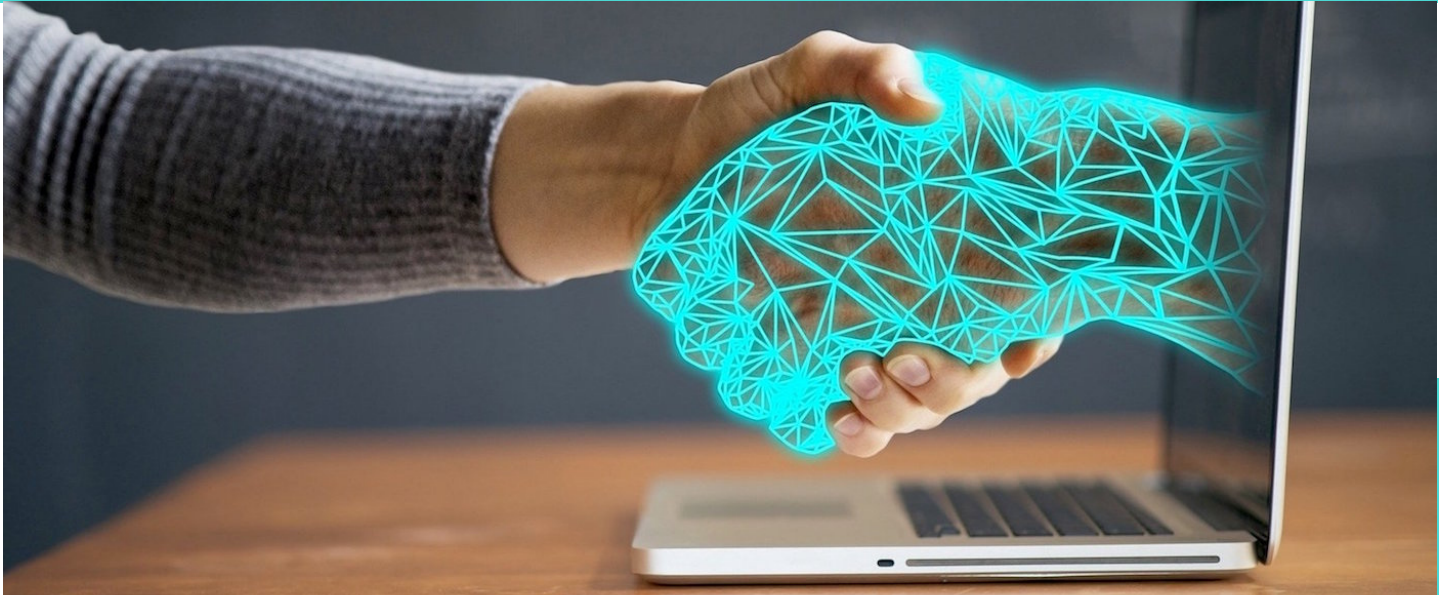


UPDATE REPORT

Remote interviewing and legal representation of those involved in the criminal justice system: Is it remotely possible?



The new normal? The use of digital technology in the Criminal Justice System

By Professor Gavin Oxburgh

During the COVID-19 pandemic, many changes were made to the format of traditional police interviews and other interactions, many of which were previously carried out in person and usually in a police station.

However, to ensure interviews, third party interactions and criminal trials were still able to go ahead, many police forces have, instead, turned to digital communication methods, carrying out video interviews with victims and witnesses, while third party professionals such as lawyers have provided support to suspects by phone or video, rather than in person in the police station.

We need to understand what impact this shift has had on the process and on the fairness and reliability of the evidence being given to police.

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This research is funded by the Economic & Social Research Council (ESRC), as part of UK Research & Innovation's rapid response to COVID-19



MINISTRY OF JUSTICE NEW PROJECT PARTNER

The project team are delighted to announce that the UK's Ministry of Justice is now a valuable collaborative partner on this ESRC-funded research programme.

The Ministry of Justice is a major government department, at the heart of the UK justice system. They work to protect and advance the principles of justice and have vision to deliver a world-class justice system that works for everyone in society.



Our other collaborative partners are:



PROJECT UPDATES

COMPLETION OF LAWYERS' SURVEY

All data collection for the survey involving legal professionals is complete (see Project Updates below). Follow-up focus groups and interviews are under way, and our next step will be to analyse and write-up the findings.

The future publication of this study will allow for the findings to be disseminated to a wide range of audiences for researchers and practitioners. The findings will also contribute to the understanding of efficacy and appropriateness of remote legal assistance and provide the basis for recommendations in practice. Due to the unprecedented and fast-moving nature of the COVID-19 pandemic, to our knowledge, this is the first known study of lawyers' views and experiences of providing legal assistance during this time in England and Wales.

This experimental study will establish whether remote interviews/interactions are as effective as face-to-face ones. This will be explored via two experimental studies:

1. One group relating to victims and witnesses of crime;
2. One group relating to suspects of crime.

Participants will be assigned to different conditions and the overall quality of interviews will be analysed for pre-determined factors. If you would like to participate in this study, please [click here](#).

EXPERIMENTAL STUDIES TO ESTABLISH THE EFFECTIVENESS OF REMOTE INTERVIEWS

PERIODIC REVIEW PANELS

As part of the overall research project, Periodic Review Panels are regular events for all collaborative partners whereby the project findings and any updates can be discussed and implemented via our Policy Briefings (see next page). Our first panel is due to take place remotely in October. These events will also provide an opportunity to ask any questions or provide feedback.

POLICY BRIEFING REPORTS

We have recently published our first policy briefing report, relating to legal professionals study which investigated the impact of COVID-19 restrictions on the legal representation and advice for suspects of crime. We surveyed 127 legal professionals across England and Wales to establish their personal views. A summary of findings and recommendations is provided below. **To read more, please [click here](#) to visit our website where the full briefing can be found.**

WHAT WERE THE KEY FINDINGS?

- **Reduced attendance at police stations.** Remote legal assistance during the COVID-19 pandemic became the 'normal' or even the 'preferred' way in which lawyers and accredited representatives in our sample (hereafter referred to as 'legal professionals') provided legal assistance to clients in police interviews. However, the majority stated that they did so for their own safety, reporting few problems with such an approach.
- **Positives changes.** Our respondents believed there were various positive impacts of providing remote legal assistance. They cited quicker progress of the case and reduced delays, particularly between arrest and interview, and less travel.
- **Problems with representing clients in police interviews.** Our respondents did not have serious concerns about the quality of assistance they provided remotely. However, many recognised several aspects that were more challenging: (i) either seeing or hearing their client; (ii) reviewing materials presented by the police; (iii) building relationships (and rapport) with their clients, and; (iv) having adequate influence over the process.
- **Suspects' vulnerability.** Respondents reported their client's vulnerability was the key factor in deciding whether to give advice face-to-face (F2F) or remotely. Most legal professionals in our study agreed that children and vulnerable suspects were more negatively affected by the lack of F2F legal assistance, but some appeared to believe that it is appropriate for legal advice to be provided remotely even in these cases.

WHY ARE THESE FINDINGS IMPORTANT?

Prior to the COVID-19 pandemic, legal representation and advice in England and Wales was almost always conducted F2F. The subsequent lockdown and social distancing measures forced the majority of police station work to move to remote operations / technologies. Our findings show that despite these changes, legal professionals have continued to provide legal assistance to clients in police custody 'as often', or 'even more often', than before the first lockdown. On the whole, our respondents (from their own perspectives) believed they adapted well to remote working, suggesting that most stages of the police interview were possible to carry out this way.

However, remote legal assistance was also said to be associated with significant challenges, including not being able to hear or see the client, reviewing materials presented by the police, and building a rapport with the client. These are important components of legal advice and, as such, these findings should be taken into consideration when deciding whether remote or F2F assistance is to be provided. In relation to vulnerable suspects, respondents in our study considered vulnerability as one of the main factors when deciding whether to give F2F advice or via remote means. Many felt not being there *in person* was detrimental to being able to identify a client's vulnerability. However, despite this point, our respondents still felt that providing assistance to vulnerable groups was sometimes appropriate.

RECOMMENDATIONS

Although further research is needed before offering concrete policy recommendations, based on the results of this study:

- If remote legal advice must be given, video-conferencing should be prioritised over audio-only. This may help with highlighted difficulties of reviewing materials and building sufficient rapport with clients.
- F2F assistance should be provided to children and adults whose vulnerabilities have been identified.
- F2F assistance should be strongly favoured in all other circumstances given the practical difficulties in identifying vulnerabilities

UPCOMING DEVELOPMENTS

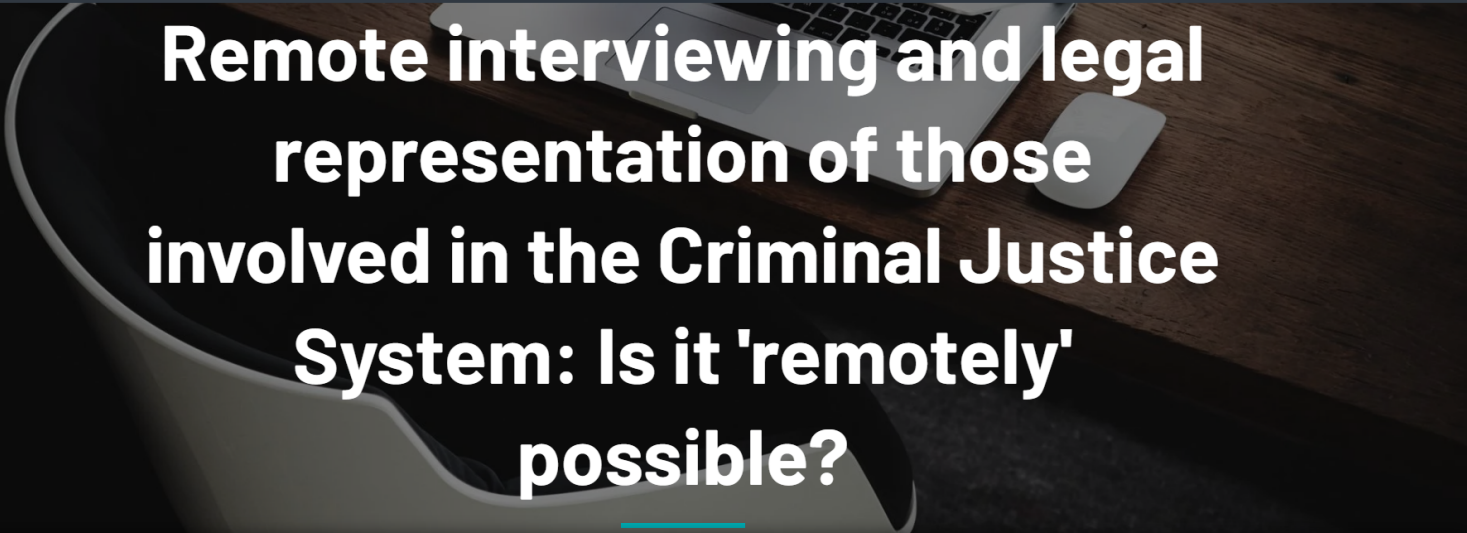
THE IMPACT OF COVID-19 RESTRICTIONS

Work is currently under way to explore how police and other organisations that interview persons involved in crime have adapted to COVID-19 in terms of conducting interviews and communicating with clients. The first survey been distributed to our partner organisations to explore these topics from an organisational/managerial perspective. This research will allow us to gain a comprehensive overview of the changes that have occurred within these organisations, together with their views of how these changes have affected their organisation, their staff, and their interviewees.

A further study has also been developed and will explore similar topics but from the perspective of individual investigators. This will provide an original insight into how investigators have adapted to interviewing during the COVID-19 pandemic, including using different digital means and the feasibility of gaining support from other professionals such as legal professionals and other third party organisations.



For more information on the research project, please [click here](#) to visit our website, which will be continually updated.



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