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Smith, Kevin (2022) THE BENEFITS AND LIMITATIONS OF USING REMOTE TECHNOLOGY TO CONDUCT INVESTIGATIVE INTERVIEWS. *Criminal Justice Issues: Journal of Criminal Justice and Security*, 21 (3). pp. 53-62. ISSN 2744-1245

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THE BENEFITS AND LIMITATIONS OF USING REMOTE TECHNOLOGY TO CONDUCT INVESTIGATIVE INTERVIEWS

Professional Paper

Received: 11. 10. 2021.

Accepted: 27. 1. 2022.

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Abstract

The risk of infection arising from face-to-face contact during the current coronavirus pandemic has contributed to an increasing interest in the use of remote technology by law enforcement organisations for the purpose of conducting investigative interviews. Such technology was used widely to interview suspected offenders who were in custody during the pandemic but law enforcement agencies in the United Kingdom were more cautious about using it with victims, witnesses and non-custodial suspects. This caution stems from concerns about the ability of interviewers to control the interview environment, build rapport and manage trauma throughout the process. This paper will review the limited research on the use of remote technology to conduct investigative interviews and considers relevant literature from other contexts (e.g., therapy) that might be used to inform the debate. While the use of remote technology can certainly offer more flexibility and greater access to justice during investigations, further research is needed into how and when it may be used safely and effectively and into identifying the situations in which using it can be productive and those in which it should only be used with caution.

Keywords

coronavirus, pandemic, technology, witness, interviews

INTRODUCTION

It has long been assumed that the best way to conduct investigative interviews is face-to-face (Milne et al, 2020). This is particularly so in respect of interviews with vulnerable people where the guidance does not present the practitioner with any other alternatives (e.g., Ministry of Justice, 2011). The recent and ongoing COVID-19 pandemic and the associated risks of working in environments in which face to face interaction increases the risk of infection have presented law-enforcement organisations with unprecedented challenges when it comes to interviewing

victims of and witnesses to crime. One solution to this situation is to prioritise which interviews take place and which are delayed, based on factors such as the recency and the seriousness of the alleged offence, until rates of infection have decreased and become manageable. The problem with delaying interviews is that it is only a short-term solution, the investigation of crime cannot be put on hold forever. This is especially the case when the memory of witnesses is likely to be affected either by forgetting or by the contaminating effects of post-event information, when victims are anxious for justice, when forensic opportunities are likely to be missed and when offenders remain at large and likely to commit further offences.

In these circumstances, newer and more innovative solutions are needed as alternatives to working in environments in which face-to-face interaction represents an increased health risk. Given the advances in communications technology that have taken place over the years, it is not surprising that some of these new and innovative solutions focus on the use of remote video links. This paper sets out to consider the evidence-base for the use of remote video-links in investigative interviews with victims of and witnesses to crime, including the strengths and limitations of using the technology for this purpose.

THE LITERATURE: AN OVERVIEW

Though limited, the use of video-link technology to interact with people in legal contexts is nothing new. It has been used for almost twenty years to cross-examine certain ‘vulnerable’ witnesses in England and Wales. The use of technology for this purpose usually means establishing a live television link between a room and a court located in the same building, rather than the witness giving evidence from a more remote location. The idea of an interaction taking place using a video-link between two people in different rooms in the same building is also considered to be the usual scenario in other legal settings, including forensic interviews with children in the United States of America (National Children’s Alliance, 2020).

Research supporting the use of remote video-links certainly pre-dates the Covid-19 pandemic. This is particularly so in respect of certain talking therapies used to treat mental health conditions. For example, Frueh et al. (2007) found that when cognitive-behavioural therapy for post-traumatic stress disorder with male military veterans was conducted using video-conferencing technology from a remote site it was no less effective than face-to-face therapy. This finding was supported some years later by Stewart et al. (2017) in respect of trauma-focused cognitive-behavioural therapy with male and female children and adolescents aged 7 to 16 from different cultural groups in the United States. Taking an overview of the pre-pandemic research, reviews into the use of video-conferencing to facilitate access to therapy by Backhaus et al, (2012) and Berryhill et al, (2019) found similar clinical outcomes for those who had accessed therapy by the use of this kind of technology and those who had done so on a face-to-face basis. The limitations on face-to-face interaction during the Covid-19 pandemic has stimulated more recent literature that comes to similar conclusions about the use of remote video-links in therapeutic contexts. For example, Thompson-de Benoit and Kramer (2020) report favourably on their clinical experience of using remote psychotherapy in Switzerland during the pandemic. Limited research into the use of remote video-links for the purpose of conducting interviews with witnesses began long before the Covid-19 pandemic (notably, Doherty-Sneddon & McAuley, 2000). For example, Nash et. al. (2014) found that the detail and accuracy of the accounts

given by university students and staff when they were interviewed one to two weeks after viewing a film about a crime was not influenced by a video-link. Kuivaniemi-Smith et al. (2014) conducted a similar study in which university students and staff were interviewed by a forensic artist using some of the techniques from the enhanced cognitive interview (e.g., Fisher and Geiselman, 1992) to develop a sketch of the photograph of a person that they had previously been shown. While this study found the facial composites produced in the video-link condition to be less effective than those produced when the participants were interviewed face-to-face, the authors remind the reader that there are sometimes practical motives for favouring the use of video-link technology. More recently, Brown et al. (2021) have published a useful review of the literature into the use of remote video-link technology for investigative interviews with child witnesses and conclude that, while the limited research that is currently available certainly suggests that the memory reports from the interviews that are conducted using this technology are as good and sometimes better than those from face-to-face interviews, more studies are needed.

The most recent research readily available on interviewing witnesses via a video-link has been published by Dickinson et al. (2021). This study looked at the potential effects of using a remote video-link on the accounts given by children aged between 4 and 8 years. Each child experienced an event in which a researcher who had been introduced to them as “Mr Science” directed them through a series of germ education activities. During this process and in contravention of a previously stated instruction to the effect that touching was prohibited to prevent the spread of germs, he briefly touched each child by brushing their cheek with his fingers, ostensibly to remove water from an activity that was intended to simulate sneezing. After the event, the parents of each child read them a story about Mr Science. This story was not presented as something that had actually taken place but it did have the potential to introduce misleading post-event information into the children’s memories. Each child was interviewed about the event with Mr Science approximately two weeks later, some were interviewed face-to-face and others over a live video-link. Most of the children in the video-link condition were interviewed outside their homes, in buildings such as police stations, medical centres and Children’s Rape Advocacy Centres, to ensure access to more reliable technology and to reduce the possibility of distractions and the influence of family. The children in the video-link condition were accompanied by adult assistants who sat in the room on the periphery of their vision during the interviews.

Taking a broad overview of the data from this study, Dickinson et al conclude that interviewing via a video-link can be a “reasonable” alternative to face-to-face interviewing. That said, children in the video-link condition were less talkative than their peers in the face-to-face condition during the practice narrative phase and the younger children in the face-to-face condition were more forthcoming in their responses to open-ended questions than those in the video-link condition. In addition, while similar numbers of children eventually reported the touch event in both conditions, children under 7 did so more readily in the face-to-face condition and 8-year-olds did so more readily in the video-link condition. Dickinson et al make it clear that they do not know why the younger children generally said less in the video-link condition, but they point out that it could be to do with the age of the children and/or an artifact of the interview process that they adopted.

THE LITERATURE: LIMITATIONS

The current research into the use of remote video-link technology is promising in that it suggests that memory reports can, in some situations, be just as good, and sometimes even better, than in face-to-face interviews but it is limited in at least three ways. It is sparse, particularly in terms of its application to investigative interviews, it takes little account of the trauma often experienced in everyday interviews with vulnerable people and it focuses mainly on interviews that take place at remote locations outside the family home.

That the research on investigative interviews conducted with witnesses via a remote video-link is limited is evident from the literature review by Brown et al. (2021). While the research into the use of remote video-links for therapy is certainly informative, there are inevitably limitations on the extent to which its findings can be generalised to the interviewing of witnesses to crime. This is so because the purpose and, thus, the context of therapy is quite different to that of an investigative interview. The few research studies that have been published into the use of remote video-link technology in investigative settings have largely taken an experimental approach that has its limitations when it is applied to many of the interviews with victims and witnesses that are conducted by law enforcement officers and the social care agencies in live investigations.

Many of the accounts given by victims of and witnesses to crime during investigative interviews relate to traumatic events (e.g., murder, rape, the abuse and exploitation of children and vulnerable adults, terrorist incidents). While the extent to which traumatic events affect individuals varies (e.g., Kamphuis & Emmelkamp, 1998; Deffenbacher et al., 2004; Salmon & O’Kearney, 2014) some, perhaps most, of these victims and witnesses will be traumatised (e.g., Campbell et al, 2009; Jakobsen et al., 2016; Lui et al., 2017). While the contribution of rapport to the process and product of an investigative interview has been recognised in the research and guidance for some time (e.g., Milne & Bull, 1999; Collins et al., 2002; St-Yves, 2006; Fisher & Geiselman, 2010; Kim et al., 2020), its importance in the management of trauma has recently been emphasised (e.g., Smith & Milne, 2018; Risan et al, 2020; Jakobsen, 2021).

Even though several definitions of the concept have been advanced, there is no universally agreed definition of ‘rapport’ in the context of an investigative interview (Bull, 2010; Bull & Baker, 2020). In a general sense, rapport may be thought of as “a relational context that facilitates communication and the provision of an account” (Risan et al. 2020, p1) and some authors have commented on the important contributions made by empathy and emotional intelligence to building and maintaining it (e.g., Jakobsen, 2021; Risan et al., 2016). While the research on the use of remote-video links in therapy shows some promise when it comes to the development and maintenance of rapport, it is more limited in its application to investigative interviews with victims of and witnesses to crime. The experimental study focusing on investigative interviews with children by Dickinson et al takes various measures of verbalisation as an indicator of rapport. Even though this approach has its limitations when it is compared to research using more sophisticated measures such as that reported by Kim et al., 2020, Dickinson et al acknowledge that their findings largely validate the concerns of interviewers about the difficulties of building rapport with children over a remote video-link. This finding is more significant when one considers the more ecologically valid literature that emphasises the importance of rapport in the management of trauma and the ethical limitations on replicating the kind of trauma experienced by many vulnerable victims and witnesses in an experimental research design.

While a few of the interviews reported in the literature took place in family homes, notably in the research reported by Dickinson et al (2021), most participants interviewed from a remote location were either in a different room in the same building as the interviewer (e.g., Nash et al, 2013) or in buildings such as police stations, medical centres and Children's Rape Advocacy Centres. This was necessary to ensure access to more reliable technology and to reduce the possibility of distractions, including the influence of relatives, in family homes. Concerns about the use remote video-links from family homes increase when victims and witnesses are asked to talk about traumatic events. There can be serious implications when someone recounts a traumatic experience in a place that they would usually regard as a safe haven (e.g., their home). People who get upset and distressed while recounting a traumatic experience can come to associate the trauma with the place in which it was recalled (e.g., Kleim et al., 2013; Brewin, 2018; Milne et al, 2020). If that happens to be a room in their home (e.g., a living room or a bedroom) they may no longer feel safe there and that could have profound and long-term consequences for their psychological wellbeing (Milne et al, 2020). In addition, traumatised witnesses might need the kind of support that is only available in a face-to-face interaction. This may be so, for example, if they become very distressed, they experience any form of dissociation, including intrusive memories such as 'flashbacks', that are usually managed by using grounding techniques (Kennerley, 1996) or they behave erratically and unpredictably because of an undiagnosed mental health condition (Milne et al, 2020). The use of remote video-links surely has limitations in these situations.

CURRENT AND FUTURE DIRECTIONS

Given the paucity of research, particularly ecologically valid research, into the use of remote video-link technology to conduct investigative interviews, more work is needed to establish how and when it may be used safely and effectively and into identifying the situations in which using it can be productive and those in which it should only be used with caution. In the meantime, encouraging law enforcement officers to obtain good quality initial accounts and the development of effective guidelines to manage the use of video-link technology at times of a pandemic may go some way towards mitigating the concerns surrounding its use.

Initial Accounts

The role of initial accounts in the maintenance of memory and in inoculating it from the contaminating effects post-event information is important in any situation, perhaps more so when there is a delay due to an inability to conduct a face-to-face interview immediately after an incident. To be effective, it is important that open-ended questions are used to maximise the quality of the initial account. Research suggests that a good quality initial account can help to preserve memory and to inoculate it from contamination by post-event-information such as media reports and conversations with other witnesses (e.g., Dando et al., 2020; Gabbert et al., 2012). Alternatively, at best, a poor-quality initial account is unlikely to have a beneficial effect on the amount of information obtained, at worst poor questioning can contaminate memory and could potentially have an adverse impact on the victim's or witness's health and well-being (e.g., Masden & Holmberg, 2015; Langballe & Schultz, 2017).

The quality of initial accounts may be improved with the use of guidance such as the Structured Interview Protocol (SIP; Gabbert et al, 2017). The SIP has been developed to help front-line re-

sponders to question appropriately. It emphasises the need for planning as far as the circumstances permit, engaging witnesses appropriately and the use of open-ended breadth and depth questions (Powell & Snow, 2007). Alternatively, in some situations, it may be appropriate to consider the use of the Self-Administered Interview (SAI©) (Gabbert et al, 2009). The SAI© takes the form of a booklet that encourages “witnesses to play active roles through the use of open-ended questions and guides witnesses through techniques that will facilitate recall” (Hope et al, 2011 p. 216). Both the SIP and the SAI© are firmly grounded in psychological research.

Guidelines

Unpublished guidance was circulated in England and Wales at the height of the pandemic (Milne et al., 2020), while the countries were in ‘lockdown’. This guidance generally discouraged face-to-face investigative interviews from taking place in cases that did not require some form of immediate action (e.g., to keep victims and witnesses safe, to secure evidence that might otherwise be lost). Where face-to-face interviews were arranged to take place, it emphasised the need to take precautions such as social distancing and the use of personal protective equipment (PPE) such as face masks. The guidance urged caution about the use of remote video-link technology because of limitations in the ability of investigators to control the environment in which interviewees were located, the management of their safety in the event of them behaving erratically and unpredictably, and the limited scope for building the rapport necessary to manage trauma effectively.

The guidance circulated in England and Wales is consistent with the comprehensive guidance that was published in the United States of America by the National Children’s Alliance (2020) (also reported in Vieth et al., 2020). The guidance makes it clear that the use of remote video-link technology (referred to as ‘tele-forensic interviews’) is an option that should only be exercised in cases of emergency in which face-to-face interviews are considered unsafe, such as the coronavirus pandemic. Where a remote video-link is used, the National Children’s Alliance considers the most likely scenarios to be those in which the child is either at a Children’s Advocacy Centre or at a police station, hospital or at a Child Protective Services’ office to ensure that the child is safe and because of the need to protect the evidence against external influences. It considers scenarios in which children are at home when they are interviewed to be very rare. On those rare occasions in which a child is interviewed at home, the National Children’s Alliance recognises the value of having someone from the interview team or law enforcement present in or, if necessary, outside their address. In summary, the guidance from the National Children’s Alliance considers that that remote video-links are a sub-optimal alternative to face-to-face interviewing that should only be used when in person interviews are unsafe. Where remote video-links are used, decisions about the location of the child should be guided by the safety and health of the child and the integrity of the evidence. These decisions can only be based on a full risk-assessment (Milne et al., 2020).

CONCLUSION

This paper has considered the advantages and limitations of the use of remote live-link technology for conducting investigative interviews. While the experimental research that focuses on the quality of a witness’s evidence is certainly promising it is very limited and may lack

ecological validity, particularly in its application to real-world situations in which trauma is a feature. It is, thus, clear that far more research is necessary into the use of remote live-link technology before it is used widely to conduct investigative interviews. In the meantime, the importance of obtaining good quality initial accounts should be emphasised to first-responders to allegations of crime and the use of remote live-link technology should be managed by the development of guidance.

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