



# The remote witness: A study of the use of video conferencing in Australian Courts

ARC Funded Research Project:  
*Gateways to Justice:*  
*improving mediated communications between justice participants*

Anne Wallace and Emma Rowden

# Gateways to Justice

## ARC Linkage Grant Project

### Researchers:

- University of Canberra
- University of Melbourne
- University of Sydney
- University of New South Wales

*Disciplines: Law, criminology, psychology, forensics, architecture, communications*

### Project Partners

- Australian Federal Police
- Department of Justice Vic
- Department of the Attorney-General WA
- Director of Public Prosecutions ACT
- PTW Architects Production Audio Services Pty Ltd
- Jumbo Vision International Pty Ltd
- ICE Design Australia Pty Ltd

# Remote witness technology



# The remote expert



Image taken from: Goodwin, Charles (1994). "Professional Vision". American Anthropologist 93(3): 620.

# Used for

- Witness evidence - lay witnesses, vulnerable witnesses, expert witnesses.
- Bail/remand - prison links.
- Virtual courts - circuits, directions hearing, appeals, 'the remote judge'.
- Services - interpreters, psychiatric assessments.

# Legislation

- Specific purpose - e.g. vulnerable witnesses - children, victims of sexual assault
- General - e.g. *Evidence (Audio & Audio Visual Links ) Act 1988 (NSW)*:
  - ‘unfair’;
  - ‘in the interests of justice’

# The impact of video-conferencing on the quality of evidence

- The remote witness space
  - Formality, ‘sense of awe & fear’?
    - (Lederer, 1999; Bowen-Poulin 2003-2004, Mulcahy 2008; Vermeys 2008)
- Manipulation (Roth 2000-2001)
- Non-verbal communication (Bowen-Poulin 2003-2004)
- Viewer expectations (Roth 2000-2001)

# Evidence/Research

- Vulnerable witness studies (Westcott, Davies et. al, 2001; Taylor & Joudo, 2005; Cashmore & Trimboli 2006)
- Pre-recorded evidence (Lederer 1999; Taylor & Joudo, 2005)
- Remote defendants (Plotnikoff & Woolfson, 1999 & 2000)



# 'Presence'



Image taken from: <http://gimp-savvy.com/cgi-bin/img.cgi?ailsxmzVhD8OjEo694>

# 'Presence'

1. Social richness;
2. Realism;
3. Transportation;
4. Immersion;
5. Humanisation; and
6. Affordance

(Lombard & Ditton 1997, Zahorik & Jenison 1998 )

# 'Presence'

- Is not always constant;
- May vary for different types of witnesses, e.g. vulnerable witness, forensic witness.



# Important factors technological

- High quality
- Simulation of eye contact;
- Bodily address and body language should mimic what it would be, had the person been in court;
- Witness should be able to move freely and not be constrained by the technology;
- Acoustics - need to be consistent and reliable - and simulate in court presence.
- Be able to effectively communicate with aids (powerpoints, diagrams, touchscreen etc.)

# Important factors architectural

- Spatial qualities of the remote space:
  - Visual interest? depth of vision - ability for the eye to rest?
  - A place that exudes respect for the witness?
  - A space that has 'the presence of the law'?

# Important factors architectural

- Journey to the remote space:  
should have places for rest and  
visual relief, interest and distraction.



# Important factors legal / procedural

- Support for the remote witness:
  - orientation
  - adequate explanation of technology and process
  - support during the giving of evidence



# Important factors legal / procedural

- Introductions:
  - the role of the judge
- Opportunity for feedback