

Defense Attorneys' Implicit Questioning of Minor Complainants in CSA Trials

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ABSTRACT

It is unclear how often defense attorneys ask child complainants questions with implied meanings. The present study examined the frequency and content of implied questions asked to 6- to 17-year-old children and analyzed how often children rebutted these questions. This study focused on cross-examinations (N = 122) of child complainants in Child Sexual Assault (CSA) trials. Content analysis revealed prevalent themes of implicit questions that alluded to child complainants having ulterior motives, having been coached, being untruthful, missing disclosure opportunities, having poor memory, and other credibility issues. Implicit questions were posed in 63% of cases, with children rebutting only 11% of implied inquiries. No significant correlations were found between the age of the child testifying and the frequency of implicit questions or rebuttals. However, as children age they are more frequently asked questions related to truthfulness and credibility issues and are less frequently asked implicit inquiries about coaching. These findings present novel evidence that children are frequently asked difficult to answer implicit questions that imply the child has ulterior motives, and that attorneys change the focus of the content of their implicit questions by age.

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TABLE OF CONTENTS

	Page
INTRODUCTION.....	1
LITERATURE REVIEW.....	2
Eliciting Reports from Children.....	2
Cross Examination.....	3
Implicit Questions.....	4
PRESENT INVESTIGATION.....	6
METHODOLOGY.....	7
Sample.....	7
Coding and Qualitative Content Analysis.....	9
Qualitative Coding Procedures and Reliability	14
RESULTS.....	16
GENERAL DISCUSSION.....	32
LIMITATIONS AND FUTURE DIRECTIONS.....	37
CONCLUSION.....	39
REFERENCES.....	41
APPENDIX	
A FREQUENCY OF IMPLICIT QUESTIONS AND REBUTTAL RESPONSES.....	45

INTRODUCTION

Defense attorneys' objective is to persuade the judge or jury of their client's innocence. To defend their client against charges, attorneys use case facts and knowledge of the law to form compelling arguments to persuade decision-makers. In doing so, attorneys use defense strategies and their understanding of human thoughts and behaviors to build a convincing narrative of innocence. In cross-examinations, defense attorneys question a complainant and aim to expose the weaknesses of witness testimony, often attacking areas such as plausibility, consistency, and honesty (St. George, Denne et al., 2022b). While the role of cross-examination is critical in all criminal trials, it is especially important in cases of Child Sexual Abuse (CSA). In CSA cases successful prosecution frequently relies on the testimony of child victims. This is because most of these crimes are reported after the loss of physical evidence and the absence of other witnesses, and as such, children's firsthand accounts become not only the strongest but sometimes the sole evidence utilized (De Jong & Rose, 1991).

There is some research on how attorneys question children about their allegations of CSA during criminal trials. Here, researchers find that defense attorneys commonly attack children's credibility, as is their job to question the legitimacy of what an opposing witness is alleging. However, what has been surprising to researchers is the frequency with which attorneys appear to ask polite questions that subtly attack children's credibility, a tactic that may go unrecognized by children who are developing cognitive skills. For example, a recent series of laboratory studies paralleling the kinds of questions asked in court, the researchers found that children do not recognize the implication of these questions, and as such, provide responses that are subject to acquiescence bias and

other miscommunications in response to these types of questions (Wylie et al., 2022, 2023).

While the research has indicated that children do not recognize questions that allude to coaching, no work to date has looked at implied attacks on credibility more broadly – both in terms of the content of the questions asked, and whether there are developmental effects whereby older children and teenagers begin to rebut these attacks. That is the purpose of the present thesis.

LITERATURE REVIEW

Eliciting Reports from Children

Decades of research have culminated in the development of NICHD protocol, designed for use in child forensic interviews to ensure that the child's testimony is detailed and truthful. These interview protocols avoid suggestive and other scientifically unsupported questions that result in children making inaccurate and unreliable claims. Instead these protocols have been utilized to develop an evidence-based interview structure that uses free-recall and open-ended questions to enhance the quality of children's responses (Lamb et al., 2007). However, during trial testimony, attorneys are not required to tailor their skills and strategies in accordance with NICHD protocols; in fact, attorneys operate under very different rules, guidelines, and procedures.

In contrast to evidence based NICHD protocol, attorneys are encouraged to ask leading questions during cross-examinations to strategically present information to judges and jury members that support the defendant's narrative of innocence. They do so because of their goal to present a convincing narrative to represent their own side of the trial, and to ensure expediency and control over witnesses (Myers, 1987). In CSA cases

specifically, attorney are limited by rape shield laws which are designed to regulate proceedings when the complainant is an adult (Tuerkheimer, 1989). Consequently, there are few additional legal safeguards or trial procedures specifically for minor accusers. As a result, defense attorneys are not mandated to modify their language or tactics to address young and still-developing complainants, beyond the standard rules of evidence which try to ensure that testimony is admissible. Because of this, attorneys employ language and implicatures in their questions that may mislead and confuse children, potentially leading to less detailed and truthful testimony.

Cross Examination

In Child Sexual Abuse (CSA) cases, cross-examination is a key time for the defense to discredit the complainant. Defense attorneys attempt to challenge the credibility of children by utilizing questions in cross-examination that attack children's honesty and inconsistent testimony (Szojka et al., 2017). Furthermore, defense attorneys also utilize traditionally accepted rape myths to discredit child complainants, and to shift the blame for the alleged assault from the defendant to the child (St. George, Denne, et al., 2022a). Cross-examination is an especially vulnerable time for child complainants, "75% of the children changed at least one aspect of their testimony during cross-examination; many made considerably more than one change, and some retracted their allegations altogether" (Zajac et al., 2012). This is because during cross-examinations, children are exposed to problematic questioning practices, including but not limited to closed questions, directives, and other suggestive questions (Andrews et al., 2015a). As such, defense attorneys aim to discredit children and their testimony through their

questioning techniques, yet little is known about how overt these attacks against credibility are.

What is especially problematic is whether children understand the questions they are asked during cross-examination, and whether they process the attacks on their own report. During trials, there is no check on the ability of the child to understand the questions being asked or the implications of those questions. While adults may acknowledge that children are still developing crucial cognitive and linguistic skills necessary for understanding questions posed by defense attorneys, judges, juries, and attorneys may easily misinterpret a child's linguistic abilities (Hanna et al., 2012). Therefore, defense attorneys may use questioning tactics that could confuse child complainants, leading the child to respond to questions in ways that undermine their testimony or reduce their credibility. These tactics could compromise justice by exploiting a child's lack of comprehension or confusion, using it against them to construct an erroneous narrative.

Implicit Questions

Children's understanding of implied meanings (often called implicatures) is an active area of study in developmental psychology (e.g., Yoon & Frank, 2019). Yet only a handful of studies have examined how defense attorneys might utilize implicit questions to attack children's credibility. In court cases of alleged sexual abuse, children are vulnerable to affirmatively answering questions that imply positive traits to the child but have negative implications for adult evaluators. For example, when a child is asked, "Did your mom help you remember?" the question may seem to the child as whether they would ascribe the positive trait of helpfulness to their mother. However, adult evaluators

recognize the question as trying to ascertain if the mother coached the child. This linguistic complexity can lead the child to agree with the statement because their mother was supportive when they recounted the experience, without necessarily admitting that their mom coached them. These implicit questions were examined by a team of researchers who presented 5-10-year-olds with vignettes where an adult committed a transgression against a child. Then the child character disclosed to their mother and participants were asked questions that would imply coaching to adults (“Did his mom help him remember?” “Did she practice with the boy what to say?” “Did she tell the boy what happened?”); 65% of younger children and 42% of older children acquiesced to these questions (Wylie et al., 2022).

In a study by St. George, Sullivan, et al. (2022) defense attorney’s overt and subtle inquiries about suggestive influences of children’s testimony, which identified that in 88% of the cases they examined, an attorney made at least one indirect accusation. Furthermore, it was found that in 82% of all defense attorneys’ questions, inquiring about suggestive influence did so in subtle ways that encouraged endorsement by children but would suggest coaching to adults, as opposed to more overt accusations of lying or coaching. This research demonstrates that defense attorneys do not adapt their speech to correctly address child complainants who have lower linguistic skills and comprehension and may ask questions in subtle or indirect ways to appear less threatening or combative with young children. Although the study by St. George, Sullivan, et al. (2022) did not specifically examine how children responded to indirect questions, it is important to note that children are still in the process of developing their ability to understand subtlety and implicit questions (questions that are asked with a covertly expected response).

Therefore, children are liable to misunderstand implicit questions and may respond to these questions in ways that deviate from their previous testimony, thereby reducing their credibility.

However, there are only a handful of studies on these kinds of implicit questions, and only one examining how they are utilized in the field by defense attorneys.

Furthermore, the only published study on this work in cross-examination focused exclusively on implicit questions about coaching and suggestive influence, neglecting to examine whether attorneys ask implicit questions attacking children's credibility about other concerns (St. George, Sullivan, et al., 2022). Research has examined implicatures more broadly in court, beyond those that specifically ask about suggestive influence or coaching. It is likely that there are other kinds of implicatures that occur, whereby children are asked implicitly about other areas of concern for their credibility (e.g. whether their reports are truthful, whether their reports are vengeful, why and how they delayed their disclosures, whether others could have been privy to abuse or were present during alleged episodes, etc...). Furthermore, research has identified that preadolescents (aged 9-12) begin to develop inconsistent use of abstract reasoning and continue to acquire language skills, while adolescents (aged 13-21) are able to consistently use abstraction and continue to develop brain areas associated with gains not only in declarative language but also in understanding linguistic complexities (Ciccia et al., 2009). Therefore, as children develop they are increasing the ability to understand implied meaning. Due to this cognitive growth, it is likely that older children and teenagers may recognize the implicit meaning of questions, and be more likely to rebuff these implications. Yet no work has examined this.

PRESENT INVESTIGATION

The present study aimed to identify the prevalence and content of implicit questions asked by defense attorneys while cross-examining children who were testifying about alleged sexual abuse. We hypothesized that younger children would be asked implicit questions more frequently than older children. This may be because defense attorneys would like to appear as non-aggressive and polite towards young children, instead of combative, both to uphold their credibility with judges and juries, and to be gentle when attempting to discredit a child's testimony of abuse. However, if defense attorneys are more likely to ask younger children implicit questions attacking their credibility, it could be because they recognize that younger children are prone to misunderstanding implicit questions and responding in ways that support the defense's narrative, meaning they are intentionally misleading children to give credibility-damaging responses. In addition to the above, we analyzed the content of children's responses to implicit questions, focusing on children's ability to rebuff attacks on their credibility. In line with findings by Wylie et al.'s laboratory findings (2022, 2023), who identified that acquiescence to coaching questions decreased with age, we hypothesized that as children aged and acquired greater linguistic and cognitive skills, the frequency of rebuttals to these questions' negative implications would increase, meaning that older children are understanding the implication of the credibility-attacking questions, and responding in ways that protect their own narrative.

METHODOLOGY

Sample

For the purposes of the present thesis, we systematically coded and analyzed 122 cross-examinations of 6-17-year-olds ($M = 12.67$, $SD = 3.08$) testifying about alleged child sexual abuse in criminal trials. In doing so, we focused specifically on cross-examination, when defense attorneys questioned children's allegations.

In collaboration with the Maricopa County Attorney's Office, we obtained a sample of 398 victims represented across 252 cases of CSA occurring between January 2005 through December 2015 in Maricopa County. The County Attorney's Office provided a list of all eligible cases. Cases were deemed eligible if they involved at least a single charge of: Sexual Conduct with a Minor (A.R.S.13-1405), Child Molestation (A. R.S. 13-1410), or Sex Abuse (A. R.S. 13- 1404). We contacted and paid court reporters to share transcripts of cases; 73 court reporters were contacted and 47 responded (64% response rate). We received 214 complete victim testimonies across 142 cases (some cases included multiple victims); the remaining court reporters were non-responsive. Of these 214 testimonies, 134 were minors at testimony (across 101 cases; $M_{\text{victim per case}} = 1.33$, $SD_{\text{victim per case}} = .65$), whereas the remaining transcripts involved young adults testifying about alleged victimization during their childhood. For the purposes of the present investigation, we examined 134 testimonies involving minors. The children ranged in age from 5 to 17 years old ($M = 12.48$, $SD = 3.34$) and only 10% of our sample involved male victims. About a third of the children were white, 26% were Latinx/Hispanic, 15% were Black, Asian, or Native, and 25% were of unknown race or ethnicity. Defendants (99% male) were the child's parent or caregiver 40% of the time, another family member 26% of the time, a family friend or other familiar adult (e.g. coaches, babysitters, neighbors) 29% of the time, and a stranger 5% of the time. Forty-

five percent of the defendants were white, 40% were Latinx/Hispanic, 13% were Black, Asian, or Native, and 2% were of unknown race or ethnicity. Children alleged penetration or attempted intercourse in 34% of cases, oral copulation or genital contact in an additional 14% of cases, and less severe abuse in 52% of cases (fondling, exhibitionism, etc.). Ninety percent of cases resulted in a conviction of at least one charge. In the current study we were interested in how defense attorneys used implicit questions to undermine children's credibility. Defense attorneys declined to cross-examine eight of the 134 children testifying. Additionally, we excluded the testimonies of four children who were cross-examined by the defendant. Therefore, this study utilized the remaining 122 transcripts that contained cross-examinations conducted by a defense attorney.

Coding and Qualitative Content Analysis

A qualitative content-based coding process was employed. In doing so, we developed a systematic coding guide to discern and classify implicit questions within defense attorneys' lines of questioning. All codes focused on identifying questions aimed at discrediting child complainants or challenging their testimony but doing so subtly where questions held both an explicit question and implicit attack. Once implicit questions were identified, we then coded the content of the implicit question (using categories described below). Furthermore, we coded the child's responses to these questions, paying particular attention to whether children "rebuffed" or protested the implicit attack on their credibility.

Implicit Questions

To determine whether a question posed by a defense attorney was implicit, the initial coding involved identifying the absence of clear and direct language (e.g., "Did

you lie?" would be clear and direct; "Do you often make up stories?" would be unclear and have an implicit). Subsequently, it was necessary to evaluate whether the question possesses the potential to undermine the child's credibility, containing some kind of subtle attack on credibility. As such, questions were considered implicit attacks if they had dual meanings—both an explicit (face-level) meaning and an implied meaning, consistent with prior work in this area (St. George, Sullivan, et al., 2022; Wylie et al., 2022, 2023). The implied meaning is designed to insinuate something about the child or their account that could adversely affect their credibility.

In many instances, these questions are characterized by a positively or innocuously framed explicit question, while the implicit question aims to attack the child's credibility. For instance, consider the question, "Did your mom help you remember?" Taken explicitly, it inquires about the mother's assistance in the child recalling an event. However, the implicit meaning suggests an inquiry into whether the child was coached or suggestively influenced by their mom.

Implicit Questions Content Categories

Ulterior motives. The questions aimed to subtly probe witnesses regarding any negative sentiments harbored against the defendant outside the scope of the assault, which could potentially motivate them to provide false testimony. This included asking about instances where the witness may have experienced discontent with the defendant, whether the child generally wanted to remove this person from their home, or other ways the child might have benefited from accusing the defendant.

For instance, an attorney employed the following questioning strategy: "Okay. And you got a little bit mad that your sister got a bike but you didn't get a bike, did you?"

And when he [the defendant] doesn't let you turn that TV back on, then you get mad, huh?" These questions insinuate that the child harbored resentment toward the defendant for not purchasing a bike and for restricting access to the television, thereby suggesting a potential motive for seeking retribution against the defendant.

Coaching. In these inquiries, the attorney sought to determine if another person influenced the witness's testimony, framing this potential coaching in more innocuous terms. The allusion to coaching was often veiled by phrasing questions in a manner that suggested others merely assisted the child in preparing for trial or in recollecting the incident in question. For instance, if an attorney were to ask, "Did he eliminate a lot of confusion that you might have had about what you remembered?" a child may interpret this question as inquiring about assistance provided during their conversation, rather than recognizing it as probing into whether someone directed them on what to remember about the incident.

Truthfulness. Implicit questions that challenged a child's truthfulness suggested that the child was either excessively imaginative or, more broadly, prone to dishonesty. For instance, an attorney may have implicitly inquired about a child's credibility by asking about their imaginative and creative abilities, such as, "Are you good at creating stories? Does it take you long to create these fantasies or create writing, does it come to you pretty fast?" These questions, seemingly focused on the positive trait of creativity, may be strategically designed to expose the child's potential capacity to fabricate the testimony presented to the court.

Another approach used to undermine a child's veracity involved questions about the child's honesty, asking whether the child consistently told the truth or if they have

ever been untruthful. Unlike direct inquiries about the truthfulness of the child's testimony, these questions serve to establish a foundational belief that the child has the capability to lie or has, indeed, lied in the past generally or to people who they have previously disclosed to.

Missed disclosure opportunities. These questions suggest that the child had a chance to share an assault and seek help from trusted adults. When a child doesn't report an assault, it implies they may not have felt the need for support or did not fear future harm. Instead of directly inquiring why the child did not disclose the assault to a trusted adult, such as their uncle, the attorney frames the questions indirectly. For instance, the attorney asked, "Is your uncle a big man? Would he protect you like your daddy would?" Here, the child would have to make a cognitive leap, to recognize that in this inquiry the attorney seeks insight into why the uncle, being a potentially imposing and protective figure, was not informed about the assault.

Poor memory. Implicitly alluding to deficient memory, these questions challenged a child's recollection and implied the potential for the child to easily misremember events. These implicit inquiries address inconsistencies and inaccuracies in a manner that downplays their seriousness, framing them in a way that softens their impact. This approach aims to minimize the issue of poor memory, preventing the child from fully recognizing the significance of admitting to memory lapses. For example, rather than directly inquiring about the child's memory of the events in their testimony, an attorney could strategically opt for a more innocuously phrased question, such as, "Do you get the times that things happened mixed up?"

It is crucial to emphasize that the nature of testimony necessitates the elucidation of specific details related to the crime, encompassing the time, location, and the child's observations. Therefore, these detail-focused questions were excluded from this category. Though these questions may evaluate a child's memory, there is a distinction between implying poor memory and the legitimate need to extract pertinent details about the crime during the course of testimony.

Other credibility issues. In these questions, attorneys implicitly indicate faults with the child's character or credibility in ways not previously specified. For example, these questions might undermine a child's credibility by focusing on the child making poor life decisions and thereby provoking or not stopping the assault from occurring. These ranged widely in source, from a child not loudly seeking help from people in a nearby room, to decisions that resulted in continued interactions with an alleged offender, to actions that by others could be deemed inappropriate for the situation. Due to the variety of possible implied credibility issues, coders not only identified these questions but also provided how the child's credibility was being undermined.

Rebuttals to Implicit Questions

In addition to the identification and categorization of implicit questions, the analysis extended to scrutinizing the responses to ascertain whether children, to some extent, responded to the implicature embedded in the question. While children's responses to any question asked in court are predominantly a simple assent or dissent to the question, this evaluation necessitated responses to exhibit substance and articulation beyond mere affirmation or disaffirmation. Furthermore, the responses were categorized based on

content, delineating whether they constituted a **rebuff** of the implicit suggestion or a **clarification** of the situation.

For a response to be classified as a **rebuff**, it had to contain contrasting information aimed at negating some aspect of the implication embedded in the attorney's question. A rebuff may involve refuting an implication by correcting the framing of a question or providing contrasting information related to the setting, sequence of events, or any other relevant details. For instance, in response to the question, "You told the police a story about what happened?" the witness rebuffed this inquiry by stating, "A true story." This response serves as a rebuff by contrasting the implication of the question, countering the narrative of discrediting the witness by suggesting that they fabricated a story for the police.

For a response to be classified as a **clarification**, as opposed to a rebuff, it could not explicitly deny any aspect of the question but instead offer additional information regarding the situation to address certain implications of the question. This supplementary information may have included crucial details of the event not covered in the question or provide an explanation for decisions or behaviors during the event in question. For instance, when asked the question, "Again, referring to the audiotaped conversation with Detective P-, do you remember telling him that T- [the defendant] touched your stomach?" The witness' response provided some clarification, "I may have said that; it's been over a year and a half." This response addresses the question's implication of misremembering previous testimony, by confirming the possibility of the mistake but clarifying the reason this mistake may have been made.

Qualitative Coding Procedures and Reliability

To start the qualitative coding process, I initially reviewed 20% of the transcripts to identify implicit questions and potential rebuttal responses. I examined the content of these questions, aiming to identify recurring themes and patterns. Previous research, as indicated by St. George, Denne, et al. (2022a); St. George, Sullivan, et al. (2022); Szojka et al. (2017); Wylie et al. (2022); and Wylie et al. (2023), guided my recognition of implicit questions related to coaching, the veracity of testimony, and rape myths and using deductive reasoning I identified implicit questions that alluded to being coached and untruthful. However, upon analyzing the content, I used inductive reasoning to examine recurring themes in implicit questions that extended beyond the scope of previous research, resulting in the identification of additional implicit question categories regarding children's ulterior motives missed disclosure opportunities, poor memory, and other credibility issues. Then upon examining the content of children's responses to implicit questions two categories emerged: (1) rebuffs with contrasting information or (2) clarifications with supplementary information. Based on these coding categories, an initial coding guide was developed, which included explanations of each category along with examples of what these questions and responses looked like.

Two independent coders underwent training utilizing five transcripts, during which each line was reviewed in collaboration with myself (graduate student/project lead). During these sessions, all potential discrepancies were thoroughly deliberated, and supplementary details were incorporated into the coding guide to enhance clarity for all during the independent coding process to assess reliability. The initial training sessions encompassed instructing the coders on utilizing the coding guide to identify instances of implicit questions and delineating the specific type of implicit attack made. Furthermore,

the coders were educated on scrutinizing children's responses to implicit questions and discerning whether a child's reply attempted to address the implicature of the question.

Subsequent to this comprehensive training, the two independent coders proceeded to independently code the same 20% of the sample without discussing their codes with one another or as a group. The coded segment of the sample was subsequently utilized to conduct reliability analyses, employing measures (e.g. Prevalence-adjusted and Bias-adjusted Kappas) to assess inter-rater reliability on each variable. I, as the author and an experienced coder, served as the comparative standard. The reliability analysis at this juncture indicated a high level of reliability (PABAK > .97) across all coded variables. An additional reliability analysis was performed upon completion of coding the entire sample, with highly reliable coding, PABAK > .93 for all coding.

RESULTS

In the examination of 122 cross-examinations of children's trial testimonies, we reliably identified 440 instances in which implicit questions were asked. Defense attorneys asked children at least one implicit question in 63% ($n = 77$) of cases. To determine if age was a key factor in the frequency of any category of implicit questions or rebuttal responses, I consistently examined the correlation between age and coding categories (as seen in sections below). Contrary to our hypothesis, there was not a statistically significant relationship between the number of implicit questions asked and the age of the child giving testimony, $r(120) = .01$, $p = .875$ and attorneys were equally likely to ask younger and older children implicit questions. The remaining analyses focus primarily on the qualitative analyses looking at the content of implicit questions and rebuttal responses.

All implicit questions were categorized based upon their content; including implying the child had an ulterior motive for accusing the defendant (38% of implicit questions identified), whether a child was coached during interviews or prior to testifying (15%), whether a child was being truthful in their current or previous testimony (15%), whether the child had other credibility issues that would discredit their testimony (14%), whether a child missed disclosure opportunities prior to their initial disclosure (11%), and whether the child had poor memory while testifying or when previously interviewed (6%). Table 1 presents information on the frequency of each type of question per transcript.

Ulterior motives (38%, $n = 168$). These questions suggested potential reasons why a child might falsely testify against the defendant. These motives encompass any rationale beyond seeking safety from the defendant or avoiding future assaults, through which the child may falsely accuse the defendant. There was no statistically significant relationship between age and whether children were asked implicit questions about ulterior motives; $r(120) = -.07, p = .430$

Many implicit questions focused on children's dislike of alleged offenders more generally (i.e., "Because you were angry at your dad, correct?"; "Now, in March of last year, you were upset at your dad, right?") and how that might have motivated a fabricated report. However, questions about ulterior motives were often more complex. Questions alluding to a child's ulterior motivations often went beyond dislike or upset towards the offender in a single instance or due to isolated actions. It was commonly implied that these motivations arose from a broader pattern of negative interactions such as yelling at

or hitting the child, or from dissatisfaction with the way the defendant manages the household, such as being overly strict or controlling the household rules.

Therefore, a commonly presented ulterior motive is the child seeking to be rehomed or have someone removed from their home. For example, a 17-year-old girl accused her former stepfather of repeated digital penetration. When the attorney began questioning her about a possible ulterior motive, the defense attorney established that the girl preferred to live with her neighbors Ron and Jerry rather than with her mother and stepfather. Then the attorney alludes to the fact that the child disliked the controlling environment at her mother and stepfather's house.

Q: And did you enjoy the lifestyle at R- and J-'s house more so than you did at T- [the defendant] and your mom's house?

A: Yes.

Q: More comfortable?

A: Yes.

Q: A little looser?

A: Yes.

Q: Nobody yelling at you?

A: No.

Q: Nobody making you go to bed at 9:00 at night?

A: Well, I mean they made us go to bed, but not at 9:00.

Q: So it's fair to say that you were more comfortable at R- and J-'s house than T- and your mom's house, right?

A: Yes.

Q: And as it turned out, the stories that you told about the alleged incidents of his sexual molestation of you ended up being the reason that allowed you to move out of his house, is that right?

A: Yes.

This line of questioning creates a sequence of questions that, together, allude to the child falsely accusing her stepfather because she did not want to live with her stepfather because of his strict rules and discipline, and preferred to live with her neighbors.

These instances of implying a child's ulterior motive, to be rehomed, do not necessarily involve a long and complex questioning sequence. They can be as simple as, for example, "Right. So it excited you at the prospect that you would be living with L-?" These questions pose a particular challenge because when taken explicitly, they inquire about the child's preferences and feelings about the prospect of living with someone else. However, the questions could be interpreted differently by judges and jurors, who may see the child's response as an acquiescence to the implication of wanting to live with this person, suggesting an ulterior motive for accusing the defendant.

The implied ulterior motivation for providing false testimony extends beyond the child's wants and needs to the wants and needs of their family members. In the following case, a 14-year-old girl accused her uncle of repeatedly exposing his genitals to her. The attorney begins the line of inquiry by establishing the child's dislike of her uncle who was frequently intoxicated from alcohol and drug use. Then he introduces the idea that she is concerned with safeguarding the well-being of her siblings who are also affected by the defendant's actions.

Q. So you didn't like the disruption that it caused when he [the defendant] was drunk and when he was using?

A. Yes.

Q. You didn't like to see how it affected your siblings?

A. Yes.

Q. You love your siblings?

A. Of course.

Q. As you testified, you'd do anything for them?

A. Well, yes.

When asked these questions explicitly, many children will assert their love for and willingness to take care of family members. However, in this line of implicit inquiry, judges and jurors might interpret the acquiescence to these questions differently than the child. They may see the child's response as an admission that their underlying motive for providing this testimony was to protect their siblings.

These questions can also imply motivations not surrounding family safety but rather not wanting to disappoint another family member i.e. "You wouldn't want to disappoint your mom at this point?"; "Do you think that if you came into court and said that [defendant] didn't touch you, that that would disappoint your mom?" These questions suggest that the child's testimony is motivated by a desire to avoid disappointing their mother. However, without further examination, it could simply be that the child generally wants to avoid disappointing their mother or only fears that they would disappoint others if the intimidation of being in a courtroom made them back out of providing testimony.

When examining implicit questions that suggest a child may have an ulterior motive, many of these inquiries stem from the child's dislike of the defendant. This dislike could be due to the defendant's treatment of the child, the way the defendant manages the household where the child resides, how the defendant treats their family, or other various offenses. However, there are also inquiries into ulterior motivations that arise from different feelings. For example, a defense attorney might imply that the child's ulterior motive stems from a motivation other than dislike of the defendant. For example, in a case where a 16-year-old girl accused her father of repeatedly attempting to have

intercourse, the defense attorney implied she did this to get attention, asking the question, "Okay. Back when you talked with your cousin and stuff, you said you were looking for attention at that point; right?" When defense attorneys ask questions implying a child had an ulterior motive, regardless of the child's objective, it is done to cast the child in a negative manner that undermines their credibility.

Coaching (15%, $n = 68$). Implicit inquiries question whether a child's account of abuse was influenced by others. Specifically, these inquiries attempt to suggest that the child was manipulated to provide false testimony. As children aged they were less often asked these questions; $r(120) = -.32, p < .001$.

Commonly, these questions frame coaching as the child receiving assistance in remembering or telling someone about their abuse. For example, in a case of an 11-year-old girl who accused a stranger of repeatedly sodomizing her, the defense attorney implicitly asked the child if her mother coached her on what to say to the forensic interviewer.

Q. Okay. So she [the child's mother] talked to you before you interviewed with B- [the interviewer]?

A. Yes.

Q. Okay. And so she helped you figure out what to say?

A. Yes.

The implicit nature of this question could have resulted in the girl misinterpreting the meaning of the question asked. This girl, who affirmed that her mother helped her prepare for an interview, could have considered "help" to encompass various actions. For example, a child may have regarded her mother's assistance as believing what the child

said or expressing support, such as affirming her role as a caring listener while the child shared her experience. Therefore, this girl's affirmative response to this implicit question is not necessarily confirmation of her being coached by her mother on what to say in the forensic interview.

Other commonly asked questions imply that a child may have been coached by police through minimizing the polices' role but intimating that a child's testimony is a result of police prompting rather than the child's true account. For example, in a case where a 13-year-old girl who accused her adoptive father of repeatedly raping her and her sister, the defense attorney's questioning implies she was coached by multiple police officers.

Q. So you never said anything until he prompted you to say something because he told you or he intimated to you that B- had told him things?

A. It wasn't for me –

Q. And it's true, isn't it, that as Detective N- interviewed you, he would sometimes make suggestions to you about maybe it happened this time or that time, maybe something happened around these dates. Isn't that true?

A. No.

By employing terms like "prompt" and "suggest," the attorney downplays the officers' involvement, but the implication of the police coaching the teen girl remains evident to a judge or jury.

Questions containing implications of a child being coached are typically crafted with sophisticated language and framing, which can lead children to misinterpret them and respond in manners that undermine their credibility. While these implications of

coaching may be apparent to adults who hear these questions, children, who are still developing linguistic and cognitive skills, may not be as attuned to the subtle allusions made by an attorney.

Truthfulness (15%, $n = 67$). Implicit inquiries that allude to a child being untruthful ask the child about their veracity. They do so by questioning children's lying ability and comparing children's current testimony to their prior testimony, interviews, or disclosures. These questions increased as children aged; $r(120) = .25, p < .006$.

Defense attorneys asked many simple inquiries into a child's ability to lie or if the child is prone to lying. For example, in the following case an attorney asked an 11-year-old girl who accused a neighbor of repeatedly sodomizing her, "Do you believe you have a pretty good imagination?" implying that the girl possesses the imaginative ability to make up her testimony. However, questions that focus on assessing a child's ability to lie were not the only way attorneys imply the child has been untruthful.

Implicit questions can imply untruthfulness by framing a question to a child as comparing current and past testimony. An especially egregious example of this is denoting that a child has a positive quality such as helpfulness when providing inaccurate information. For example, in a case in which a 13-year-old girl accused her uncle of repeatedly fondling her, the defense attorney asked "Earlier, now when you told us that you were wearing pants, you just couldn't remember, so you were guessing to try and help us out?". In this way the attorney framed her previous testimony as false and as an attempt to help. A likely problem is that the child may be less sensitized to the question being used as proof of being untruthful, and instead she may focus on the ability to attribute a positive quality to themselves.

Often, these questions also frame a child as being untruthful because they are sharing information with the court that was not included in police or interviewer reports. For example, in a case where a 16-year-old boy accused a stranger of forcing the teen to perform oral sex on the stranger in a gym, the defense attorney situated the boy's testimony in opposition to a police officer's report.

Q. Officer T- indicated that after you reported this, you were taken to an office where you then told them what occurred. So that's different than what you told us today. So is Officer T- again incorrect?

A. I don't understand what you're saying.

Q. If the officer said you described what happened inside the office, he'd be incorrect?

A. I described it in both places.

These questions implied that the child's veracity is questionable not only due to possible inconsistencies in their narrative over time but also because, being perceived as less trustworthy than a police officer, the child would need to assert the officer's error in order for their testimony to be considered truthful.

Implicit questions regarding children's truthfulness that inquired about their imaginative abilities tended to be posed more frequently to younger children. However, questions that juxtaposed a child's current testimony with a police or interviewer's report were more commonly directed towards teenagers. Regardless of age, children asked these questions may misinterpret or overlook the implications, leading to inaccurate responses and potentially negatively impacting judges' and juries' perceptions of the veracity and credibility of their testimony.

Missed disclosure opportunities (11%, $n = 50$). These questions identify trusted people (e.g. family members, friends, police, teachers, etc.) and times a child could have made a disclosure but did not. The implication being that, because a child did not make a disclosure, that the assault did not occur. There was no statistically significant relationship between age and whether children were asked implicit questions about missed disclosure opportunities; $r(120) = .04, p = .631$.

Commonly, implicit questions about disclosure ask about whom a child normally tells secrets to without explicitly inquiring about why they did not disclose to these people. For example, in the case of an 11-year-old girl who accused her step-grandfather of repeatedly sodomizing her, the defense attorney implied that if the abuse had occurred the girl would have disclosed this abuse to her friends.

Q. Have you had the same friends for a long time?

A. Yes.

Q. So they're really close, good friends for you?

A. Yes.

Q. Now, I know sometimes friends like to tell each other secrets and things that are going on in their lives.

A. Yes.

Concluding this line of implicit questioning the defense attorney shifted away from this subject and never broached more explicit inquiries about disclosing to her friends. If this line of implicit questions had been explicit it would have asked, "If you tell your friends your secrets, why did you not tell your friends about being abused?" Without this explicit question being asked, this girl would have to make a significant logical leap to

understand what this line of questioning is alluding to. Had this explicit question been asked, the child may have provided insights into why she did not disclose her abuse to her close friends.

After a defense attorney identifies someone the child trusts and could confide in, they also commonly ask if a child had moments in which they could disclose to this trusted person. For example, in the case of a 14-year-old girl who accused her father of repeatedly raping her, the defense attorney implied that if the assaults had occurred the girl would have disclosed to her mother sooner.

Q. And you mentioned you have a pretty close relationship with your mother?

A. Yes.

Q. And you have always had a good relationship with your mother?

A. Yes.

Q. Able to speak freely with her?

A. Yes.

Q. You spend a lot of time with her?

A. I tried to.

Q. Even while your dad was at work?

A. Yes.

Q. It would just be you and your mom in the house?

A. Yes.

Q. And you mentioned that these incidents involving your dad were going on for a while?

A. Yes.

Q. But you never said anything to your mother prior to June 5th, 2007, correct?

A. Correct.

The implication being made here is that because the girl had both a trusted adult and an opportunity to disclose the abuse to this adult prior to her initial disclosure is that the abuse did not occur. Again, the line of inquiry's lack of explicit questioning prevents the child from having the opportunity to explain why she did not disclose to her mother until she did.

Implicit questions about missed disclosure opportunities commonly identify people and moments children could have disclosed their abuse to others but chose not to. These lines of implicit inquiry not only attempt to undermine the credibility of children but also prevent children from explaining their reasons for not disclosing.

Poor memory (6%, $n = 25$). These questions suggest that a child may have had difficulty recalling or inaccurately remembered an abusive event. There was no statistically significant relationship between age and whether children were asked implicit questions about memory; $r(120) = .10, p = .255$.

These questions were asked infrequently and typically centered on the child's potential struggles with recalling the timeline of events related to the assault. They were often framed in a way that implied the child's memory of the event was inadequate due to issues with sequencing or timing, thereby casting doubt on their credibility. For example, in a case where a 14-year-old girl accused her uncle of digitally penetrating and molesting her repeatedly over multiple years, the defense attorney asked her about a discrepancy in her previous and current testimony about when the first incident of assault occurred.

Q. There's quite a difference in years there; isn't there?

A. Well, it's hard to remember.

This inquiry did not explicitly request an explanation for the discrepancy, nor did it inquire about the accuracy of either the current or prior testimony. Instead, the question implied that this discrepancy was indicative of the child having a poor memory and, consequently, suggested that the child was not a credible or reliable source of information.

It was uncommon that an attorney asked implicit questions that suggest a child has poor memory. However, of the few times attorneys asked these questions, attorneys were more focused on how possible discrepancies in memory paint the child as an unreliable and unconvincing testifier, rather than attempting to ascertain the truth of the events.

Other credibility issues (14%, $n = 62$). Questions in this category were not captured by other coding categories. There was a marginal correlation between age and other credibility issue questions in which these types of questions increased as children aged; $r(120) = .17, p < .060$.

These implicit questions encompassed a broad range of content but predominantly focused on children's actions not being in their best interest. For example, in a case where a 13-year-old girl accused her friend's stepfather of fondling her over her clothing, the defense attorney used implicit questions to undermine her credibility.

Q. You just decided to stay there, didn't you?

A. Yes.

Q. And you decided to spend the night there?

A. Yes.

These questions undermined the girl's credibility by suggesting that her failure to act in a manner perceived as appropriate or sensible after the assault, by staying at the friend's house instead of leaving, implied that the assault did not occur.

These questions also focused on actions of a child preceding their assault. In a case of a 14-year-old girl who accused her father of repeatedly raping her, the defense attorney's line of inquiry implied that if the girl had been repeatedly abused prior, it would be unreasonable for her to act as she did.

Q. And you testified that you felt you were being abused by your father up to that day?

A. Yes.

Q. But you still decided to use your dad's bathroom?

A. Yes.

Q. Even though you had your own bathroom?

A. Yes.

Q. Even though you could have closed your bedroom door?

A. Yes.

Q. And had privacy in your own shower?

A. Yes.

Q. And had been outside or been out of your father's sight?

A. Yes.

Due to this girl's failure to act in accordance with what others would deem prudent her credibility is undermined. To a judge or jury members, it might seem inconceivable that this girl would have acted as she did if she had been previously assaulted.

These questions, which imply that children are not acting in their best interest, presuppose that children employ adult logic in these situations. However, there should not be an assumption that a child who has been abused would be able to think logically about their actions prior to and after an assault. These questions are used to undermine the credibility of these children without considering the shock the child may have been experiencing and the fact that they are still developing logical reasoning skills. When these questions are posed to children, an unfair situation arises wherein judges and jury members might recognize the children's actions as illogical without considering the children's lack of adult reasoning abilities.

Rebuttals

Rebuttals are children's responses to implicit questions that, to some degree, address the underlying implication in the question. As expected, rebuttals to implicit queries were relatively infrequent, manifesting in only 52 total instances (11% of responses to implicit questions asked ($N = 440$)). These rebuttal responses were more frequently **clarifications** ($N = 40$), where a child provided additional information to clarify their response when addressing the implication of a question, than **rebuffs** ($N = 12$), where a child provided information that countered a question's implication. Contrary to the hypothesis, teenagers and younger children produced rebuttals, clarifications, and rebuffs at similar rates, likely because children were so *unlikely* to give

these responses overall (**rebuttals**: $r(120) = .09, p = .308$, **rebuffs**: $r(120) = .09, p = .332$, **clarifications**: $r(120) = .08, p = .396$)

Clarification responses followed a consistent format in which a child responds with assent to the implicit question but adding context for why they assent. For example, in a case in which a 10-year-old girl accused her friend's father of fondling her under her clothing, she responded with a clarification to an implicit question about her potentially having an ulterior motive for believing that the assault was not an accident.

Q. Well, at some point you were told that Mr. S- [the defendant] had done some other bad things before you. Were you told that, right?

A. Yes.

Q. And certainly after that, you didn't believe it was an accident; is that correct?

A. Yes, but that really didn't make anything change.

In this way, the child confirms that she did not believe her assault was an accident after learning about the defendant's previous misconduct. However, she clarifies that her awareness of the defendant's past behavior did not change that the assault was purposeful.

Rebuffs were rare and this limited the range of responses. However, these responses did not assent to any part of the question and provided information that counters the question and the question's underlying implication. For example, in a case in which a 14-year-old girl accused her stepfather of fondling her while she had no clothes on, she rebutted the defense attorney's implicit question about her being untruthful about using a clock to figure out the time her assault occurred.

Q. Okay. You know there were no batteries in that clock, had not been for a while?

A. I know that there is a battery in that clock.

The girl's response to this question refuted the accusation and implication made by presenting information about her certainty of the clock being functional.

GENERAL DISCUSSION

Coding 122 real trial testimonies of children alleging sexual abuse, the purpose of the present study was to examine how often defense attorneys use implicit questions to question children's credibility, and then to examine the content of these questions as well as children's responses (e.g. would children rebuff these attacks?). Little prior work has examined how defense attorneys might use implicit questions, separate from a single series of studies by one research team (Wylie et al., 2022, 2023). In the current thesis, we hypothesized that younger children would be more likely to receive implicit questions about their credibility. Furthermore, we thought that as children age, they would be more likely to rebuff these implicit attacks on their credibility. We did not find support for either hypothesis. We unpack our findings below.

In this study, defense attorneys asked children at least one implicit question in 63% ($n = 77$) of cases, illustrating the widespread use of implicit questioning as a common practice within legal proceedings. This prevalence, observed in over half of the cases in our study, underscores the significant role of implicit questioning as a strategy employed by defense attorneys during the cross-examination of children. However, the prevalence of children being asked implicit questions is lower compared to the findings of St. George, Sullivan, et al. (2022), where attorneys asked 88% ($n = 56$) of children at least one indirect accusation. Notably, the St. George, Sullivan, et al. (2022) investigation examined both questions posed by prosecutors and defense attorneys and employed a

broader definition of indirect questions and subtlety compared to the current study's focus on implicit questions with a dual explicit and implicit meaning. Due to this study's larger sample size and more extensive range of content categories, the prevalence of implicit questioning in our study appears slightly lower than anticipated. However, this discrepancy may be attributed to this study only examining questions posed by defense attorneys.

When examining what implicit questions “looked like,” we found that implicit questioning encompasses a broader range of topics beyond those implying coaching, dishonesty, or inconsistent testimony. This is a clear extension of prior research, which has only examined implicit questions about coaching. Furthermore, implicit questioning appears to be utilized across various age groups of children providing testimony. These questions do not rely on complex or advanced language; rather, they leverage adults' ability to make logical assumptions and *read between the lines* in a manner that researchers know is challenging for children to comprehend, developmentally (St. George, Sullivan, et al., 2022, Wylie et al., 2022, 2023). Defense attorneys use these implicit questions to frame the children in a manner that discredits them.

The most prevalent category of implicit questions identified in our study was not coaching or truthfulness but questions that insinuated the child had an ulterior motive for testifying against the defendant. Prior research by St. George, Denne et al. (2022a) identified common insinuated motives for a child to falsely accuse someone of CSA, including the child seeking revenge against the defendant (i.e. due to being angry or upset with the defendant) or to cover up misbehavior, and other motives. It was noted in this study that these questions were not always explicit in nature, but there was no specific

examination of the use of implicit questions when presenting a child's ulterior motivation. Additionally, the study conducted by St. George, Denne et al. (2022b) delved into the strategies employed by defense attorneys when presenting alternative explanations for accusations of abuse aiming to construct a more believable narrative of the events in question. Therefore, when defense attorneys utilize implicit questions regarding a child's ulterior motives, it may be intended to sway judges and juries into considering the defendant's innocence. By doing so, defense attorneys potentially offer a more comprehensive understanding of the social dynamics surrounding the accusation of abuse, thus presenting a more plausible and complete picture to convince the decision-makers involved in the legal proceedings to find the defendant innocent.

Although we hypothesized that younger children would more frequently encounter implicit questions, we did not observe a general correlation between the age of the child providing testimony and the frequency of implicit questions asked. This deviation from our initial expectations could imply that the use of implicit questions may not be specifically targeted towards younger children but rather a standard legal practice and something taught in legal training, independent of developmental factors. This notion aligns with the discussion by Hobbs (2003), who noted that lawyers are trained to strategically utilize questions to advance their narrative, which may involve the use of complex and implicit questioning techniques. However, it is possible that attorneys employ these techniques more frequently with children than with adults, possibly in an effort to appear polite and non-confrontational to potentially sympathetic witnesses. Nevertheless, this approach may inadvertently lead to confusion or misunderstanding among children providing testimony, regardless of their age. Therefore, further research

is warranted to investigate how defense attorneys employ implicit questions across a wider age range in order to gain a deeper understanding of this practice.

Interestingly, we found some indication that defense attorneys asked more implicit questions about some topics, depending on children's age. Specifically, implicit questions alluding to coaching were more frequently asked to younger children, while implicit questions relating to truthfulness and credibility issues were more commonly directed towards teenagers. These findings align with foundational research on children's suggestibility more broadly (Ceci & Bruck, 1993; 1999) where across many studies and time researchers find that younger children display heightened susceptibility to suggestive questioning. Consequently, it is primarily younger children who are more susceptible to being effectively coached before providing testimony. Additional research indicates that as children improve their linguistic skills, they become less susceptible to suggestion (Kulkofsky & Klemfuss, 2008). Therefore, it is reasonable that younger children, being the more vulnerable population to coaching, are subjected to a higher frequency of implicit questions related to coaching; defense attorneys are aware of this concern and want to ask children about whether they have been influenced to provide false or altered reports. However, they are doing so in subtle ways that may elicit inaccurate reports from children about whether they have been suggestively influenced (Wylie et al., 2022, 2023).

Additionally, these findings are consistent with prior research by St. George, Denne, et al. (2022a) that examined the use of rape myths when questioning children. This research indicated that teenagers were more likely to be asked about various topics compared to younger children. Specifically, teenagers, aged 14 and older, were more

likely to be questioned about (1) motives to lie, which implied covering up transgressions and other motivations beyond simply disliking the defendant; (2) precipitation events, including trading sex for money (for children 14 and older), soliciting dates online (for children 16 and older), and being under the influence of alcohol or drugs at the time of abuse (for children who were 17 years old); and (3) character issues, where questions about criminal behavior were directed at children aged 14 and older, and questions about habitual drug and alcohol use were targeted at children aged 16 and older. This indicates a nuanced approach by defense attorneys, who tailor their questioning techniques and content to better align with the cognitive abilities and perceived vulnerabilities of the child witnesses. It is clear that defense attorneys are more concerned about whether older children (e.g. teenagers) are intentionally fabricating reports, and whether they present as having other credibility concerns.

Moreover, our findings suggest that children sometimes perceive the implications embedded in these questions and respond effectively, with 11% of implicit questions receiving a rebuttal response from children. These responses were rare, consistent with the findings of Wylie et al. (2022), which indicated that children were more likely to acquiesce to subtle questions about being coached. Upon examining the content of these responses, it was observed that the majority of rebuttals were clarifications (77%). This may indicate that adding additional information, rather than outright denying the implications made by the defense attorney, is easier for children to convey.

Examination of rebuttals found no correlation between age and the ability to reply to these questions, which contrasts with the findings of Wylie et al. (2022, 2023) who observed a decline in acquiescence to coaching questions with increasing age. However,

this discrepancy could be attributed to the low prevalence of rebuttal responses and would require a greater sample to better understand the possible developmental effects. Furthermore, Wylie et al. (2022, 2023) also noted that acquiescence was more likely when coaching questions were subtly presented, similar to the implicit questions examined in our study. Therefore, the absence of an age-related effect in our findings may be influenced by the nuanced nature of the implicit questions posed during cross-examinations, suggesting a need for further research to explore this aspect in depth.

LIMITATIONS AND FUTURE DIRECTIONS

This study encountered several limitations, including the utilization of a restricted number of transcripts solely from one county court. It is plausible that the results could have varied with the inclusion of transcripts from additional courts featuring different witness demographics. Specifically, incorporating a broader range of courts would have introduced greater diversity among defense attorneys in terms of their legal training backgrounds and state licensure.

Future research could explore the implications of implicit questioning techniques across a more extensive array of court settings. By incorporating transcripts from various courts, researchers can gain a more comprehensive understanding of how implicit questioning strategies are employed and their impact on child witnesses across the United States. Additionally, investigating the influence of defense attorneys' legal training backgrounds on their questioning techniques could provide valuable insights into courts that may be especially egregious in their use of implicit questions.

Furthermore, this study could be extended to explore implicit questions asked in other types of cases, such as those involving child abuse or neglect. By examining

implicit questioning in different contexts, researchers can investigate whether the content of these questions varies depending on the type of narrative the defense attorney is attempting to construct. This expanded scope would provide valuable insights into the strategies employed by defense attorneys across various legal scenarios and their potential implications for witness testimony. Additionally, comparing implicit questioning techniques across different case types could shed light on the specific challenges faced by child witnesses in different legal contexts.

Given that implicit questions concerning children's ulterior motives were the most prevalent in our study, a more comprehensive examination of how questions about ulterior motives are more broadly utilized against children and the specific content of these questions could provide valuable insight into how children are discredited in legal contexts. This deeper analysis could help elucidate the strategies employed by legal professionals to undermine the credibility of child witnesses. Future studies could delve deeper into comparing these implicit questions with the types of arguments made by defense attorneys during closing statements. This comparative analysis could verify whether the implicit questions were indeed alluding to the arguments presented by the defense, and whether the children's responses were interpreted in the manner intended by the attorneys. Such research would provide a more comprehensive understanding of how implicit questioning strategies are integrated into the broader context of legal proceedings and their impact on the credibility of child witnesses. With a deeper understanding of the implicatures used against children in court, there is an opportunity to advocate for policy implementation that safeguards minors from being subjected to linguistically complex and implicit questions. Moving forward, it is imperative to explore avenues for policy

development aimed at protecting child witnesses from potentially misleading or confusing questioning techniques employed during legal proceedings. This could involve collaborating with legal professionals, policymakers, and child advocacy organizations to establish guidelines or regulations that promote fair and appropriate questioning practices when children are involved in legal proceedings. Until policy is implemented, training programs that educate prosecutors on the use of implicit questions in court could help them better advocate for the child victims. This advocacy could include by objecting to implicit questions asked under rules of evidence. Additionally, future research could focus on identifying effective strategies for training legal practitioners to communicate with child witnesses in a manner that is clear, age-appropriate, and conducive to eliciting accurate testimony without undue influence or confusion.

CONCLUSION

Our study revealed that defense attorneys commonly pose implicit questions to children during legal proceedings, covering a range of topics. These questions have the potential to diminish the credibility of children and their testimony. Minor witnesses of all ages were asked implicit questions and minors were seldom able to rebuff these implications. This directly impacts the existing body of research on how implicatures are employed against children in court. Previous studies have primarily focused on how attorneys imply coaching of child witnesses, overlooking the broader scope of implicit questioning techniques utilized in legal proceedings.

As more research is conducted on implicature, there is additional attention needed for legal practices and policies to evolve in order to better safeguard minors with their developing linguistic and comprehension abilities. By recognizing the potential impact of

implicit questioning techniques on children's testimony, legal practitioners can adopt strategies that prioritize clear and age-appropriate communication during cross-examinations. Furthermore, there is an opportunity to enact new policies aimed at regulating the use of implicit questioning in legal proceedings involving child witnesses. These policies should strive to strike a balance between adhering to established protocols, such as the NICHD forensic interviewing protocols designed to protect children's rights and ensure the reliability of their testimony, and the necessary questioning conducted during trials to ensure due process and fair trials for all parties involved. These policies could include guidelines for attorneys on appropriate questioning techniques and training programs to enhance their awareness of the potential implications of their questioning on minors. Ultimately, such measures would contribute to a more equitable and supportive legal environment for children involved in court proceedings.

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APPENDIX A
FREQUENCY OF IMPLICIT QUESTIONS AND REBUTTAL RESPONSES

Table 1*Frequency of Implicit Questions and Rebuttal Responses*

Questions & Responses	<i>M</i>	<i>SD</i>	<i>N</i>
Implicit Questions	3.61	5.08	440
Ulterior Motives	1.38	2.79	168
Coaching	0.56	1.55	68
Truthfulness	0.55	1.57	67
Missed Disclosure Opportunities	0.41	1.74	50
Poor Memory	0.20	0.57	25
Other Credibility Issues	0.51	1.42	62
Rebuttal Responses	0.43	1.18	52
Rebuff	0.10	0.45	12
Clarification	0.33	0.90	40

Note. Sample including all 122 transcripts