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Interviewing rape complainants: Police officers' perceptions of  
interview format and quality of evidence

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### Abstract

This study explored police perceptions of video recording rape complainant interviews for investigative and evidential purposes. Officers ( $N=136$ ) rated the accuracy of one of three mock transcripts of a rape complainant video interview: a 'standard interview' containing inappropriately closed and leading questions; a 'structured interview' with open and appropriately closed questions; and a 'cognitive interview' (CI) containing the CI mnemonics. Officers' in the standard condition rated the complainant as less accurate and that they were less likely to proceed with charges than in the structured and CI conditions. Officers cited the main advantages of video interviewing as improved forensic quality and interviewing practices, and the ability to use the interview as good evidence. Officers' rated the ideal characteristics of the complainant's video interview similarly when used for investigative compared to evidential purposes. These findings suggest video recording complainant interviews may be one way of improving quality resolutions in rape cases.

Sex offences are difficult to prosecute, in part at least because evidence often consists only of accounts given by a complainant and a suspect (Lees, 2002). This difficulty is due to the circumstances of the criminal activity in that it is not usually committed in front of independent witnesses and often there is little or no other evidence. Even when objective evidence is available, such as DNA, it does not allow determination of the issue of consent and so may add little to a case when it comes to court (Edwards, 2003; Lees, 2002). As a consequence, enhancing the evidential sufficiency of a rape complainant's account both during the investigation and prosecution process may be one way of improving quality resolutions.

Given the importance of complainant testimony, the purpose of the current research was to explore video recording<sup>1</sup> complainant interviews as one means of enhancing the quality of their evidence and the effective investigations and prosecutions of rape cases. Before proceeding to prosecution the police must first conduct an investigation to establish what, if any, offending has occurred and decide whether there is sufficient evidence to charge the alleged offender, or offenders (Kebbell & Wagstaff, 1997). A review of attrition studies conducted over the last 30 years in Australia, Canada, England and Wales, Scotland, and the United States, showed on average only 30% of rape cases reported to the police resulted in prosecution (Daly & Bouhours, 2009). Daly and Bouhours surmised that the main factors associated with cases proceeding through the prosecution process were evidence related.

The police in New Zealand, England, Wales and other countries are moving towards video recording rape complainant interviews in preference to the traditional method of preparing a written statement (Criminal Justice System, 2007; New Zealand Police, 2008). In doing so, the police are attempting to improve the quality of the information from rape complainants and reduce any trauma caused to them through the investigative process. Central to the justice

system, the interview record forms the basis for investigative and prosecutorial decision making, and is used by the complainant as a memory refresher before giving evidence. Defence counsel also use the record to discredit the complainant by highlighting any inconsistencies with their oral evidence (Heaton-Armstrong & Wolchover, 1992). An incomplete and often inaccurate record of the interview has been shown to result from officers undertaking the cognitively demanding task of preparing a written statement (Kohnken, 1995; Kohnken, Thurer, & Zoberier, 1994; Lamb, Orbach, Sternberg, Hershkowitz, & Horowitz, 2000). Some barristers, psychologists and linguists have criticised the police and the justice system for their over-reliance on statements that they argue are treated as a verbatim representation of a witness's account (Heaton-Armstrong & Wolchover, 1992; Milne & Shaw, 1999; Rock, 2001). Video recording interviews could alleviate some of these problems and enhance the completeness and accuracy of information from rape complainants. However, data are sparse concerning how video recording rape complainant interviews actually affect investigative and evidential practices.

#### *Questioning as a gauge for accuracy*

Video recording the interview potentially provides police officers with an additional investigative tool, the ability to make accuracy judgments based on how the information was elicited from the complainant. How questioning can influence the accuracy and amount of information recalled is well documented (e.g. Hutcheson, Baxter, Telfer, & Warden, 1995; Lipton, 1977; Loftus & Palmer, 1974). Milne and Bull (1999) described how different questioning types relate to the efficacy of investigative interviewing. They described open-ended questions as those that allow the respondent to give an unrestricted and detailed answer (e.g. "Tell me what happened..."). Considered the best type for gathering information, these types of

questions tend to produce the greatest accuracy and quantity of information. Closed questions produce a narrower response of varying degrees, from one word (e.g. “What colour was his shirt?”) to a phrase (e.g. “What was he wearing?”). Generally, the more open a question, the more accurate the response is likely to be (e.g., Hutcheson et al. 1995; Lipton, 1977). Open-ended questions allow the respondent to provide the information they know. In contrast, closed questions ask the respondent for information the questioner wants them to remember, thereby making the respondent susceptible to the demands of the questioner such as conformity and compliance (Kebbell & Wagstaff, 1999). Guess work may also play a part in the answer given to closed questions, thus potentially further reducing the accuracy of the information gained. Closed questioning is however considered appropriate when more information is required from the witness and attempting the use of open questions has failed (Milne & Bull, 1999).

Leading or suggestive questions imply the answer and hence are more likely to reduce the accuracy of the response even further (e.g. Clifford & Scott, 1978; Geiselman, Fisher, Cohen, Holland, & Surtes, 1986; Loftus & Palmer, 1974). The degree of suggestion in the question can vary from strongly leading (e.g. “the car was blue wasn’t it?” – suggesting the car was blue) to more subtly leading (e.g. “how tall was he?” – suggesting the person was tall). The reduced accuracy resulting from these types of questions mean they are considered inappropriate with both children and adults in most circumstances and are warned against in associated interviewing guidance documents (e.g. Criminal Justice System, 2007).

Research into whether questioning style affects judgments of witness accuracy and case outcome has primarily focused on mock juror assessments of child testimony. Some studies have found that the use of leading questions negatively influences credibility judgments about mock transcripts of child testimony (Castelli, Goodman, & Ghetti, 2005; Kalra & Heath, 1997), while a

video simulated trial found no effects of question type (Schmidt and Brigham; 1996). Only one study compared the effects of questioning format on child and adult credibility judgments. Ruva and Bryant (2004) found that mock jurors who read a mock trial transcript rated six year olds as more credible when open-ended questions were used compared to closed-ended questions. No differences were found in credibility judgments when questioning was varied with 10 and 22 year olds, however this study did not include the use of leading questions. Together the research suggests that mock jurors may take questioning into account only to a limited extent when assessing witness credibility, and this relationship may be mediated by the age of the witness. No research that we are aware of however examines whether officers take questioning into account when making accuracy judgments. Given they are trained professionals working in this field, officers may have a greater awareness about the effects of different question types on accuracy and be more likely to use this as a gauge. If so, access to the video interview of the rape complaint may assist with effective investigative decision making.

#### *Investigative interviewing methods*

When the interview is video recorded, in an attempt to enhance the completeness of the complainant's account without compromising on accuracy, the police in many countries use the cognitive interview (CI; e.g. England, Wales, New Zealand; Criminal Justice System, 2007; New Zealand Police, 2008). Originally developed by Fisher and Geiselman, the CI included four primary cognitive mnemonics in the form of instructions for the witness to reinstate context, report everything, recall events in a variety of orders and recall events from a different perspective (Fisher, Geiselman, & Amador, 1989; Fisher, Geiselman, Raymond, Jurkevich, & Warhaftig, 1987). Initial studies found the CI substantially enhanced recall when compared to standard police interviews (Geiselman, Fisher, MacKinnon & Holland, 1986). However, the

standard police interviews, which consisted of officers interviewing as they normally would, were found to contain poor communication skills like interrupting the witness and using inappropriate closed and leading questioning (Fisher, Geiselman & Raymond, 1987). The CI was therefore refined to include a structure to follow and effective communication skills such as building rapport, explaining the interview process and using appropriate questioning (see Fisher & Geiselman, 1992). Using witness-compatible questioning techniques, focused retrieval, and activating and probing an image, were new mnemonics also added. These refinements led to the development of a control 'structured interview', which contained the same effective communication skills as the CI minus the mnemonics (Kohnken et al., 1994). A meta-analysis of both the old and newer enhanced version of the CI showed similar accuracy rates to comparison standard and structured control interviews; 85% CI and 81% control (Kohnken, Milne, Memon, & Bull, 1999). The CI also elicited an average of 41% more correct details, an important increase in real life rape investigations that often have limited evidence.

#### *Use of the video as evidence*

A further benefit of video recording interviews is the recent introduction in some countries of the ability to use the interview of some adult witnesses as their evidence in chief during criminal proceedings (Criminal Justice System, 2007; Mahoney McDonald, Optican, & Tinsley, 2007). Using the video as evidence was originally introduced for child complainants to reduce the trauma of the process and to improve the quality of their evidence (see for example, Advisory Group on Video Recorded Evidence, 1989). Adult rape complainants are one group that is likely to meet the new criteria for this alternative way of evidence, allowing for the previously discussed benefits to the investigator of using the video interview to extend to the courtroom. In addition, using the video as evidence will allow the jury to view the complainant's

account as made more contemporaneous to the time of offending rather than at trial months and sometimes years after the police interview. Thereby, improving the quality of the evidence by reducing the effects of forgetting (see Baddeley, Eysenck, & Anderson, 2009), and the susceptibility of memory recall to distortion from other sources such as the media (e.g. Crombag, Wagenaar & van Koppen, 1996; Loftus & Banaji, 1989), or co-witnesses (e.g. Gabbert, Memon, & Allen, 2003; French, Garry, & Kazuo, 2008).

Two main issues arise from using an investigative interview as evidence. Firstly, during the investigation phase the purpose of the interview is to elicit as much accurate and complete information as possible. Attributing values to this information occurs later in the context of the whole investigation (Criminal Justice System, 20007; New Zealand Police, 2008). In contrast, rules of evidence determine the admissibility of the information provided by the witness (e.g. Mahoney et al., 2007). Thus, a video recorded investigative interview may include information not directly relevant to proceedings that, with the oral system of evidence, was previously filtered out through the pre-trial briefing of the witness and strategic questioning by the prosecutor. Using a video record produced during the investigation as evidence reduces the ability to manage this type of information and may capture information deemed inadmissible by the courts, a situation that the additional information generated by the CI may exaggerate.

Secondly, not much is known about the effectiveness of using video recorded CI's as evidence. Well established doctrine amongst prosecutors is that the effectiveness of the evidence is determined by how it presents to a jury, so accuracy and completeness may mean very little if the evidence is low in persuasive power (Danet, 1980; Evans, 1994). This tension is highlighted with concerns expressed by the judiciary and prosecutors about the ability of police interviews, which typically follow the CI format, to serve as effective evidence (Criminal Justice Joint

Inspection, 2009; Stern, 2010). Notably, the length of the interview, lack of focus and clarity, inability of interviewers to highlight aspects of the evidence, and inclusion of the explanation of the interview process have been cited as obstacles. However, to our knowledge no research has examined officer perceptions as to whether video recorded interviews with rape complainants can meet both investigative and evidential purposes or if the dual nature of the interview influences officers' perceptions of how they should interview. Gaining an understanding of these issues is important because the decision to interview on video rests with officers and these perceptions may affect the format of the interview.

In sum, the purpose of this research was to explore officer perceptions of using video recorded interviews of adult rape complainants for investigative and evidential purposes. Our 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 perceptions of officers about the advantages and disadvantages of video recording interviews? and (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

### *Participants*

Officers from the New Zealand Police who are involved in the investigation of adult sexual assault cases were invited to participate anonymously via email containing an electronic link to the questionnaire. All specialist interviewers in the police, who conduct video interviews with adult witnesses using the CI were identified from national records and invited to participate ( $N=93$ ). As were a random selection of investigators ( $N=144$ ) and supervisors ( $N=144$ ) identified through contact persons in each sub-area of the police as being involved in adult

sexual assault investigations. Participants were able to respond during work hours and were given four weeks to complete the questionnaire. The response rate for the three hundred and eighty one officers who were invited to participate was 35.7% ( $N=136$ ). Not all respondents completed all sections of the questionnaire hence the reported  $N$  varies depending on how many respondents completed the relevant items.

The mean age of those who completed all the demographics section of the questionnaire ( $N=87$ ) was 42.2 years ( $SD=6.3$ ) and length of service ranged from 6 to 34 years ( $M=17.0$  years,  $SD=6.5$ ); 66 were male (76.7%), 20 were female (23.3%) and one did not complete this item. Investigators consisted of 41.4% of the respondents ( $N=36$ ), followed by supervisors, 32.2% ( $N=28$ ), and specialist interviewers, 26.4% ( $N=23$ ). In total 80.5% reported to have received some form of investigative interview training.

### *Questionnaire*

A quasi-experimental questionnaire was developed and refined after being piloted on nine police officers. The questionnaire took about 45 minutes to complete. The first section used a between-subjects experimental design to assess participant's perceptions of the effectiveness of different questioning styles and interview format for an adult rape complainant interview. Participants were asked to rate a mock adult rape investigative case<sup>2</sup>. The case included background information outlining a rape by an acquaintance at a party where the alleged offender claimed the sex was consensual and there was no other corroborating evidence. Transcript excerpts for a complainant's video interview derived from actual cases were prepared in three conditions based on the definitions created by Kohnken et al. (1994): (i) standard interview, (ii) structured interview, and (iii) cognitive interview. Participants from each group (investigator, supervisor and specialist interviewer) were randomly assigned to each condition

but response rate was not equal across conditions (standard  $N=52$ , structured  $N=43$ , cognitive  $N=41$ ).

The account provided by the complainant was the same across all conditions but the interviewing format was manipulated. Each condition contained three excerpts – an initial account, a description of the offender, and a description of the sexual offending. The standard interview format used inappropriate closed and leading questions throughout as has been reported as occurring in traditional police interviews (refer to Kohnken et al, 1994). The structured interview used an open question to elicit a free narrative for the initial account and used primarily open and some appropriate closed questions for the description of the offender and offending. The CI condition was identical to the structured condition with the addition of cognitive mnemonics in the interviewer's text, which were report everything, context reinstatement and focused retrieval (mnemonics were used as described in Milne, 2004).

After each excerpt participants rated their perceived accuracy of the information and the credibility of the complainant based on all the information they had received using a nine point Likert scale (1='not' accurate/credible; 9='very' accurate/credible). After the final excerpt, participants were also asked to rate the likelihood that the alleged offender actually committed the offence and whether they would charge the alleged offender. In addition, they were asked to rate, if the visual recording of the interview was played at a trial, how they believe a jury would perceive the accuracy and the credibility of the complainant, the likelihood a jury would convict the alleged offender, and the realism of the scenario.

The second section of the questionnaire used open questions to examine participant's perceptions of the advantages and disadvantages to investigations of video recording interviews as compared to producing a written statement<sup>3</sup>. One researcher coded the responses to all the

open questions and another researcher coded a random selection of 10% of all responses. Disagreements in coding were discussed and resolved. A Cohen's Kappa test found inter-rater reliability high and statistically significant ( $K=.84$ ;  $p<.001$ )

The third section contained a 56 item, 7 point Likert scale where participants were asked to rate a list of characteristics of a complainant's account according to what provided the best information for investigations (1='strongly disagree', 4='neutral'; 7='strongly agree'). The characteristics included forensically relevant characteristics (e.g. accuracy, completeness, detail), interview characteristics (e.g. different types of questioning and interview techniques; derived from Milne, 2004), and complainant characteristics known to affect credibility ratings (e.g. inconsistent, emotional; derived from Memon, Vrij & Bull, 2003). The same list of characteristics were then used for participants to rate the best evidence for a jury trial. Finally, demographic details were obtained.

## Results

First we examined whether officers take questioning and interview format into account when making judgments about complainant accuracy, credibility, and decisions to charge. Pearson's correlations for each transcript excerpt indicated that perceived accuracy of information and credibility of the complainant were highly and significantly related (initial account,  $r(141)=.63$ ,  $p<.001$ ; offender description,  $r(138)=.60$ ,  $p<.001$ ; and, action description  $r(136)=.71$ ,  $p<.001$ ). Nor were any significant differences found between investigators, supervisors and interviewers ratings of accuracy by condition ( $F(2,78) = 0.42$ ,  $p<.05$ ). For these reasons only accuracy ratings for all participants as one group are reported. On average participants rated the realism of the scenario on a 9-point Likert scale as  $M = 6.87$  ( $SD=2.22$ ) indicating they found the scenario reasonably realistic.

*Interview condition and type of information*

A 3 X 3 ANOVA (standard/structured/cognitive interview X initial account/offender description/action description) with repeated measures on the second factor was conducted on participants' ratings of the complainants' accuracy. These data are displayed in Table 1. There was a significant main effect of interview condition,  $F(2,133) = 28.71, p < .001, \eta^2 = .30$ . Follow up  $t$ -tests ( $p < .05$ ) indicate that the complainant was perceived to be less accurate in the standard condition ( $M = 3.96, SD = 1.43$ ) than either the structured or cognitive interview conditions which did not differ from one-another ( $M = 6.05, SD = 1.50$  and  $M = 5.81, SD = 1.52$  respectively). There was also a significant main effect of information type,  $F(2,266) = 25.62, p < .001, \eta^2 = .16$ . Follow up  $t$ -tests ( $p < .05$ ) indicate that the initial account ( $M = 5.54, SD = 2.00$ ) was perceived to be as accurate as the action description ( $M = 5.42, SD = 2.12$ ) and both were perceived to be more accurate than the offender description ( $M = 4.56, SD = 2.09$ ).

The interview condition by interview type interaction was also significant,  $F(4,266) = 16.22, p < .001, \eta^2 = .20$ . Follow up  $t$ -tests ( $p < .05$ ) indicated that there were no differences between interview conditions concerning the perceived accuracy of the initial account, however, the perceived accuracy of the offender and action description, for both the structured and cognitive interview conditions were higher than the standard condition. The difference between the structured and cognitive interview were not significant for either the offender or action description.

*Interview condition, guilt and case outcome*

A 3 X 3 ANOVA (standard/structured/cognitive interview X committed offence/charged/convicted) with repeated measures on the second factor was conducted on participants' ratings of the alleged offenders guilt and case outcome. These data are displayed in

Table 2. There was a significant main effect of interview condition,  $F(2,131) = 4.70, p < .05, \eta^2 = .07$ . Follow up  $t$ -tests ( $p < .05$ ) on cumulative scores indicate that the alleged offender was perceived as being less likely to have committed the offence, to be charged and convicted in the standard interview ( $M = 3.80, SD = 1.29$ ) than in the structured ( $M = 4.56, SD = 1.35$ ) and cognitive interview condition ( $M = 4.53, SD = 1.48$ ), which did not differ from each other.

There was also a significant main effect of guilt and case outcome,  $F(2,262) = 160.58, p < .001, \eta^2 = .55$ . Follow up  $t$ -tests ( $p < .05$ ) across all conditions indicate that the alleged offender was more likely to be perceived as having committed the offence ( $M = 5.80, SD = 1.66$ ) than for charges to be laid ( $M = 4.34, SD = 2.24$ ) and as even less likely to be convicted by a jury ( $M = 2.64, SD = 1.54$ ). The interaction was not significant,  $F(4,262) = 1.53, p < .05$ .

#### *Advantages and disadvantages to investigations*

Next, we used a series of open questions to examine officer's perceptions of the advantages and disadvantages to investigations of video recording an adult sexual assault complainant's interview compared to taking a written statement. The most frequently perceived advantage was categorised as 'enhances forensic quality' (94.4% of all responses) which included recording the exact words of the complainant and interviewer, and non-verbal communication. For example:

*It captures all the information that is available, written evidence will lose lots of periphery details which are sometimes crucial to the case. It presents the victim as she was at the time of the video and often soon after the event rather than 18 to 24 months after. It can show the trauma and distress suffered and all this should be part of the evidence. Any inaccuracies can be shown clearly as honest errors; nothing can be hidden by inappropriate police procedure and the process is open to scrutiny and auditing.*

Increased accuracy and detail, and more information were also frequently cited in this category, as well as a reduction in interviewer influence:

*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.*

Video recording the interview was also perceived as an 'improved interviewing process' (34.7%) than taking a written statement. Comments suggested this was mainly due to the ability to allow the interviewee to provide an uninterrupted free narrative account:

*Reduce time taken to take written statement. Allows complainant to give free account without interruption and reduces the amount of repetition that occurs with written statements.*

Other advantages were 'can be used as good evidence' (33.9%):

*It can help to show the degree of difficulty for the complainant to speak about the incident and thus demonstrate the impact and effect of the incident to its true degree. Most importantly is its ability to be used as evidence in chief... thus not requiring the victim to be put through the embarrassment and trauma of repeated intimate detail and effectively being asked to re-live the offending against them in what can only be seen by them as an open forum*

And 'allows for effective review' (30.6%):

*...the entire account provided by the complainant is available to the investigator including the emphasis placed on various parts of the testimony...*

Other categories included 'time efficient' (27.4%), and 'better for the complainant' (25.0%) in terms of the interview process and ability to use the video as evidence:

*...Creates a friendlier environment that allows the complainant to talk more freely about what has occurred... Speeds up the process for the complainant as she/he is no longer required to be interviewed for lengthy periods...*

'Miscellaneous' accounted for 4.0% of responses.

The highest reported perceived disadvantage of video recording interviews for investigations was categorised as 'resource intensive' (49.2%). Comments in this category focused on the availability of transcription services, and skilled interviewers and interview monitors. The next highest scoring category concerned the interview being 'difficult to review' (42.7%), 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 depending on the monitors notes. The double up of staff time in having a monitor and an interviewer during each visually recorded interview.*

Another perceived disadvantage was that the record is ‘not good evidence’ (27.4%), responses in this category included that the complainant may not present well to the jury, especially if they behave contrary to juror expectations. Also that the video ‘captures everything’ (25.8%) including irrelevant and inadmissible information:

*If the complainant has a difficult personality it can put the jury off of him/her. Equally if the complainant is quite a strong and composed individual it can make them seem less credible as I believe juries expect victims of sexual assaults to be quivering wrecks.*

*They are generally long interviews with lots of information. Some of which is inadmissible in court (hearsay, opinion, etc) or not relevant.*

‘Risk of distribution’ of the video record was another concern (11.3%). Other responses included ‘not good for the complainant’ and ‘none’ (4.8%), and ‘miscellaneous’ (6.5%).

#### *Characteristics of interviewing for investigations and evidence*

Finally, we explored officer’s perceptions on what represents effective practice for investigations and what provides the best evidence for a jury trial. A series of seven-point Likert scales were used to measure officer’s perceptions of the ideal characteristics of the account given by an adult sexual assault complainant during a video recorded interview. Participants were firstly asked to rate the 56 characteristics of the best information for investigative purposes and then, using the same scale, were asked to rate the characteristics if the video recording was used as evidence in chief at a jury trial (1= ‘strongly agree’, 4= ‘neutral’ and 7= ‘strongly agree’). The rankings, means and standard deviations for all the characteristics that were examined are in Table 3. A Kendall correlation of concordance for these data showed officer’s were consistent in their ranking of characteristics (investigations Kendall’s  $W = .44$ , evidence Kendall’s  $W = .41$ ,  $p < .001$ ).

The mean ratings for the 56 characteristics were ranked separately for investigative and evidential scales from strongly agree to strongly disagree. The five characteristics ranked as

most desirable for investigations were ‘be as accurate a possible’, ‘be probed for more detail about evidentially important topics’, ‘have the complainant do most of the talking’, ‘include the interviewer using pauses and silence to give the complainant time to think’, and ‘be primarily elicited through open questions’. The first two characteristics for evidence were the same as for investigations and the next three were similar: ‘contain primarily free narrative responses to questions’, ‘have the complainant do most of the talking’, and ‘be as complete as possible’. Rankings for the least desirable characteristics were the same for both investigations and evidence from least desirable were: ‘be primarily elicited through leading questions’, ‘be primarily elicited through closed questions’, ‘be elicited using a traditional police interview’, ‘contain primarily short and direct responses to questions’ and ‘only contain information directly relevant to the alleged offence’.

The CI was the preferred method for both use in investigations and as evidence (investigations: *Rank* = 12, *M* = 6.18, *SD* = 1.04; evidence: *Rank*=14, *M* = 6.04, *SD* = 1.04), followed by the structured interview (investigations: *Rank*=33, *M* = 5.32, *SD* = 1.64; evidence: *Rank*=30, *M* = 5.40, *SD* = 1.59) and a traditional police interview (*Rank*= 54, investigations: *M* = 1.94, *SD* = 1.41, evidence: *M* = 2.19, *SD* = 1.35).

A comparison of ratings of the characteristics for the best information for investigations with the characteristics of best evidence for a jury trial was conducted using *t*-tests with a Bonferroni correction produced some significant differences ( $p < .0009$  with the Bonferroni correction applied). When compared to interviews for evidence significantly higher ratings were given to interviews for investigative purposes for ‘include partial memories’, ‘include an explanation of the interview process’ and ‘include the interviewer building rapport with the complainant’. Characteristics seen as significantly less important to investigative interviews than

evidential interviews were: 'only contain information directly relevant to the alleged offence', 'be in a chronological order', 'be emotional', and 'be in a logical order'.

### Discussion

The first aim was to examine whether officers make full use of the video record by using questioning as a gauge for accuracy of rape complainant testimony. We found that questioning style affected officer's accuracy and credibility judgments of an adult rape complainant interview. Officers rated the complainant as less accurate, less credible and that they were less likely to charge the alleged offender when questioning was leading compared to open. These findings suggest officers are correctly judging how certain types of questions can negatively affect the actual accuracy of the response provided (e.g. Loftus & Palmer, 1974). Officers may think that leading questions negatively affect the complainant's memory recall or that the complainant is simply complying to the interviewer's demand characteristics.

The use of appropriate questioning techniques in the structured and cognitive interview also resulted in officers perceiving the complainant's report as being more likely to convict the alleged offender. This finding is meaningful because officers may base decisions to charge on the likelihood of conviction. As previously discussed, research suggests jurors place a limited weight on questioning when making judgments about children's testimony. The relevance of research into how questioning affects juror perceptions of adult testimony will increase with access to the video record. Bearing in mind of course the jury will never see the interview if the questioning is so poor that the judge deems it inadmissible.

Ironically, despite the current findings, even after training police interviewers of witnesses tend to use closed and leading questioning frequently (see Powell, Fisher, & Wright, 2005 for a review). Further, Lamb et al. (2000) found that child interviewers systematically

misattributed responses as resulting from open rather than more focused questions. Together the findings suggest that interviewers are able to recognise poor interviewing in others but may lack insight into their own questioning behavior (see Wright & Powell, 2006). Alternatively, officers may deliberately adopt closed questioning as a tactic to manage the amount and content of information elicited from the witness despite an awareness of possible accuracy degradation (Griffiths & Milne in press; Shepherd & Milne, 2006, Wright & Powell, 2006). Nevertheless, video recording the interview allows for the effective review of these behaviours that was not previously possible. Exactly how the ability to review questioning affects prosecutorial outcomes requires further exploration, but the inability to do so is likely to negatively affect justice outcomes, by limiting effective investigative, prosecutorial, and jury decision making. The current findings suggest with the move towards video recording, the quality interviewing of adult rape complainants is one means of reducing attrition when officers make decisions about prosecution.

We found that the presence of the CI mnemonics did not affect officer's attributions of accuracy. This finding is consistent with research suggesting the CI increases the quantity of information, without affecting actual accuracy (see Kohnken et al., 1999). Although controlled for in this experiment, mock jurors have been shown to use detail as an indicator of accuracy (e.g. Bell & Loftus, 1988, 1989). How the additional detail generated by the CI affects juror judgments is a potential area for future research. For ecological validity, further research should also explore whether the effects found in this experiment generalise to judgments of actual video recorded interviews, and how questioning interacts with and weighs against other evidential factors (e.g. age, vulnerability of the witness; nature of the offence).

Officer's perceptions of the advantages and disadvantages to investigations of video recording interviews compared to preparing a written statement suggest video interviewing may be a legitimate means of improving the quality and quantity of information from rape complainants. Firstly, nearly all officers cited the method of video recording improved the forensic quality of the interview record such as accuracy, completeness and capturing both everything said and non-verbal communication. Secondly, officers saw video recording the interview as being more conducive to interviewing practices known to enhance the completeness and accuracy of the information provided (e.g. encouraging free narratives, not interrupting or using repeated questioning; see Fisher & Geiselman, 1992). Officer's comments suggest they may adopt poor interviewing behaviours in the written statement process to manage the flow of information. Further, not only was there the perception of improved quality, but officers reported that they could more effectively review video recorded interviews. These findings suggest that officers perceive the theoretical benefits of video recording the interview to be realized practice. Video interviewing therefore provides an opportunity for improving investigative practices and decision making, and in doing so, may enhance effective resolutions in rape cases.

Such corresponding opinions as to the benefits, raises questions about the disadvantages of video recording the interview. Interestingly, many of the benefits were also perceived by officers as disadvantages. While the video record allowed for effective review, reviewing the interview was more difficult. Time efficiencies during the interview process were tempered with concerns over the resource intensiveness of the overall process. It appears that the pay off for improved rape investigations is the extra demand on resources, however this investment should be weighed against the possibility of more effective decision making and better outcomes for justice.

Finally, we explored officer perceptions as to whether one interview can meet both investigative and evidential purposes. Over a third of officers volunteered that an advantage to video recording the interview was the ability to use it as good evidence. In addition, only a few minor differences were found between officers' perceptions of what characteristics of the complainant's account within a video interview provided the best information for investigations, and what characteristics provided for the best evidence in court. These findings suggest that whether fact-finder decision making also benefits from viewing the complainant's video interview is worthy of further exploration.

Matching concerns previously expressed by prosecutors and the judiciary, officers cited potential disadvantages of using the video as evidence as capturing irrelevant and inadmissible information, and being in a format not easily digestible to a jury (e.g. Criminal Justice Joint Inspection, 2009). Officer's ratings of the ideal characteristics for investigation and evidence support this finding, with evidence receiving higher ratings for being chronological and logical order, and containing only information directly relevant to the alleged offence. These characteristics are associated with the jury receiving a meaningful narrative that they can relate to (e.g. Evans, 1995). Concerns about presentation may be symptomatic of the CI format encouraging detailed recall in long free narratives ordered according to the complainant's own memory representation (see Fisher & Geiselman, 1992).

Officers also expressed concern about how the complainant presents during interview, especially whether their non-verbal behavior such as emotion appears credible to a jury. Reflecting research findings that congruence of rape complainant behavior with juror expectations enhances credibility, officers rated emotion as more important for evidence than for investigations (Dahl, Enemo, Drevland, Wessel, Eilertsen, & Magnussen, 2007; Kaufmann,

Drevland, Overskeid, & Magnussen, 2003). Such concerns may not be unique to using the video interview as evidence, however expectations about rape complainant behaviour may differ from the relaxed environment of the interview room contemporaneous to the offending to when giving evidence some time later in the formal court environment.

Editing the interview could easily alleviate some of the disadvantages identified by officers. Others, regarding how the video interview presents as evidence are more complex and require further exploration. The risk of using video interviews as evidence is that quality of complainant recall may mean very little to enhancing quality resolutions in rape cases if the evidence is not persuasive to a jury. However, together these findings provide some promise that one interview can meet both investigative and evidential purposes.

Improving the likelihood of conviction is only one type of effective resolution, Jordan (2004) argues that assisting rape survivor's recovery by making them feeling believed and supported is another. Importantly, we found that officers saw video recording the interview as a better process for complainants than taking a written statement for two main reasons. Firstly, the interviewing process was more complainant focused due to the more relaxed environment, witness-centered approach and reduction in repetitive questioning and interruptions. Secondly, the ability to use the video as evidence was thought to result in possible reduction in trauma during the court process, This finding is supported by research suggesting that most vulnerable adult witnesses would like the option of using this method (Burton, Evans, & Sanders, 2006; Hamlyn, Phelps, Turtle, & Sattar, 2004). Improving the process for complainants is also potentially another means of reducing attrition and increasing reporting in rape cases.

Achieving best evidence requires many things, not least the commitment of investigating officers. This paper shows that officers have such an understanding of the rationale of how to

improve the quality of complainant testimony. Officers perceive that video recording rape complainant interviews has many benefits for investigations, in terms of both forensic quality and improving the process for complainants, and that these benefits may extend to the prosecutorial process. The perceived disadvantages are not insurmountable and can mostly be realized with proper resourcing and education. The ongoing challenge is to manage the extra information produced and meet or change evidential requirements of relevancy and admissibility.

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Footnotes

<sup>1</sup> In this article video recording refers to both visually and auditory recording by electronic means

<sup>2</sup> Copies of the transcript are available on request

<sup>3</sup> For ease of reading corrections were made to minor spelling mistakes and typos in the responses

Table 1

*Means and standard deviations for interview condition broken down into type of information provided.*

		Standard	Structured	Cognitive
Initial account	<i>M</i>	5.33	5.93	5.41
	<i>SD</i>	(2.04)	(1.98)	(1.96)
Offender description	<i>M</i>	2.87	5.53	5.68
	<i>SD</i>	(1.41)	(1.82)	(1.62)
Action description	<i>M</i>	3.67	6.67	6.32
	<i>SD</i>	(1.63)	(1.58)	(1.64)

Table 2

*Means and standard deviations for interview condition broken down into participants' judgments on likelihood the alleged offender committed the offence and case outcome.*

		Standard	Structured	Cognitive
Guilty	<i>M</i>	5.49	6.05	5.93
	<i>SD</i>	(1.67)	(1.69)	(1.60)
Charged	<i>M</i>	3.61	4.65	4.95
	<i>SD</i>	(2.11)	(2.08)	(2.35)
Convicted	<i>M</i>	2.29	2.98	2.73
	<i>SD</i>	(1.39)	(1.49)	(1.71)

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Table 3

*Rankings, means and standard deviations for the best characteristics of the complainant's account when used for investigative or evidential purposes.*

Characteristic	Investigations			Prosecutions		
	<i>Rank</i>	<i>M</i>	<i>SD</i>	<i>Rank</i>	<i>M</i>	<i>SD</i>
Be as accurate as possible	1	6.47	.86	1	6.42	.92
Be probed for more detail about evidentially important topics e.g. 'tell me more about that...'	2	6.41	.78	2	6.36	.89
Have the complainant doing most of the talking	3	6.41	.84	4	6.34	.89
Include the interviewer using pauses and silence to give the complainant time to think	4	6.38	.86	6	6.23	1.10
Be primarily elicited using open questions (questions that elicit a wide answer – more than a few words) e.g. 'describe him to me...'	5	6.38	1.10	7	6.22	1.05
Be as complete as possible	6	6.37	.86	5	6.29	.87
Be given in the complainant's own time	7	6.30	.88	11	6.07	1.06
Contain a high level of detail about information central to the alleged offence	8	6.29	1.00	9	6.09	1.01
Contain primarily free narrative responses to the questions	9	6.29	.88	3	6.34	.86

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Include the complainant being asked to report everything they know	10	6.21	1.12	12	6.06	1.09
Include an explanation of the interview process	11	6.20	1.05	22	5.66	1.33
Be elicited using the enhanced cognitive interview	12	6.18	1.04	14	6.04	1.04
Be coherent	13	6.17	1.00	15	6.01	.98
Contain peripheral information that can be corroborated by other witnesses	14	6.02	.98	18	5.94	1.18
Include partial memories	15	5.93	1.13	33	5.35	1.42
Be clearly communicated	16	5.92	.99	8	6.15	.96
Not be interrupted	17	5.92	1.19	19	5.92	1.18
Include information that may seem trivial or unimportant to the complainant	18	5.87	1.35	31	5.38	1.36
Include the complainant being asked not to guess or fill in any gaps in memory	19	5.83	1.62	17	5.97	1.16
Be easily understood	20	5.82	1.18	13	6.05	.99
Appear to be accurate	21	5.82	1.20	10	6.08	1.04
Be elicited through simply worded questions	22	5.82	1.22	16	6.00	1.14
Be ordered according to the complainant's recall	23	5.72	1.36	29	5.42	1.38
Contain information that is peripheral to the	24	5.69	1.13	32	5.35	1.22

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alleged offence but helps the complainant						
remember						
Be elicited in a manner dependant on the characteristics of the complainant	25	5.67	1.04	25	5.64	1.09
Be elicited when the complainant is concentrating hard	26	5.58	1.32	28	5.47	1.43
Emphasise evidentially important points	27	5.58	1.27	20	5.87	1.07
Include the drawing of a sketch plan of the scene by the complainant	28	5.54	1.22	26	5.60	1.16
Include the interviewer building rapport with the complainant	29	5.49	1.66	39	4.98	1.74
Address inconsistencies within and between the complainant's accounts	30	5.48	1.46	23	5.65	1.42
Address any issues that may later be used to discredit the complainant	31	5.47	1.34	21	5.79	1.24
Cover all avenues of the investigation	32	5.36	1.24	38	5.03	1.33
Be elicited using a structured interview (using open and then closed questions)	33	5.32	1.63	30	5.40	1.59
Tell a story	34	5.26	1.36	24	5.65	1.24
Be given near to the time of the alleged offence	35	5.26	1.41	27	5.49	1.27
Cover evidentially important topics more than	36	5.12	1.36	34	5.16	1.29

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once						
Contain no ambiguities	37	4.97	1.46	37	5.05	1.61
Be elicited after they have been asked to concentrate hard	38	4.96	1.64	36	5.09	1.52
Include memories they are not confident in	39	4.77	1.59	44	4.67	1.61
Contain a high level of detail about information peripheral to the alleged offence (i.e. information not directly relevant to the charges)	40	4.75	1.52	45	4.43	1.61
Be provided in a confident manner	41	4.63	1.45	35	5.15	1.30
Be concise	42	4.47	1.99	40	4.96	1.73
Be elicited in a variety of orders e.g. forwards and backwards	43	4.40	1.51	49	4.02	1.56
Contain verbal hesitations, verbal hedges and false starts in speech e.g. ‘Um...’, ‘I think..’, ‘I...he...’	44	4.37	1.55	48	4.15	1.71
Be emotional	45	4.36	1.33	42	4.75	1.13
Contain no inconsistencies within the account	46	4.33	1.59	43	4.75	1.66
Be in a logical order	47	4.21	1.60	41	4.87	1.63
Be elicited after giving them mental cues about the physical and emotional context	48	4.12	1.69	47	4.34	1.60
Be given from a variety of perspectives e.g.	49	3.89	1.64	51	3.86	1.66

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from the complainant's own viewpoint and the viewpoint of the offender						
Cover evidentially important topics first	50	3.68	1.78	50	3.89	1.61
Be in chronological order	51	3.49	1.84	46	4.39	1.67
Only contain information directly relevant to the alleged offence	52	2.81	1.45	52	3.62	1.54
Contain primarily short and direct responses to the questions	53	2.50	1.39	53	2.97	1.62
Be elicited using a traditional police interview (using direct short answer questions)	54	1.94	1.41	54	2.19	1.35
Be primarily elicited using closed questions (questions that elicit a few words to answer) e.g. 'what colour was his shirt?'	55	1.86	1.32	55	2.11	1.38
Be primarily elicited using leading questions (questions that imply the answer) e.g. 'was he wearing a brown shirt?'	56	1.39	1.03	56	1.72	1.18

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