

Gateways to Justice: improving video-mediated communications for justice participants

Project Progress update November 2009

Project Summary

Justice hearings are increasingly making use of video communication facilities to provide access for remote participants. This 3-year research project collects data about how video communications currently work in Australian and international courts, examines alternative designs for remote witness spaces, tests out enhanced witness orientation processes, and suggests best practice guidelines for more effective use of court technologies. The team brings together researchers with backgrounds in architecture, psychology, law, forensic science, criminology, acoustics and communications.

Interviews with Key Informants

In the first stage of the project, members of the research team visited Victorian and West Australian courts and remote witness facilities to inspect and document facilities and equipment and collect statistics about use of the facilities (August – December 2008). User surveys have also been collected by the courts while the researchers have interviewed some thirty judicial officers, court staff, lawyers and expert witnesses who are experienced in the use of video-conferencing facilities. These are now being transcribed and analysed.

The two Ph.D. students on the project, Emma Rowden (Architecture, University of Melbourne) and Anne Wallace (Law, University of Sydney) have spoken at several conferences about their work on the project, and have made extensive visits to overseas courts. Particular highlights have been the European Court of Justice in Luxembourg and the International Criminal Court in The Hague. These contacts have been valuable in allowing the team to keep up to date with the latest international trends. One particular ‘friend of the project’ has been Linda Mulcahy, a law professor at Birkbeck College, University of London, who delivered a keynote address on court use of video technologies at the session we organised during the recent court architecture tour of Victoria.

August Experiment

The major part of the study was an experiment, held from 3 – 21 August 2009 at the County Court in Melbourne, to test out alternative configurations of remote witness spaces, identify issues in the implementation of video technology, and develop ‘best practice’ for orienting and introducing witnesses. Some 200 lay participants took part, together with twenty expert witnesses provided by the AFP and other forensic organisations. Jurors and witnesses had already filled out a preliminary survey asking their views about technology and courts and collecting basic demographic data. Each lay witness in the remote witness room saw a short video of an incident – an assassination in a Paris subway station from a movie by Wim Wenders - and answered questions put to him/her by an interviewer over a video link. Forensic witnesses testified on a topic of general application to their particular scientific discipline. Witnesses were allocated to one of two remote rooms and to one of two witness orientation conditions.

From the pre-tests we had developed short surveys to measure the responses of ‘jurors’ and ‘witnesses’ to differences between the conditions in visibility, audibility, quality of the remote facility and witness orientation processes. When put together with the extensive debriefs carried out over the 25 sessions, the survey data allowed us to explore the potential impact of court processes on improving communications

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technology, remote witness environment and witness orientation.

Judy Crabb, Executive Officer at the Justice Research Group of the University of Western Sydney, oversaw the operation, supported by a talented group of local workers recruited for the project. Tamara Donnellan as project manager oversaw the whole process. The Liberty Group, particularly Peter Anderson, ensured that the court facilities we used were in perfect working order at all times. For such a complex operation, the experiment went extremely smoothly.

We ran two 'open days' as part of the experiment to allow those with an interest in court technology to check out the facility, talk to the technology and architecture experts, participate as 'witnesses' and 'jurors' in a short version of the experiment and provide their own feedback. These were held on August 7 for judicial officers, and Wednesday, 19 August for others, including industry partners.

Partners

A particular strength of the project is the active support received from industry partners. The Victorian Department of Justice made available one of the most modern courtrooms and jury rooms in Victoria for the study, plus several associated rooms. The technology was organised efficiently and skilfully by Mark Hanson and his team from ICE Design, and the design of the remote space was developed by Emma Rowden and Diane Jones of PTW Architects. The Western Australian Attorney General's Department has facilitated an outback research visit to remote witness facilities in *really* remote regions. The ACT Director of Public Prosecutions made available one of his top prosecutors, Margaret Jones, to star in the interviewing of witnesses during the experimental stage of the project, while Principal Investigator Richard Refshauge presided over one of the experimental hearings and chaired an Open Day debate on the findings of the project.

The experiment was enhanced considerably by the kind offer of the Victorian Juries Commissioner, Rudy Monteleone, to provide 'real jurors' from the jury pool who had not been required for trials. This is likely to add to the realism of the study, and allow us to draw stronger conclusions about how juries are likely to react.

Emerging Issues

There are numerous issues being analysed from the experiment, using survey, observation and debriefing data. These are being informed also by the numerous interviews carried out with stakeholders. Some of the issues that are emerging from the analysis are listed below.

1. Remote witnesses have a better court experience if they are given a **thorough orientation and introduction to the court**. It is particularly useful for the witness to be given some feedback about whether they need to speak up, sit further from the microphone etc. before the interview starts. There is some debate about how fulsome the welcome of the witness to the court should be (with PI Refshauge suggesting 'Good Morning' could be a little familiar), but greater acknowledgement of the presence of the witness does seem to be valued both by the witness and the jurors. Similarly having a witness support officer who briefs the witness on the process, then sits with them during the interview is appreciated.
2. **Newer video technologies provide fuller visual information** both for the witness of the court and for the court of the witness. In both cases these are appreciated by the witness and jurors. An initial panning around the court provides the remote witness with a better understanding of the courtroom layout, while a view of the jury allows expert witnesses to see how well their explanations are understood. Witnesses prefer being able to see how they appear to the court just before the hearing begins, but then having this view switched off.
3. **Getting the acoustics right** is a major challenge. A microphone set in the ceiling of the remote room allows participants to focus on the face of the interviewer rather than a microphone, but on the other hand these sensitive microphones also magnify background noises, like blinds clicking.

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Similarly having directional sound – the witness’s voice coming from a speaker in the witness box rather than from above the jury box – was considered more ‘realistic’ but may have sometimes been harder to hear.

4. **Making (simulated) eye contact is valued highly both by the interviewer and the witness.** Careful placement of the camera can achieve something very close to convincing, but new technologies being examined by the research team bring this a step closer, with a camera located directly behind the screen. This product is currently commercially available but needs to be tested in court conditions. Conversely not making eye contact – resulting from the cameras being in the wrong position in the standard remote witness room – seemed to increase stress for the participants and made it harder to develop a rapport.
5. For witnesses, **the demonstration facility- the alternative remote witness room** -- designed by Emma Rowden and Diane Jones **was significantly more popular than the standard one used by the courts.** There were several differences between the two rooms, so it is hard to be definitive about exactly which features make most difference, but natural lighting, comfortable seating, more generous spaces, better view of the courtroom and roof microphone seem to have played a part. There were two main dimensions to this difference – **comfort and warmth.** These concepts summarised responses to some 10 items.
6. **Jurors gave varied responses as to what they expect a remote witness room to look like.** Some prefer plain settings, others more colourful; some want to see just the witness’s face, others like to see more of the person’s hand movements; some like complex textures, others find them distracting; some regard TV news sets as their ideal type, others expect a more ‘court-like’ setting, (by which they typically mean wood panelling). There seems to be some difference between what witnesses want – comfortable and cheerful setting, -- and what (some) jurors say they prefer in the remote space – plain and functional. It may not be possible to meet both needs.
7. **An issue which requires more work is the relationship between skin colour of witness, colour of clothing and the type of camera used.** The camera we used automatically adjusted to the lightest feature within the frame, typically the face. However if someone’s face was darker than their jacket, the face tended to be cast into shadows. Also if a strip of light fell across the frame from outside, the camera adjusted to this.
8. **Natural light in the remote room is a mixed blessing.** Witnesses preferred it, and when the sun ‘behaved’ the person looked more natural and the room looked beautiful. When a crane swung across the sky (as it did on a few occasions) it seemed from the courtroom that the lights had just gone off in the witness room. When the sun shone directly into the room, as it sometimes did in the morning – it was an east-facing room – the witness experienced glare and the colour looked washed out to the jurors.
9. One unresolved issue we want to examine further – probably in a lab setting – is **the impact of the background on how witnesses appear.** Diane Jones had designed a background that made the remote room feel more welcoming to those who entered it. When a witness was thin, the background could be made out clearly and the person appeared neatly framed. However when the person occupied a higher proportion of the screen, the background was felt to be more ‘confusing’ to the jurors. This issue related also to whether jurors gave priority to the remote room looking ‘court like’ or comfortable.
10. A general lesson from the project has been **the value of testing out new technologies on site,** and spending considerable time fine tuning them for different situations. One of the most valuable exercises, during the first Open Day, was trying out various configurations for interpreters working with a witness, both remote and in-court.
11. **We may have learned more from the natural variations that occurred each day than from the differences between ‘experimental’ and ‘control’ conditions.** In part this was due to our attempt to make the experiment as realistic as possible, with so many ‘real world’ factors having a potential impact on the results. We wanted to test whether changing the environment and the process made the experience better both for the remote witness and the jurors watching. It probably did, but in different ways for different people at different times, so it is misleading to produce summary results that ignore these differences. What is more interesting is how and why changing the environment or the process contributed to a more, or less, satisfactory experience for witnesses and jurors.

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12. A surprise to some of us – but not the architects – was **the way the remote room seem to be almost alive**. It creaked and expanded, changed across the day with the light and heating, and looked quite different according to who was occupying it. A chair that was elegant with one person sitting in it looked almost shabby with someone else in it. The table shifted slightly, or the carpet became bunched up, or the person sat off centre. The challenge here is how to design something that works under a variety of different conditions. How can the room be both consistent and responsive?

Reporting Back

A reporting back session was held in Melbourne on November 5 at the Faculty of Architecture, Building and Planning University of Melbourne. This provided information both to research participants from the August experiment and industry partners, particularly those based in Victoria.

The Court of the Future Network is running a Justice Environments Conference on 20-22 May 2010 in Sydney. This will include a stream on emerging court technologies, with papers by members of the Gateways team, visits to recent court buildings in Sydney to look at video communications and opportunities for industry partners to get feedback on the project and talk to the range of international experts we will be bringing out for the conference.

Future Work and Input from Partners

The two APAI students will be spending much of 2010 writing up their theses, in law and architecture. CIs are being asked to take the lead on at least one academic article each and speak at conferences on the project.

In close cooperation with the jurisdictions, we will work together to enhance the orientation and introduction process. Specifically, we propose:

- a. each jurisdiction provide us with current guidelines for orientation and introduction of remote witnesses,
- b. a meeting with relevant court officials and judicial officers to refine procedures for an enhanced orientation,
- c. a pilot study of an enhanced orientation process in one court.

Furthermore, for jurisdictions who are introducing or upgrading remote witness technology, remote witness room design, or both, we propose:

- a. collecting data about witness satisfaction for three months before the change is made (where applicable),
- b. collecting data about witness satisfaction for three months after the change is made (where applicable),
- c. identifying an equivalent court in which these changes are not made in order to make comparisons between the two

Finally, we seek the advice of the WA court executives to identify appropriate forms of reporting back and consultation with the judiciary and relevant stakeholders.

Further details can be found at the Justice Research Group website: www.uws.edu.au/justice

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