

Impact case study (REF3b)

<p>Institution: University of Leicester</p>
<p>Unit of Assessment: UoA4</p>
<p>Title of case study: Evidential interviewing, eyewitness identification and interrogation: establishing protocols and training practitioners for proper capture and preservation of memory</p>
<p>1. Summary of the impact</p> <p>Changes to the law in the early 1990s removed the need for corroborating or physical evidence in abuse cases and allowed videotaped evidence of a child or other vulnerable witnesses to be used in a criminal court. This necessitated the drawing up of guidance to help police officers and other judicial practitioners, gather crucial evidence while minimising unintentional influence. Research at Leicester has underpinned work to assess and improve the effectiveness of this guidance and to create a framework of procedural best practice. This has influenced and directed the formation of protocols and training development of practitioners for uniform, fair and reliable investigative interviewing of vulnerable witnesses and for accurate identification and interrogative interviewing of suspects in the UK and through the sharing of best practice, across the UK and internationally.</p>
<p>2. Underpinning research</p> <p>Over twenty years, the School of Psychology has conducted research and built up expertise in many aspects of forensic psychology, including eyewitness testimony and identification, face recognition and perception of criminality, interviewing vulnerable witnesses, memory and recovered memory, suggestibility and compliance, along with psychological profiling.</p> <p><u>Background</u></p> <p>In the late 80s, increasing public concern about the high number of sexual abuse cases involving child witnesses that were not successfully prosecuted, as well as severe criticism of police and social services for the use of inappropriate investigative techniques, led to a change to the UK Criminal Justice Act of 1991, allowing a child's testimony to be video-recorded and used as a substitute for live examination at trial. Guidance in conducting video-recorded interviews with children under the age of 14 for violent offences and under the age of 17 for sexual offences was published by the Home Office and Department of Health in 1992. This Memorandum of Good Practice owed much to the experience of Professor Graham Davies, a member of the Steering Committee, in researching and facilitating children's evidence in court. His evaluation of the effects of this change in legislation (with research assistant Claire Wilson) showed that the use of video technology reduced the levels of stress of child witnesses but did not increase conviction rates (1).</p> <p><u>Evaluation of protocols and techniques for interviewing vulnerable witnesses</u></p> <p>In 1997, Davies (with PhD student Helen Westcott) collaborated with researchers from the US National Institute of Child Health and Human Development on an evaluation of the quality of investigative interviews in England and Wales since implementation of the MOGP. The research found that interviewers seldom used open-ended utterances to elicit information, instead relying heavily (40%) on option-posing and suggestive prompts, known to elicit less reliable information (2). Davies led the writing team in 2001 when MOGP was replaced by Achieving Best Evidence in Criminal Proceedings (ABE) for use in interviewing children under 17, regardless of the offence involved, and for interviews with vulnerable or intimidated adults (revised in 2007 and 2011).</p> <p>Professor Ray Bull's research in this area demonstrated that the findings of psychological research are very relevant to good interviewer performance and can have a profound positive influence on 'what works' in the investigative interviewing of vulnerable witnesses (3). In 2008, Bull and Dr Robyn Holliday looked at the interviewing of older adults, who represent a special group of witnesses and victims of criminal acts. The research built on Holliday's previous findings that if modifications were made for developmental appropriateness, children as young as 4 years old could provide accurate testimony. It showed that a specially adapted cognitive interview increased the reporting of correct information even in the oldest age group, and that a specially designed</p>

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interview could help older adults resist accepting misinformation about a witnessed crime (4).

Research into identification and interviewing of suspects

Dr Heather Flowe's work examines the adoption of sequential over traditional simultaneous line-ups as a means of reducing false identifications of innocent suspects. The unit was among the first to employ eyetracking to assess how people visually analyse line-up faces. Flowe's studies found that line-up member similarity, previously thought not to affect accuracy in sequential line-ups, influences accuracy in both types of line-ups, and that eyewitnesses given a sequential line-up are more likely to pay attention to the external features of faces (jaw line, hair; 5). Current research is looking at police protocols for interviewing intoxicated eyewitnesses, particularly sexual assault victims.

Dr Julian Boon has studied individuals who 'fake bad' (exaggerate their psychopathology) on psychological tests such as the Gudjonsson Suggestibility Scales (GSS's), which measure how susceptible a person is to coercive interrogation, for instrumental gain in certain forensic and clinical contexts. The findings support the view that participants attempting to "fake bad" on the GSS were successful in doing so on the principal suggestibility measures of the test. They also indicate that there may be potential in coding for additional information that can reveal 'red flags' with which to unmask these attempts (6).

Key staff

Leicester: Professor Graham Davies, Emeritus Professor (1989 – 2006); Prof Ray Bull, Emeritus Professor (2004 - 2012), Helen Westcott, PhD student (1989 - 1996), Clare Wilson, Research Assistant (1992 - 1996), Dr Robyn Holliday, senior lecturer (2008-present), Dr Julian Boon, senior lecturer (1993 – present), Dr Heather Flowe, lecturer (2008-present).

Other: Dr Rebecca Milne (University of Portsmouth), Professor Amina Memon (Royal Holloway, London) and Dr Lynsey Gozna (University of Surrey).

3. References to the research

1. Davies, G. M. (1999). The impact of television on the presentation and reception of children's evidence. *International Journal of Law and Psychiatry*. 22: 241-256.
2. Sternberg, K. J., Lamb, M. E., Davies, G. M. & Westcott, H. L. (2001). The 'Memorandum of Good Practice: Theory versus practice. *Child Abuse and Neglect*. 25: 669-681.
3. Bull, R. (2010) The investigative interviewing of children and other vulnerable witnesses: Psychological research and working/professional practice. *Legal and Criminological Psychology*. 15(1): 5-23. DOI: 10.1348/014466509X440160
4. Holliday, R.E., Humphries, J.E., Milne, R., Memon, A., Houlder, L., Lyons, A., & Bull, R. (2012). Reducing misinformation effects in older adults with Cognitive Interview mnemonics. *Psychology & Aging*. 27(4): 1191-1203.
5. Flowe, H. D., & Cottrell, G. (2011). [An examination of simultaneous lineup decision processes using eye tracking](#). *Applied Cognitive Psychology*. 25: 443-451. doi: 10.1002/acp.1711
6. Boon, J.C.W., Gozna, L.F. and Hall, S. (2008). Detecting 'faking bad' on the Gudjonsson Suggestibility Scales. *Personality and Individual Differences*. 44: 263-272.

Underpinning grants

Home Office Research and Planning Unit: Evaluation of new provisions for child witnesses (1992-1994). £141,000

National Institute for Mental Health (USA): Study of the quality of investigative interviews conducted with child complainants of sexual abuse (1997-1998). £18,400

Levershulme Trust: Interviewing the older eyewitness: out of sight but not out of mind? (2008). £26,254.

4. Details of the impact

Until the early 1990s, the techniques used by police officers when interviewing witnesses were largely unobserved – and therefore not open to rigorous scrutiny. The introduction of video recordings in 1991 put the quality of evidential interviews in the spotlight. Both the original 1992 MOGP and 2001 ABE were influenced by the findings of research carried out at Leicester and are considered to have been enormously influential in guiding the practice of evidential interviewers in the UK and around the world, helping them to achieve better, more robust evidence from interviews involving challenging circumstances (A). Revisions in the 2007 and 2011 editions were influenced by the unit’s continuing research, particularly on cognitive interviewing techniques.

‘Staggering improvement’ in interviewing techniques

The National Policing Improvement Agency’s Vulnerable Witness Adviser, says that there has been a “staggering improvement” in interview techniques and practice since the late 1980s. “Before these guidelines were drawn up, interviewers relied on one chapter of a police manual, which basically said: “Don’t ask leading questions.” Graham and Ray’s work was the first to create an interview structure and a set of techniques for evidential interviewing which are still used today.” (A).

Although the documents apply to practice in England and Wales, they have been used as the basis for similar guidance in Scotland and Northern Ireland. Their influence has spread internationally: while differing judicial systems require their own set of rules, countries such as France and the US have incorporated the core standards into their own guidance.

Sharing best practice around the world

Practitioners in the UK have also shared these standards with prosecutors, judges, social workers, police officers and NGOs working in countries where evidential interviewing of children is less established than in Europe and North America. The Lead Officer for the Association of Chief Police Officers (ACPO) on child protection and sex offenders from 1989 to 2001, has worked on behalf of the Foreign and Commonwealth Office in Malaysia, Jordan, Cuba, Costa Rica, Belize, the Dominican Republic, Chile and Argentina. He says: “This training and guidance is directly underpinned by the research at Leicester.” (B). Projects in 2012 included changing procedures and practices for interviewing child witnesses in Chile in collaboration with the police force; and working with an NGO in Argentina on integrating the activities of police and others in the criminal justice system into a more coherent approach to the investigation of allegations of child sexual abuse.

In his training of practitioners, including 12 psychologists from the provinces of Tucuman, Jujuy and Formosa, Argentina, in the theory and practice of interviewing child victims and witnesses, The ACPO Officer uses the book *Tell Me What Happened*, part of a series called *The Psychology of Crime, Policing and Law*, edited by Davies and Bull (C). He says: “They are written in accessible language suitable for practitioners and I carry copies with me all over the world.”

Expert testimony in court

Based upon their research, members of the unit are called upon five or six times a year each to provide expert testimony in family law and criminal law courts across the UK, Channel Islands and Republic of Ireland. Dr Robyn Holliday reviews around 30 hours of videotaped evidence a year to assess whether an interview has been conducted appropriately – that no suggestive prompts are made, that questions are age-appropriate and that the witness understands the difference between the truth and a lie.

Improving eyewitness identification procedures

Dr Heather Flowe’s work on identification procedures informed the New York State’s District Attorneys and all of the state’s police agencies’ voluntary adoption of the New York State Identification Procedure Guidelines for the showing of photo arrays and line-ups to witnesses of crimes in 2010 (D). The guidelines spell out how to compose a fair photo array or line-up so that the suspect does not stand out in a way that could encourage an incorrect identification.

Flowe has been asked to testify in numerous trials, including that of [text removed for publication], whose conviction for first-degree murder was based on an eyewitness’s testimony. She was

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commended for her ability to “relate the subject to common, real-life experiences.” (E)

Flowe’s training courses on identification procedures, in December 2012, for the Manhattan District Attorney’s Office were both live (two 2-hour sessions attended by 100 attorneys) and online, a version of which was distributed to 500 Assistant DAs, who handle 100,000 criminal cases each year, as well as the New York Prosecutors’ Training Institute, so DAs from across the state could access it. The training includes discussion of the impact of inaccurate identifications on wrongful convictions as well as the importance of avoiding inadvertent influences.

Psychological support in ‘most grave and challenging’ investigations

Dr Julian Boon is one of only two external psychological profilers used by the Serious Organised Crime Agency (SOCA, now NCA) and other police forces in need of expert psychological support in their investigations, which tend to be of the “most grave and challenging nature”. (F) He helps the police to understand what kind of person could commit an appalling act and how such traits might manifest themselves in everyday routines. Boon has provided advice on a number of high-profile cases such as [text removed for publication]. The former Commander of the Metropolitan Police Service, explains the “true great value” of profiling: “There might be fifty suspects. Homing in on the right one sooner rather than later can save weeks of investigation at anything around £50,000 a week and upwards, in some cases it can truncate a series of rapes, and in some cases it can save lives. After arrest, an understanding of psychology can be of great assistance in constructing an interview strategy and a court cross examination strategy. This can increase prospects of conviction [although] no measurement [has been] attempted.”

Boon also trains 30 senior police officers and counter-terrorism experts in advanced interrogative interviewing techniques. He conducts risk assessments in prisons of violent offenders for the Parole Board, using his clinical judgement and a psychometric assessment to determine how successfully (bona fide or pretending) they have responded to treatment programmes and whether they are safe to be released into Category D open conditions or the community. He gives evidence in a number of court cases a year at all levels (Magistrate’s, Crown and Royal) on the influence of suggestibility and/or compliance in relation to interviewing and reliability, commenting on whether the interviewing style is likely to have caused the interviewee to have given unreliable evidence at any point.

5. Sources to corroborate the impact

- A. Transcribed interview with Vulnerable Witness Adviser, National Policing Improvement Agency.
- B. Transcribed interview with Lead Officer for the Association of Chief Police Officers (ACPO) on child protection and sex offenders.
- C. Westcott, H. L., Davies, G. M. & Bull, R. (2001). Child witness handbook: Psychological research and forensic practice; Lamb, M. E., Hershkowitz, I., Orbach, Y., & Esplin, P. W. (2008) Tell me what happened: Structured investigative interviews of child victims and witnesses; and M. E. Lamb, D. J. La Rooy, L., C. Malloy and C. Katz (eds.) (2011) Children's Testimony: A Handbook of Psychological Research and Forensic Practice.
- D. New York Law Journal: Police, District Attorneys Unveil Statewide Identification Procedures by Kristine Hamann. 14 December 2010
<http://www.daasny.org/NYLJ%20Identification%20Procedures%2012-14-10.pdf>
- E. Letter from Salt Lake County District Attorney.
- F. Letter from former Commander, Metropolitan Police Service.