre. In A. L. Becker & A. Yengoyan (Eds.), *The imagination of reality: Essays in Southeast Asian coherence systems* (pp. 211-243). Norwood, NJ: Ablex.
- Bell, A. (1984). Language style as audience design. *Language in Society*, 13, 145-204.
- Berk-Seligson, S. (1990). Bilingual court proceedings: The role of the court interpreter. In A. G. Walker (Ed.), *Language in the judicial process* (Vol. 5, pp. 155-201). New York, NY: Plenum.

- Berk-Seligson, S. (2000). Interpreting for the police: Issues in pre-trial phases of the judicial process. *Forensic Linguistics*, 7(2), 212-237.
- Berk-Seligson, S. (2002a). *The bilingual courtroom: Court interpreters in the judicial process*. Chicago: University of Chicago Press.
- Berk-Seligson, S. (2002b). The impact of interpreter on mock juror evaluations of witnesses. In *The bilingual courtroom: Court interpreters in the judicial process* (pp. 146-197). Chicago: University of Chicago Press.
- Berliner, L. (1985). The child witness: The progress and emerging limitations. *University of Miami Law Review*, 40, 167-179.
- Briggs, C., & Bauman, R. (1992). Genre, intertextuality and social power. *Journal of Linguistic Anthropology*, 2(2), 131-172.
- Briggs, C. L. (1997). Notes on a "confession": On the construction of gender, sexuality, and violence in an infanticide case. *Pragmatics*, 7(4), 519-546.
- Brown, P., & Levinson, S. C. (1987). *Politeness: Some universals in language usage* (2nd ed.). Cambridge, MA: Cambridge University Press.
- Bruner, J. (1986). *Actual minds, possible worlds*. Cambridge, MA: Harvard University Press.
- Bucholtz, M., & Hall, K. (2004). Language and social identity. In A. Duranti (Ed.), *A companion to linguistic anthropology* (pp. 369-394). Malden, MA: Blackwell.
- Bulkley, J. (1985). Introduction: Background and overview of child sexual abuse law reforms in the Mid-1980s. *University of Miami Law Review*, 40, 5-18.
- Campbell, D. T., & Stanley, J. C. (1966). *Experimental and quasi-experimental designs for research*. Chicago: Rand McNally.
- Ceci, S. J., & Bruck, M. (1999). *Jeopardy in the courtroom: A scientific analysis of children's testimony*. Washington DC: American Psychological Association.

- Conley, J. M., & O'Barr, W. M. (1990a). Rules versus relationships in small claims disputes. In A. D. Grimshaw (Ed.), *Conflict talk: Sociolinguistic investigations of arguments in conversations* (pp. 178-195). Cambridge: Cambridge University Press.
- Conley, J. M., & O'Barr, W. M. (1990b). *Rules versus relationships: The ethnography of legal discourse*. Chicago: University of Chicago Press.
- Cook, T. D., & Campbell, D. T. (1979). *Quasi-experimentation: Design and analysis for field settings*. Chicago: Rand McNally.
- Coombe, R. (1991). Contesting the self: Negotiating subjectivities in nineteenth-century defamation trials. *Studies in Law, Politics, and Society*, 11, 3-40.
- Coutin, S., & Chock, P. (1995). Your friend, the illegal: Definition and paradox in newspaper accounts of U.S. immigration reform. *Identities*, 2(1-2), 123-148.
- Cross, T. P., Walsh, W. A., Simone, M., & Jones, L. M. (2003). Prosecution of child abuse: A meta-analysis of rates of criminal justice decisions. *Trauma, Violence, & Abuse*, 4(4), 323-340.
- Danet, B. (1980a). 'Baby' or 'fetus'? Language and the construction of reality in a manslaughter trial. *Semiotica*, 32(3-4), 187-219.
- Danet, B. (1980b). Language in the legal process. *Law & Society Review*, 14(3), 445-564.
- Deckert, S. (2000). A relational approach to televised small claims courts: The construction of functional identities. *Arizona Working Papers in SLAT*, 7, 26-38.
- Dominguez, V. (1986). Defining the racial structure. In *White by definition: Social classification in Creole Louisiana* (pp. 23-55). New Brunswick: Rutgers University Press.
- Drew, P. (1992). Contested evidence in courtroom cross-examination: The case of a trial for rape. In P. Drew & J. Heritage (Eds.), *Talk at work: Interaction in institutional settings* (pp. 470-520). Cambridge: Cambridge University Press.

- Du Bois, J. W., Schuetze-Coburn, Cumming, S., & Paolino, D. (1993). Outline of discourse transcription. In J. W. Du Bois, Schuetze-Coburn, S. Cumming & D. Paolino (Eds.), *Talking data: Transcription and coding in discourse research* (pp. 1-31 and 45-90). Hillsdale, NJ: Lawrence Erlbaum Associates.
- Duranti, A. (1997). *Linguistic anthropology*. Cambridge: Cambridge University Press.
- Edwards, J. A. (1993). Principles and contrasting systems of discourse transcription. In *Talking data: Transcription and coding in discourse research* (pp. 1-31). Hillsdale, NJ: Lawrence Erlbaum Associates.
- Eisenberg, A. R. (1985). Learning to describe past experiences in conversation. *Discourse Processes*, 8, 177-204.
- Erickson, F., & Schultz, J. (1982). *The counselor as gatekeeper: Social interaction in interviews*. New York: Academic Press.
- Ervin-Tripp, S. (1972). On sociolinguistic rules: Alternation and co-occurrence. In J. J. Gumperz & D. Hymes (Eds.), *Directions in sociolinguistics: The ethnography of communication* (pp. 213-250). New York: Holt, Rinehart and Winston, Inc.
- Fairclough, N. (2001). *Language and power* (2nd ed.). Harlow: Pearson Education.
- Federal Rules of Evidence*. (2004). Retrieved July 15, 2006, from <http://www.law.cornell.edu/rules/fre/index.html>
- Finkelhor, D. (1986). *A sourcebook on child sexual abuse*. Beverly Hills: Sage Publications.
- Fivush, R., Hamond, N. R., Harsch, N., Singer, N., & Wolf, A. (1991). Content and consistency in young children's autobiographical recall. *Discourse Processes*, 14(373-388).
- Fivush, R., & Shukat, J. R. (1995). Content, consistency, and coherence of early autobiographical recall. In M. Zaragoza, J. R. Graham, G. C. N. Hall, R.

- Hirschman & Y. S. Ben-Porath (Eds.), *Memory and testimony in the child witness* (pp. 5-23). Thousand Oaks, Ca.: Sage Publications.
- Gallagher, S., & Marcel, A. J. (1999). The self in contextualized action. *Journal of Consciousness Studies*, 6(4), 4-39.
- Garbarino, J., Stott, F. M., & Faculty of the Erickson Institute. (1992). *What children can tell us: Eliciting, interpreting, and evaluating critical information from children*. San Francisco: Jossey-Bass Publishers.
- Garfinkel, H. (1967). Common sense knowledge of social structures: The documentary method of interpretation in lay and professional fact finding. In *Studies in ethnomethodology* (pp. 76-103). Englewood Cliffs: Prentice Hall.
- Goffman, E. (1959). *The presentation of self in everyday life*. New York: Anchor Books.
- Goffman, E. (1963). *Stigma: Notes on the management of spoiled identity*. New York: Simon & Shuster Inc.
- Goffman, E. (1974). *Frame analysis: An essay on the organization of experience*. Boston: Northeastern University Press.
- Goffman, E. (1981a). Footing. In *Forms of Talk* (pp. 124-159). Philadelphia: University of Pennsylvania Press.
- Goffman, E. (1981b). Radio talk. In *Forms of talk* (pp. 197-330). Philadelphia: University of Pennsylvania Press.
- Goffman, E. (1981c). Replies and responses. In *Forms of talk* (pp. 5-77). Philadelphia: University of Pennsylvania Press.
- González, R. D., Vásquez, V. F., & Mikkelsen, H. (1991). *Fundamentals of court interpretation*. Durham: Carolina Academic Press.
- Goodwin, C. (1994). Professional vision. *American Anthropologist*, 96, 606-633.

- Goodwin, C., & Heritage, J. (1990). Conversation analysis. *Annual Review of Anthropology*, 19, 283-307.
- Goodwin, M. H. (1990). *He-said-she-said: Talk as social organization among black children*. Bloomington: Indiana University Press.
- Gramsci, A. (1997). *Selections from the prison notebooks*. New York: International Publishers.
- Greenwood, J. M., Horney, J., Jacobovitch, M. D., Lowenstein, F. B., & Wheeler, R. R. (1983). *A comparative evaluation of stenographic and audiotape methods for United States District Court reporting*. Washington D.C.: Federal Judicial Center.
- Gumperz, J. J. (1982). *Discourse strategies*. Cambridge: Cambridge University.
- Halliday, M. A. K., & Matthiessen, C. M. I. M. (2004). *An introduction to functional grammar*. London: Hodder Arnold.
- Hendersen, L. (1997). Without narrative: Child sexual abuse. *Virginia Journal of Social Policy and the Law*, Winter, 479-544.
- Hoffer, P. C. (1997). *The Salem witchcraft trials: A legal history*. Lawrence, Kansas: University Press of Kansas.
- Hymes, D. (1986). Models of the interaction of language and social life. In J. J. Gumperz & D. Hymes (Eds.), *Directions in sociolinguistics: The ethnography of communication* (pp. 35-71). Oxford: Basil Blackwell.
- Isquith, P. K., Levine, M., & Scheiner, J. (1993). Blaming the child: Attribution of responsibility to victims of child sexual abuse. In G. S. Goodman & B. L. Bottoms (Eds.), *Child victims, child witnesses*. New York: Guilford Press.
- Jacoby, S., & Ochs, E. (1995). Co-construction: An Introduction. *Research on Language and Social Interaction*, 28(3), 171-183.

- Jakobson, R. (1990). The speech event and the functions of language. In L. R. Waugh & M. Monville-Burston (Eds.), *On Language* (pp. 69-79). Cambridge, MA: Harvard University Press.
- Jefferson, G. (1978). Sequential aspects of story telling in conversation. In J. Schenkein (Ed.), *Language thought and culture: Advances in the study of cognition* (pp. 219-248). New York: Academic Press.
- Jones, R., & Thornborrow, J. (2004). Floors, talk and the organization of classroom activities. *Language in Society*, 33, 399-423.
- Labov, W. (1972). The transformation of experience in narrative syntax. In *Language in the inner city* (pp. 134-166). Philadelphia: University of Pennsylvania.
- Labov, W., & Waletzky, J. (1966). Narrative analysis and oral versions of personal experience. In J. Helm (Ed.), *Essays on the verbal and visual arts: Proceedings of the 1966 Annual Spring Meeting of the American Ethnological Society* (pp. 12-45): University of Washington Press.
- Lazarus-Black, M. (1994). *Legitimate acts and illegal encounters: Law and society in Barbuda and Antigua*. Washington, D.C.: Smithsonian Institution Press.
- Leippe, M. R., Manion, A. P., & Romanczyk, A. (1993). Discernibility or discrimination?: Understanding jurors' reactions to accurate and inaccurate child and adult eyewitnesses. In G. S. Goodman & B. L. Bottoms (Eds.), *Child victims, child witnesses* (pp. 169-201). New York: Guilford Press.
- Linde, C. (1999). The transformation of narrative syntax into institutional memory. *Narrative Inquiry*, 9(1), 139-174.
- Matoesian, G. M. (1993). *Reproducing rape: Domination through talk in the courtroom*. Chicago: The Univ. of Chicago Press.
- Matoesian, G. M. (2001). *Law and the language of identity: Discourse in the William Kennedy Smith rape trial*. Oxford: Oxford University Press.

- Mertz, E. (1988). The uses of history: language, ideology, and law in the United States and South America. *Law and Society Review*, 22(4), 661-685.
- Mertz, E. (1996). Recontextualization as socialization: Text and pragmatics in the law school classroom. In M. Silverstein & G. Urban (Eds.), *Natural histories of discourse* (pp. 229-249). Chicago: University of Chicago Press.
- Mikkelson, H. (2004). Verbatim interpretation: An oxymoron. <http://www.acebo.com/papers/verbatim.htm>
- Morey, R. W. (1985). The competency requirement for the child victim of sexual abuse: must we abandon it? *University of Miami Law Review*, 40, 245-284.
- O'Barr, W. M. (1982). Speech styles in the courtroom. In D. Black (Ed.), *Linguistic evidence: Language, power, and strategy in the courtroom* (1st ed., pp. 61-187). New York, NY: Academic Press.
- Ochs, E. (1979). Transcription as theory. In E. Ochs & B. S. Schieffelin (Eds.), *Developmental pragmatics* (pp. 43-72). New York: Academic Press.
- Ochs, E. (1997). Narrative. In T. A. van Dijk (Ed.), *Discourse and structure and process: Discourse Studies: A multidisciplinary introduction Volume I* (pp. 185-207). London: Sage Publications.
- Ochs, E., & Capps, L. (2001). *Living narrative: Creating lives in everyday storytelling*. Cambridge, MA: Harvard University Press.
- Ochs, E., & Schieffelin, B. (1995). The impact of language socialization on grammatical development. In P. Fletcher & B. MacWhinney (Eds.), *The handbook of child language* (pp. 73-94). Oxford: Blackwell Publishers.
- Ochs, E., & Taylor, C. (1992). Family narrative as political activity. *Discourse and Society*, 3(3), 301-340.
- Perner, J. (1997). Children's competency in understanding the role of witness: Truth, lies, and moral ties. *Applied Cognitive Psychology*, 11, S21-S35.

- Peters, S. D., Wyatt, G. E., & Finkelhor, D. (1986). Prevalence. In D. Finkelhor (Ed.), *A sourcebook on child sexual abuse* (pp. 15-59). Beverly Hills: Sage Publications.
- Peterson, C. (1990). The who, when and where of early narratives. *Journal of Child Language, 17*, 433-455.
- Philips, S. U. (1972). Participant structures and communicative competence: Warm Springs children in community and classroom. In C. B. Cazden, V. John-Steiner & D. Hymes (Eds.), *Functions of language in the classroom* (pp. 370-394). New York: Teacher's College Press.
- Philips, S. U. (1982). On the use of wh questions in American courtroom discourse: A study of the relation between language form and language function. In L. Kedar (Ed.), *Power Through Discourse* (pp. 83-111). Norwood, NJ: Ablex Publishing Company.
- Philips, S. U. (1983). *The invisible culture: Communication in classroom and community on the Warm Springs Reservation*: Waveland Press.
- Philips, S. U. (1986). Some functions of spatial positioning and alignment in the organization of courtroom discourse. In S. Fisher & A. D. Todd (Eds.), *Discourse and institutional authority: Medicine, education, and law* (Vol. XIX, pp. 223-233). Norwood, NJ: Ablex Publishing Corporation.
- Philips, S. U. (1998). *Ideology in the language of judges: How judges practice law, politics, and courtroom control*. New York: Oxford University Press.
- Polanyi, L. (1985). *Telling the American story: A structural and cultural analysis of conversational storytelling*. Norwood, NJ: Ablex.
- Poole, D. A., & Lamb, M. E. (1998). *Investigative interviews of children: A guide for helping professionals*. American Psychological Association: Washington, DC.
- Poole, D. A., & White, L. T. (1995). Stability and change in the repeated testimony of children and adults. In M. Zaragoza, J. R. Graham, G. C. N. Hall, R. Hirschman & Y. S. Ben-Porath (Eds.), *Memory and testimony in the child witness* (pp. 24-43). Thousand Oaks, Ca.: Sage Publications.

- Richman, K. (2002). Lovers, legal strangers, and parents: Negotiating parental and sexual identity in family law. *Law and Society Review*, 36(2), 285-324.
- Sacks, H. (1972). On the analyzability of stories by children. In J. J. Gumperz & D. Hymes (Eds.), *Directions in sociolinguistics: The ethnography of communication* (pp. 325-346). Oxford: Basil Blackwell.
- Sacks, H. (1984). Notes on methodology. In J. M. Atkinson & J. Heritage (Eds.), *Structures of social action: Studies in conversation analysis* (pp. 21-27). Cambridge: Cambridge University Press.
- Sacks, H. (1992). Lecture 2: The baby cried. The mommy picked it up. In G. Jefferson (Ed.), *Lectures on conversation* (Vol. I, pp. 252-266). Oxford: Blackwell.
- Sacks, H. (1995). *Lectures on conversation*. Oxford, UK: Blackwell.
- Sacks, H., Schegloff, E. A., & Jefferson, G. (1974). A simplest systematics for the organization of turn-taking for conversation. *Language*, 50, 696-735.
- Schegloff, E. (1982). Discourse as an interactional achievement: Some uses of 'uh huh' and other things that come between sentences. In D. Tannen (Ed.), *Analyzing discourse: Text and talk* (pp. 71-93). Washington D.C.: Georgetown University Press.
- Schegloff, E. (1984). On some questions and ambiguities in conversation. In J. M. Atkinson & J. Heritage (Eds.), *Structures of social action: Studies in conversation analysis* (pp. 28-52). Cambridge: Cambridge University Press.
- Schegloff, E. (1986). Sequencing in conversational openings. In J. J. Gumperz & D. Hymes (Eds.), *Directions in sociolinguistics* (pp. 346-380). Oxford: Basil Blackwell Inc.
- Sheppard, D. I., & Zangrillo, P. A. (1996). Coordinating investigations of child abuse. *Public Welfare*, 54(1), 21-32.

- Spencer, J. R. (1990). *The evidence of children: The law and the psychology*. London: Blackstone Press Limited.
- Stenning, K., & Michell, L. (1985). Learning to tell a good story: The development of content and language in children's telling of one tale. *Discourse Processes*, 8, 261-279.
- Trinch, S. L. (1999). *The co-production and transformation of Latinas' narratives of domestic violence and marital rape in the socio-legal system: A case study of context and genre*: (Doctoral dissertation, University of Pittsburg). (UMI No. 9928008).
- Trinch, S. L. (2003). *Latina's narratives of domestic abuse: Discrepant versions of violence*. Amsterdam and Philadelphia: John Benjamins Publishing.
- U.S. Department of Health and Human Services. (2000). *National child abuse and neglect data system (NCAMDS) glossary*. Retrieved July 27, 2004, from <http://www.acf.hhs.gov/programs/cb/dis/ncands98/glossary/glossary.htm>
- U.S. Department of Health and Human Services. (2001). *Code of federal regulations: Title 45 part 46 Protection of human subjects*. Retrieved March 10, 2003, from <http://ohrp.osophs.dhhs.gov/humansubjects/guidance/45crf46.htm>
- U.S. Department of Health and Human Services. (2003). *Child maltreatment 2001*. Washington, DC: Administration on Children, Youth and Families: U.S. Government Printing Office.
- Underwager, R., & Wakefield, H. (1990). *The real world of child interrogations*. Springfield, IL.: Charles C. Thomas.
- Walker, A. G. (1982). *Discourse rights of witnesses: Their circumscription in trial* (Sociolinguistic Working Paper No. 95 ed.). Austin, Tx.: Southwest Educational Development Laboratory. (ERIC Document Reproduction Service No. ED 252 057).
- Walker, A. G. (1985). *From oral to written: The 'verbatim' transcription of legal proceedings*. Georgetown University, Washington, DC.

- Walker, A. G. (1986). The verbatim record: The myth and the reality. In S. Fisher & A. D. Todd (Eds.), *Discourse and institutional authority: Medicine, education, and law* (Vol. XIX, pp. 205-222). Norwood, NJ: Ablex Publishing Corporation.
- Walker, A. G. (1990). Language at work in the law: The customs, conventions, and appellate consequences of court reporting. In J. N. Levi & A. G. Walker (Eds.), *Language in the judicial process* (Vol. 5, pp. 203-244). New York, NY: Plenum.
- Waugh, L. R., Fonseca-Greber, B., Vickers, C., & Eröz, B. (in press). Multiple empirical paths to a complex analysis of discourse. In M. Gonzalez-Marquez, M. Spivey, I. Mittelberg & S. Coulson (Eds.), *Methods in cognitive linguistics: Ithaca*. Amsterdam: John Benjamins.
- Wells, G., & Montgomery, M. (1981). Adult-child interaction at home and at school. In P. French & M. MacLure (Eds.), *Adult-child conversation* (pp. 210-243). New York: St. Martins Press.
- Williams, R. (1977). *Marxism and literature*. Oxford: Oxford University Press.
- Wolfson, N. (1988). The bulge: A theory of speech behavior and social distance. In J. Fine (Ed.), *Second language discourse: A textbook of current research* (pp. 21-38). Norwood, N.J.: Ablex Publishing Corporation.
- Yngve, V. (1970). On getting in a word edgewise. In *Papers from the sixth regional meeting [of the] Chicago Linguistic Society* (pp. 567-577).
- Yuille, J. C., Hunter, R., Joffe, R., & Zaparniuk, J. (1993). Interviewing children in sexual abuse cases. In G. S. Goodman & B. L. Bottoms (Eds.), *Child victims, child witnesses: Understanding and improving testimony* (pp. 95-115). New York: Guilford Press.