



ARCHIVED - Archiving Content

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

ARCHIVÉE - Contenu archivé

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

Sexual violence is a pervasive and devastating crime affecting many adults and children in Australia. Historically under-reported, this crime has been a site of significant reform both in terms of the rules of evidence and procedures governing police investigation. This briefing paper charts some of the progress made in establishing a 'best practice' for investigative interviews of complainants that preserves both the quality and quantity of memory recall. The research demonstrates the considerable forensic value of video recording complainant interviews, though notes that these new technologies are perceived by practitioners to be resource intensive. Ultimately, notwithstanding increased costs, the use of video-recording of complaint interviews enhances not only the quality of evidence but also guards against complainants being re-victimised by the legal process itself.



Professor Simon Bronitt

Director

With support from:



Improving rape investigations: Does interview format matter?

Ms Nina Westera, Associate Professor Mark Kebbell & Dr Rebecca Milne

Overview

Over the last thirty years in western countries, an average of 30% rape cases reported to police resulted in prosecution. Central in cases of this type is the evidential sufficiency of a complainant's account. The importance of such an account increases due to the dearth of forensic or additional forms of independent evidence. Traditionally the complainant is interviewed at two stages of the justice system process. First, during the investigation stage and secondly at trial. Applying psychological research at both of these interview stages provides the police and the prosecution with an opportunity to enhance the quality of information from complainants. Any enhancements may also positively impact the evidential sufficiency of the complainant's evidence and thereby improving prosecution outcomes in rape cases.

Legislation in some countries (e.g. New Zealand, England, Wales and Australia's Northern Territory) now provides that video recorded police interviews of adult complainants can be used as evidence in chief. This mode that had previously applied only to child complainants extends the benefits of video recorded interviews into courtrooms allowing jurors to view a complainant's contemporaneous account. The timeliness of the complainants account means that their memory is less susceptible to loss, suggestion, and other types of memory distortion. The value of video recorded police interviews of complainants may be reduced however where that interview is conducted outside of best practice standards (e.g. use of leading questions). Similarly, incorrect preconceptions as to how a complainant should present on video (e.g. their demeanour), and poor understanding as to how sexual assault is investigated by the police may lead the viewer to regard the video recorded testimony as less credible.

Research Questions

Our research examined police officer perceptions of using video recorded interviews of rape complainants for investigative and evidential purposes. The primary research questions were:

- (1) Do officers take question and interview format into account when making judgments about complainant accuracy, credibility, and decisions to charge?
- (2) What are officer perceptions about the advantages and disadvantages of video recording interviews?
- (3) Do perceptions of officers on what represents effective practice for investigations differ from those that provide the best evidence for a jury trial?

Method

One hundred and thirty six officers in the New Zealand Police involved in the investigation of adult sexual assault cases completed a four-section questionnaire. The first section required officers to rate the accuracy and credibility of a series of excerpts from a mock transcript of an adult rape complainant's video recorded interview. Officers received one of three versions of an identical transcript, with one exception, the type of questioning used by the interviewer differed with the use of either; (i) closed or leading questions, (ii) open and probing questions, or (iii) open and probing questions supplemented by cognitive interview (CI) mnemonics¹. After the final excerpt, officers also rated the likelihood that they would charge the alleged offender.

The second section contained a series of open questions that sought officer views on the advantages and disadvantages of video recorded interviews with adult rape complainants. The third section required officers to rate a list of characteristics of the complainant's account according to what the officer considered provided the best information for investigations. The officers were then asked to rate the same characteristics according to what the officer considered provided the best evidence for a jury trial. The final section gathered demographic details. The participants were a mixture of investigators, their managers and specialist interviewers, with a mean length of service of 17 years and 80.5% having completed some form of investigative interviewing training.

Results and Discussion

When the interviewer's questioning in the mock rape complainant transcript was leading compared to open, officers rated the complainant as less accurate, less credible and they were less likely to charge the alleged offender².

¹ The CI uses a series of mnemonics or memory enhancing techniques to enhance the amount of information elicited during interview without comprising on the accuracy.

² An ANOVA with follow-up t-tests indicated this was significant ($p < .001$).

These findings suggest officers are correctly assessing how certain types of questions negatively affect the accuracy of the response provided by the complainant. This would not be possible without access to the video recorded interview. The presence of the CI mnemonics did not affect officer rating of accuracy supporting studies suggesting CI does not affect actual accuracy.

A thematic analysis³ was conducted on the content of responses about the advantages and disadvantages to investigations of video recorded interviews rather than by recording by way of written statement. The most frequently cited advantage to investigations of video recorded interviews rather than by recording by way of written statement was categorised as 'enhances forensic quality' (94% of all responses). This category included improvements to accuracy, detail, and completeness for example:

I believe a more detailed account is most likely to result from a visually recorded interview and this method provides the best option to establish all available facts and evidence. It gives the best opportunity to prevent the interviewer's interpretation of the complainant's account being recorded.



³ After all responses were coded by one researcher, another researcher coded a random selection of 10% of responses. Inter-rater reliability was high and statistically significant (Cohen's $K = .84$; $p < .001$).

These findings suggest that video recorded interviews of adult rape complainants may be a valid means of improving the evidential sufficiency of rape complainant testimony. Video recording the interview was also perceived as an 'improved interviewing process' (34.7%) compared with recording such an interview by way of written statement. Comments by officers suggest this result is mainly due to officers not feeling as though they have to interrupt the free narrative account to manage the flow of information so they can effectively produce a written statement. Video recording therefore appears to facilitate the use of interview practices known to elicit the highest quality of information from the complainant.

Importantly, 'better for the complainant' (25.0%) was another commonly cited benefit. The improved interview process during the investigation and ability to play the interview as evidence were both commented on as potentially reducing trauma for a complainant during the justice process. This is reflective of reviews that suggest rape complainants would like the option of using a video recorded interview as evidence.

Interestingly, many advantages were also cited as disadvantages. The highest reported disadvantage of video recorded interviews was categorised as 'resource intensive' (49.2%). Comments in this category focused on the availability of transcription services, and skilled interviewers and interview monitors. While the whole process appears to be more resource intensive, 27.4% cited 'time efficient' during the actual interview process as an advantage to video recorded interviews.

Similarly, 'difficult to review' (42.7%) was cited as a disadvantage, for example:

...The extra time to review a victim's statement, as it is by practice always longer and more detailed than a written one. Longer to find the required details of what an investigator needs

to head off on a specific enquiry line. Unless transcribed, multiple viewings of the statement likely to be required...

But 'allows for effective review' (30.6%) was seen as an advantage particularly having access to an accurate record of the whole interview including questions asked by the interviewer and non-verbal communication of the complainant.

Providing some insight as to whether one interview can meet both investigative and evidential purposes, 'can be used as good evidence' (33.9%) was also commonly cited as an advantage:

Better evidence more powerfully presented closer to the event when played and seen by the jury.

However, that the video was 'not good evidence' (27.4%) was cited as a disadvantage. Responses in this category included that the complainant may not present well to the jury, especially if they behave contrary to erroneous

juror rape complainant preconceptions. In addition that the video 'captures everything' (25.8%) including irrelevant and inadmissible information.

A few minor differences were found between officer ratings of what characteristics of the complainant's account within a video recorded interview provided the best information for investigations, and what characteristics provided for the best evidence in court. Accuracy, detail on evidentially important topics, completeness and free narrative format were considered most important. Least desirable characteristics included the use of leading and closed questions, and other poor interviewing techniques. Differences in ratings existed primarily around good interviewing techniques such as rapport building and explaining the interview process being more important for investigations⁴.

Presentation characteristics such as emotion, logical and chronological order were rated as more important for

⁴ Only statistically significant differences resulting from t-tests with a Bonferroni correction applied ($p < .0009$) comparing the best characteristics for investigators with the best characteristics for evidence are reported.

evidence. This suggests that there is a mismatch between what is defined as a good investigative interview and one that is seen as a good evidential interview.

Conclusions

These findings show that video recorded interviews may be one way to enhance the evidential sufficiency of rape complainant testimony. Officers perceive video recorded rape complainant interviews to provide many benefits for investigations, both in terms of enhancing forensic quality and improving the interview process for complainants. Clearly these benefits can extend into the prosecutorial process as well. Many perceived disadvantages in video recording interviews can be mitigated and managed with adequate resourcing and education. The ongoing challenge for the police, prosecutors and the judiciary will be the management of any additional information a video recorded interview produces and the impact of that information on existing legislative requirements relating to evidential relevancy and admissibility.

References

- Criminal Justice System. (2007). Achieving best evidence in criminal proceedings: Guidance in interviewing victims and witnesses, and using special measures. London: Criminal Justice System.
- Daly, K., & Bouhours, B. (2008). Rape and attrition in the legal process: A comparative analysis of five countries [Electronic Version]. Retrieved 19 March 2010, from <http://www.griffith.edu.au/professional-page/professor-kathleen-daly/publications>
- Fisher, R. P., & Geiselman, R. E. (1992). Memory enhancing techniques for investigative interviewing: the cognitive interview. Springfield, IL: Thomas.
- Hamlyn, B., Phelps, A., Turtle, J., & Sattar, G. (2004). Are special measures working? Evidence from surveys of vulnerable and intimidated witnesses [Electronic Version], Home Office Research Study 283. Retrieved 1 April 2009 from <http://www.homeoffice.gov.uk/rds/index.htm>
- Heaton-Armstrong, A., & Wolchover, D. (1992). Recording witness statements. *Criminal Law Review*, 160-172.
- Kohnken, G., Milne, R., Memon, A., & Bull, R. (1999). The cognitive interview: A meta-analysis. *Psychology, Crime & Law*, 5, 3-27.
- Milne, R., & Bull, R. (1999). *Investigative interviewing: Psychology and practice*. Chichester: Wiley.

About the Authors

Nina Westera is an officer in the New Zealand Police. Nina is currently completing her PhD with the ARC Centre of Excellence in Policing and Security (CEPS), and the Griffith School of Psychology in Brisbane, Australia, on how to improve investigations and prosecutions of sexual assault cases through interviewing practices.

Mark Kebell is a Chief Investigator for the ARC Centre of Excellence in Policing and Security (CEPS) and Associate Professor for the School of Psychology at Griffith University in Brisbane, Australia. As a forensic psychologist, Mark's research interests include investigative interviewing and devising effective, legal and ethical ways of eliciting accurate accounts from victims, witnesses and suspects.

Dr Rebecca Milne is a Reader in Forensic Psychology at the Institute of Criminal Justice Studies at the University of Portsmouth England. A chartered forensic psychologist and scientist and Associate Fellow of the British Psychological Society, Rebecca is an Associate Editor of the International Journal of Police Science and Management and is on the editorial boards for the Journal of Investigative Psychology and Offender Profiling and the British Journal of Forensic Practice.

All papers in this series are subject to expert peer review.

General Editor of this series: Professor Simon Bronitt, Director, ARC Centre of Excellence in Policing and Security.

For a complete list and the full text of the papers in this series, please visit www.ceps.edu.au.

ARC Centre of Excellence in Policing and Security

M10_3.01
Mt Gravatt Campus
170 Kessels Road
NATHAN QLD 4122
Ph: 07 3735 6903
Fax: 07 3735 1033
www.ceps.edu.au



Australian Government
Australian Research Council



**Australian
National
University**



**THE UNIVERSITY
OF QUEENSLAND**
AUSTRALIA

