The science is unequivocal: Recording interviews of domestic violence victims on video instead of by a written statement is fundamental to getting the most complete and accurate evidence from a victim. The central role of victim evidence in these cases means this improved quality is likely to lead to more successful prosecutions.1 Police agencies around the world have embraced technology such as hand-held smart devices and body cameras meaning access to recording devices is no longer “an obstacle to adopting this practice."

For police services, however, videoing these interviews is not just a matter of pressing the record button. They must also carefully consider policy implications of this new method of capturing and recording evidence. This article aims to help policing agencies by providing an overview of what research suggests are the potential benefits and pitfalls when video recording these types of interviews.

THE BENEFITS OF VIDEO RECORDING

Video recording police interviews with victims of domestic violence instead of the traditional method of an officer writing a victim’s statement is evidence-based practice for five main reasons:

1. MORE COMPLETE AND ACCURATE INFORMATION FROM THE VICTIM

Video recording an interview preserves a reliable and complete record of a victim’s account. In contrast, a written statement is at best a semi-accurate summary of the interview.2 Researchers have compared interviewers’ notes to the audio record of the interview and found that not only is a substantial amount of information lost through the statement-taking process, but what is recorded is prone to distortion.3-5
For example, Rock\textsuperscript{6} found information that was lost included contradictory information and the degree of the witness' uncertainty about central facts. Lamb and colleagues\textsuperscript{4} found 25 per cent of forensically-relevant information was not captured in officer interview notes. There is a strong scientific basis that indicates the fallibility of memory makes it impossible for an officer to produce a verbatim record of the victim's interview. When preparing a statement the officer must rely on his or her memory as to what a victim said in order to reproduce it into the written statement.\textsuperscript{7} Memory is not like a video recording; it is a reconstructive process that is influenced by the person's prior knowledge, beliefs and experiences.\textsuperscript{8} The heavy cognitive demands on the officer when producing the statement are too onerous for the officer to reproduce exactly what was said at interview.\textsuperscript{7} Instead they, like anyone else processing complex information, unconsciously rely on their prior knowledge, beliefs and experience to help them remember what was said. This leads to a biased interpretation of the interview and errors in the statement that is produced.\textsuperscript{9} Due to these problems some lawyers,\textsuperscript{10} linguists,\textsuperscript{6} psychologists,\textsuperscript{2} and police officers\textsuperscript{11} have criticised using a written statement to capture a witness' account. They argue that a video recording of an interview provides decision makers - investigators, lawyers, judges and Jurors - with a more complete and accurate record of a victim's interview. 

2. GREATER TRANSPARENCY ALLOWS FOR IMPROVED DECISION-MAKING

The transparency of the video record has three other distinct benefits to decision makers. First, more weight can be placed on the reliability of the victim's initial account given to police than a written statement can.\textsuperscript{1} In domestic violence cases many victims later retract the allegations.\textsuperscript{5} Hence, the reliability or credibility of the victim’s initial account taken by police is likely to be tested.\textsuperscript{1} A transparent record of interview means there is no dispute about whether the police record of interview reliably captures what the victim said.
Secondly, one of the key factors influencing the reliability of the information provided by a witness is how that information is elicited. For example, decision makers should place less weight on information resulting from suggestive questions (e.g. “he punched you in the face, didn’t he?”), than from open questions (e.g. “Tell me what happened”). This is because memory uses cues other than the actual experience to help recall information. Questions asked by the interviewer may therefore may lead to errors in what a victim remembers and contaminate how he or she later recalls events. With a transparent record of how information was elicited at interview, decision makers can make more accurate judgment about how much weight to place on this initial account.

Thirdly, the video record captures victim behavior near the time the offence took place. At this time the victim is more likely to display emotional distress, for example crying, compared to many months later at trial. This is likely to make the account more credible to fact-finders who expect this sort of behavior. The video may also capture other corroborating evidence, such as bruising or torn clothing, that is likely to increase the credibility of the victim’s account.

3. MORE EFFECTIVE AND EFFICIENT INTERVIEWING PRACTICES

Preparing a written statement is an obstacle to officers adopting effective interviewing practices. Investigators have reported that the need to prepare a written statement leads them to try and manage the large volume of information provided by witnesses by using more specific, leading and repetitive questioning techniques. These types of interview methods are likely to result in the contamination of a victim’s memory leading to unreliable recall. Video recording the interview encourages a victim to give a narrative account of events without interruption, which results in more complete and reliable information.

Removing the need for an officer to prepare a written statement at the end of the interview also reduces the time an officer must spend obtaining a victim’s account of the offence, enabling them to undertake other duties and responsibilities during their shift.

Video recording also enables the effective evaluation of interviewer performance. The ability to evaluate interviewer performance is essential if police want to continuously improve interviewing practices. This is not possible with a written statement because there is no transparent record of the interview process. Ready access to the officers’ field interviews is the first step for allowing police services to continuously improve victim interview practices.

4. A MORE RESPONSIVE PROCESS FOR VICTIMS

Video recording the interview is a more responsive process to victims. Video recording eliminates the need for the victim to wait while the officer writes
up the statement. Further, the repetitive and leading questioning encouraged by the statement-taking process may leave the victim feeling disbelieved and frustrated. By video recording the interview, an officer has greater opportunity to use open questions and actively listen to the victim’s response rather than having to worry about writing up what was said. Victims report that being listened to in this way is what they want from the police. A more accurate record of interview also reduces the opportunities for the victim to be cross-examined on any differences between their evidence and the unreliable statement.

5. THE ABILITY TO USE THE INTERVIEW AS EVIDENCE

Many policing jurisdictions now have legislation that enables judges or juries to view the video record of a victim’s interview and use it as part of the evidence when the defendant pleads not guilty. Traditionally the courts deemed this record inadmissible evidence because it was considered hearsay evidence. Currently in New Zealand and in many jurisdictions in Australia that evidence is admissible as either a prior inconsistent statement or as an alternative form of evidence-in-chief. Playing the video as evidence is likely to provide the courts with substantially more information than when the victim gives evidence, due to the loss and distortion of memory over time. Further, when a victim retracts a statement, the video provides the courts with the opportunity to play the initial account as an alternative version of events.

As a Crown Prosecutor put it, “If we could play the recording of the complainant at the trial, oh my god, our prosecutions would go absolutely through the roof because our magistrates know dead set what’s going on with complainant retraction, but there’s nothing they can do about it.” (page 9). The ability for a prosecutor to adopt this process depends on police videoing the interview in the first instance.

POTENTIAL PITFALLS OF VIDEO RECORDING AND SOLUTIONS

The evidence supporting the videoing of victim interviews is strong, but like any move towards evidence-based practice its success will be determined by how well it is implemented in practice. Many of the practical issues are likely to arise such as whether the interviews need to be transcribed (and how this is resourced), how to store this large volume of data, and what quality of recording is needed. But next the focus is the two main pitfalls inherent in video recording victim interviews that understandings in research can help address are discussed.

1. LACK OF PROCESS AND OUTCOME EVALUATION

Evaluations of the efficacy of new regimes consistently show that these regimes do not tend to achieve the desired outcomes because of difficulties with implementation. Previous experience suggests implementing the video recording of victim interviews, child or adult, is no exception. For example, when video evidence was implemented for adult sexual assault victims in England and New Zealand, lawyers and judges were reluctant to use it due to the excessive length of police interviews, incoherence of the account and amount of irrelevant detail captured. Problems like this could be prevented with proper planning, a controlled implementation and quality assurance designed to evaluate the effectiveness of the process and how it impacts on case outcomes. With this process it is vital that police work with other stakeholders who are likely to be affected by this process to ensure the needs of all those involved are met (e.g. victim support agencies, prosecutors, the courts).

An evaluation framework needs to be set up before the video recording is implemented. Not doing so and instead relying on retrospective data is likely to result in the incomplete recording of information by the multiple agencies involved, databases not being linked up, and inconsistencies in the identifiers and coding schemes used by agencies to capture case information statistically. Ideally, a small number of regions should be chosen to implement the new process using control sites, where the process is not implemented as a comparison group.

Evaluation of the effectiveness should start with developing objective measures of success that reflect evidence-based practice (e.g. interview times, victim experiences of the process, investigation/prosecution outcomes, quality of the interview record). The impact of this process on many different stakeholders means the regime is more likely to be successful if they are consulted and help to develop evaluation measures. For an evaluation to be as useful as possible to police it should not just focus on outcomes, but also on the challenges and benefits from an operational perspective and how (if at all) police could further improve the process when fully rolled out.

2. POOR QUALITY POLICE INTERVIEWS

It is essential to the efficacy of the video record that police conduct interviews to a high standard. The problem for police is that interviewing is a complex skill and is difficult to learn. Further, the practical reality for police is that frontline responders are likely to be
the best positioned to interview these victims because of the high volume of domestic violence incidents and importance of capturing the evidence when it is fresh and before a victim may retract. However, frontline responders are less likely to have an in-depth understanding of the type of investigative and evidential information required than more experienced investigators.

How can police train a large number of (often inexperienced) interviewers to conduct victim interviews to a high standard? There are two factors that are likely to assist with this process. The first is for police to have clear guidelines about the type of information that is likely to be relevant in these interviews. Research with Crown Prosecutors in Australia and New Zealand suggests this involves a focus on linking the victim’s account to evidence that can corroborate that account (e.g. injuries, scene examination, medical records, other eyewitness accounts). For example, eliciting from the victim how any injuries were caused or why there is a fresh-looking hole in the wall. Defining what is relevant requires the input of both police investigators and prosecutors. Scholars can assist with finding ways to define these parameters in a reliable way, develop objective measures of investigative and evidential quality, and refine interviewing practice to best obtain this type of information through forensically safe interviewing practices.

The next step is to ensure frontline responders have the skills required to interview the victim in a way that produces this relevant and admissible evidence, but also adheres to principles of memory and language. Current interview methods used by first police responders around the Western world encourage officers to obtain as much detail as possible, but do not provide any guidance on how interviewing methods can be used to optimise the amount of information that is likely to be directly relevant to a domestic violence investigation (e.g. the cognitive interview and free recall models).

This lack of focus can create overly long and unfocused interviews that prolong the interview process for victims; waste the time of interviewers, supervisors, lawyers and the courts; make the interviews difficult to review; and lead to criticisms of police practice.

In the last three years, research has developed to the extent that we now know how to improve the quality of open-questioning in police interviews to obtain a reliable and coherent account that contains relevant details for the investigation and can be used as evidence. Frontline officer training must go beyond current regimes to give these officers the skills to use open questioning to target information that is likely to be relevant to the investigation and as evidence. This will involve police using an incremental approach to learning questioning skills including explicit instruction and practice in what types of questions to use and how to apply them in interviews with victims of domestic violence.
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