

Protecting Victoria's Vulnerable Children Inquiry
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Summary:

In Victoria, investigative interviews with child complainants of abuse are used by child protection professionals to determine the appropriate course of action to protect child victims, and by police officers and lawyers as a major piece of evidence in the investigation and prosecution of child abuse offences. Yet investigative interviews are often accused of being poor and having low evidentiary value. Since law enforcement is the major tool of child abuse prevention in this state, poor investigative interviews may be contributing to low prosecution and conviction rates. Low quality investigative interviews conducted by child protection personnel may also be contributing to inappropriate interventions that are not in the best interests of child abuse victims. **Training of investigative interviewers is therefore in urgent need of reform.** Training programs need the six essential elements highlighted in this submission to help investigative interviewers in child protection services and police organisations reach a best-practice standard in interviewing. Scope for a national training initiative is also discussed.

This submission draws on the research of both authors and is also based on a comprehensive review of training conducted by Professor Powell and published as follows:

Powell, M.B. (2008). Guide to designing effective training programs in the area of investigative interviewing of children. *Current Issues in Criminal Justice*, 20, 189-208.

Despite the recent implementation of the Sexual Assault Reform Strategy in Victoria, prosecution and conviction rates for sexual assault against children remain deplorably low. The major tool for the prevention of child abuse in Victoria is law enforcement, but most cases do not proceed to trial due to insufficient evidence. This is due in large part to the investigative interview elicited from child complainants being of low evidentiary value.¹ Strategies must be introduced to improve the quality and usefulness of the investigative interview obtained from child complainants of abuse: not only is it the major piece of evidence for trial, it is also the primary tool for the investigation of child abuse allegations and for decisions made by child protection authorities that affect the safety and wellbeing of children.

In cases of suspected child abuse, children are usually crucial witnesses (McGough, 1994). To ensure that the evidence obtained from child abuse witnesses is both accurate and admissible in court, investigative interviewers require specialised skills in forensic interviewing. Child protection workers in Victoria are not responsible for conducting the Video and Audio Tapes Evidence (previously VATE, now called VARE) interviews, but they often conduct the initial disclosure interview. Such disclosure interviews have a major impact on subsequent witness responses throughout the legal process (Powell, Garry & Brewer, 2009).

Decades of controlled research in both field and laboratory settings have resulted in clear international consensus regarding the most effective way of eliciting reliable and detailed statements from children (see Poole & Lamb, 1998 and Powell, Fisher & Wright, 2005 for review). This consensus manifests itself in investigative interviewing protocols, which are clear guidelines to direct the practice of investigative interviewing. The central aim of all investigative interviewing protocols is to obtain a comprehensive (and as far as possible *free*) narrative account of the alleged offence, with little specific prompting from the interviewer (Poole & Lamb, 1998; Wilson & Powell, 2001).

Although these protocols are well established, most interviewers do not adhere to best-practice when conducting investigative interviews with children (Powell et al., 2005). Instead of asking open-ended questions (i.e., those questions that encourage elaborate responses without dictating what specific information is required), investigators mostly ask specific questions, which risk contaminating a child's account (see Powell et al., 2005 for review). To become investigative interviewers, child protection workers must complete a training course in conducting interviews with child witnesses; therefore, the problem is not in the absence of training that instructs interviewers in best-practice methods. Rather, the training and ongoing skill maintenance that interviewers are receiving is inadequate.

¹ This conclusion was drawn from numerous evaluations of child abuse interview and prosecution procedure, including the following: *Evaluation of the video and audio taped evidence interview procedure used by Victoria Police* (2008); *Responding to sexual assault: The challenge of change* (2005), funded by the Canberra office of the Director of Public Prosecutions and the Australian Federal Police; *Evaluation of specialist child interviewing* (2006), funded by the Department for Community Development and WA Police Service; and *Report on child sexual assault prosecutions: NSW Parliamentary paper no. 208, report 22* (2002), as well as evaluations of interview procedure conducted in England (Clarke & Milne, 2001), Scotland (Richards, Morris, Richards & Siddall, 2007) and New Zealand (Schollum, Westera, Grantham & Chartres, 2006). Concerns outlined in these reports include insufficient information to prove the charges, poor coherence or structure of evidence (which reduces witness credibility) and the inability to tease apart individual incidents of repeated abuse.

Urgent reform is required in the area of interviewer training. The need is equally urgent for child protection workers as it is for police investigators: a poorly conducted child protection interview can lead to inaccurate information elicited from a child abuse victim and inappropriate interventions pursued, or no intervention pursued at all; and, as previously mentioned, a poor child protection interview can lead to poor evidence at the police-investigation stage, as the child's narrative can be polluted during prior interviewing. To address this urgent need for reform, we recommend revisions to current training programs. Courses need to be practical in focus to have any material benefit. They need to teach trainee interviewers exactly what needs to be achieved, how they will achieve it and the reasons why they need to adopt the particular skills being taught. Specifically, training programs need to contain the following six essential elements: the establishment of key principles or beliefs that underpin effective interviewing; the adoption of an interview framework that maximises narrative detail; clear instruction in relation to the application of the interview framework; effective ongoing practice; expert feedback; and regular evaluation of interviewer performance.

1. The establishment of key principles or beliefs that underpin effective interviewing:

Core beliefs that underpin adherence to best-practice interviewing evolve over time as models become more refined. To identify and instil appropriate principles or beliefs that underpin effective interviewing, trainers not only require up-to-date knowledge of the scientific literature related to children's testimony, they also require up-to-date knowledge of human learning processes. Meaningful learning that is retained in the long term requires trainees to be actively engaged in their learning. Trainers need to select a few key concepts that are critical for the acquisition of practical interviewing skills (for example, asking open-ended questions) and to ensure that these are consolidated, rather than overload trainees with a large amount of information. Essential to the trainer's program must be uncovering and combating core beliefs trainees may have that are incompatible with best-practice investigative interviewing. For example, many professionals believe that personal attributes or background factors related to the individual interviewer, such as knowledge of child development, job rank and gender, contribute to an interviewer being able to adopt best-practice interviewing (Wright & Powell, 2007). However, research has shown that training which adheres to the six essential elements outlined in this submission is the only factor that contributes to variance in interviewer adherence to best-practice technique (Lamb & Garretson, 2003; Lamb, Sternberg, Orbach, Esplin & Mitchell, 2002; Lamb et al., 2002a; Powell et al., 2005; Smith, Powell & Lum, 2009; Sternberg, Lamb, Orbach, Esplin & Mitchell, 2001; Amye et al., 1999)².

2. The adoption of an interview framework that maximises narrative detail:

Globally, several interviewing protocols have been developed specifically for use with child witnesses (specifically, *Achieving Best Evidence in Criminal Proceedings* [Home Office, 2007] and the *National Institute of Child Health and Human Development (NICHD) Protocol* [Sternberg, Lamb, Esplin, Orbach & Hershkowitz, 2002]). In Victoria, police and human services organisations have developed their

² Research in this area is still in its infancy. With further refinement of performance measures and global improvements in interviewer competency, personal or background attributes that facilitate or moderate training outcomes may be identified. However, the current findings are robust and clearly indicate that quality of training is the over-riding variable.

own protocols, which are a hybrid of the established models. Trainers, however, should be defining a good interview not as one that merely follows the protocol, but as one where an interviewer has facilitated the voice of the child in ways that enable the child to accurately describe his or her experiences and the nature of the criminality alleged. A frequent and legitimate complaint of legal professionals about investigative interviews is that interviewers become ‘lost in the minutiae’ in their effort to particularise an event (Davis, Hoyano, Keenan, Maitland & Morgan, 1999; Guadagno & Powell, 2009; Guadagno, Powell & Wright, 2006; Wright & Powell, 2007); in contrast, an account that adheres to a story framework – where broad, open-ended questions allow the child to relate natural story-telling elements such as setting, central action, motivations and consequences – usually elicits the elements needed to support the charges (Murfett, Powell & Snow, 2008).

3. Clear instruction in relation to the application of the interview framework:

It is not enough to know what best practice is. Trainers need to provide trainees with the tools to apply best-practice interviewing. Some trainers have achieved this through providing key phrases, common question stems and sequences of questions to use at various stages of the interview (Powell, 2003; Powell & Snow, 2007; Sternberg et al., 2001); this helps trainees avoid (mis)interpreting interview protocols in ways that allow them to continue using specific questions (Wright & Powell, 2006). Trainers can also provide the tools to assist trainees in applying best-practice interviewing using the following methods: illustrating how best-practice interviewing can be used to overcome hurdles and limitations in an interview; giving trainee interviewers clear exemplars of best practice in applying good interviewing principles; and giving trainees the experience of applying the model within a controlled setting, where performance can be closely monitored by an expert (Powell et al., 2005; Stevenson, Leung & Cheung, 1992).

4. Effective ongoing practice: Ongoing practice plays a critical role in the mastery of complex skills such as those required for conducting investigative interviews with children. To be most effective, practice needs to be spaced (interspersed with rest intervals) and maintained over a long period of time (Donovan & Radosovich, 1999). It cannot be confined to a one-off two- or three-week training course. Further, practice tasks need to target specific goals and be tailored to an individual’s ability level. Identification of individual interviewers’ particular limitations when using open-ended questions is essential for the design of finetuned remedial strategies in interview technique. For example, interviewers who abandon open-ended questions early would probably benefit from practice with adult respondents who can behaviourally reinforce the use of open-ended questions (Powell, Fisher & Hughes-Scholes, 2008a); for those interviewers who use open-ended questions but the range and structure of the questions is limited, practice may be needed in the rote learning of different question stems (Powell & Wright, 2008).

5. Expert feedback: Although interviewing performance has been shown to improve (in some circumstances) with practice alone (Powell et al., 2008a; Powell et al., 2008), performance is clearly maximised when practice is combined with expert feedback (Powell et al., 2008). The importance of feedback is twofold. First, when it is accurate, feedback assists in narrowing the gap between professionals’ *subjective* appraisals of their (or other professionals’) abilities and *actual* performance (as measured against best-practice interview models). For example, investigators trained

by Fisher and Geiselman (1992) claimed that they rarely interrupted eyewitnesses but were surprised when recordings of their interviews indicated otherwise. Second, feedback is a form of positive educational intervention when it focuses on the task, elaborates on *why* certain questions are problematic and assists the interviewer in generating alternative questions or behaviours (Kluger & DeNisi, 1996). One of the most effective forms of feedback demonstrated to date is that where trainee interviewers are stopped at various stages in the simulated interviews so that an expert instructor can immediately identify a problem, assist in generating alternative questions and prevent errors from being further rehearsed (Powell et al., 2008). A crucial form of feedback is that given by legal professionals – particularly in Victoria, where the investigative interview can be used as a witness's evidence-in-chief (Powell 2005; Powell, Wright & Clark, 2010). However, unless feedback is delivered in a way that promotes active learning and recognises the boundaries of professionals' expertise in interview technique (i.e., those professionals giving *and* receiving feedback), the quality of witness statements is unlikely to improve.

6. Regular evaluation of interviewer performance: Training programs must be measured to assess whether they have had a positive impact on interviewer performance. Given that the impact of training interventions in most prior research has been short-lived, trainee interviewer performance needs to be measured prior to, immediately after and well after the completion of the course. This process is useful not only for measuring the effectiveness of training programs, it also benefits the organisation by identifying training needs, monitoring individual interviewers and predicting case outcomes (Powell et al., 2010). However, there is currently no empirically validated tool for assessing investigative interviewer capability, either cross-sectionally or over time. Criminal justice outcomes are not reliable measures of interviewer competency because they are subject to a variety of factors outside of the interview (e.g., degree of corroborative evidence: Davis et al., 1999). Likewise, interviews with actual witnesses (i.e., field interviews) may not be suitable for assessing performance on a routine basis because there are often considerable legal and practical restraints inhibiting immediate access to transcripts (Powell, 2002). Further research in this area is urgently warranted.

A national approach to training of investigative interviewers

While the value of these six elements has been acknowledged in research literature from around the globe, one of the current barriers to implementing them within Australia is that police and human service organisations in each state and territory are *independently* responsible for writing, coordinating, delivering and evaluating their own interview training programs and for setting the benchmark of what constitutes best practice. Training coordinators, assessors and instructors are usually assigned from within organisations, are rotated regularly, and have little expert knowledge of the eyewitness memory, expertise and human learning literature. While some organisations recruit the assistance of external consultants with expertise in interviewing, their input is typically limited to the delivery of a single lecture or workshop in interview technique due to limited budgets and availability of such experts (the majority of training budgets are currently spent on travel, accommodation and other costs associated with the abstraction of large numbers of trainee interviewers into the classroom).

Given the highly specialised nature of interviewing, there is strong argument for the development of a national curriculum or protocol dictating what constitutes an appropriate interviewer training program and how training delivery should be assessed, evaluated and accredited. Legislation relating to the use of investigative interviews and the admissibility of interview evidence differs across jurisdictions, but core interview techniques do not. Further, given the limited number of experts in this area, and the proven effectiveness of distance learning and on-line training technologies in imparting knowledge of procedures as well as practical skills such as the use of open-ended questions (Head, Lockee & Oliver, 2002; HM Inspectorate of Constabulary, 1999; Powell & Wright, 2008), there is also strong argument for centralised delivery of components of training programs as well.

If a National Interview Training Centre was staffed appropriately and supported by a range of human service organisations across Australia, this centre could take on the responsibility for setting and maintaining standards in training delivery, performance evaluation and for coordinating research leading to the development of new improved training curriculum, services and resources. Further, the centre could provide a library of resources and services for use by organisations on a needs basis. Such resources could include educational videos, interview protocols, interview assessment tools and self-administered (on-line) practical training exercises. Services could include the provision of trained actors to play the role of interviewees, expert instructors, and specialists who can stage practical exercises (either via face-to-face or using on-line and telecommunication technologies).

Conclusion

The urgent need for reform in investigative interviewer training is justified by the low reporting, prosecution and conviction rates for sex offences against children (Victoria Law Reform Commission, 2004). The design and delivery of interviewer training is a highly complex task, and must contain the six essential elements:

- The establishment of key principles or beliefs that underpin effective interviewing
- The adoption of an interview framework that maximises narrative detail
- Clear instruction in relation to the application of the interview framework
- Effective ongoing practice
- Expert feedback
- Regular evaluation of interviewer performance.

While the impact of these elements has been established directly, their importance is also indicated by evaluation research from across the globe (e.g., Burton, Evans & Sanders, 2006; Clarke & Milne, 2001; McConachy, 2002; Richards et al., 2007; Schollum et al., 2006) identifying the absence of these elements (in particular, inadequate ongoing practice, feedback and quality control evaluation) in jurisdictions where interviewer competency is acknowledged to be a problem. While the training regime for Victoria's interviewers of child abuse complainants would benefit immeasurably from close application of the six essential elements, a national approach to the training of interviewers would see the quality of evidence elicited from children improved, more appropriate interventions pursued to protect child abuse victims and, potentially, a rise in prosecution and conviction rates for child abuse offences in Victoria and around the country.

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