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

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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

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’
‘Presence’

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

‘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