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## Investigative Interviewing: Research and Practice

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Alana Billingham

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## Case study: The case with no physical evidence

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### Abstract

In this article a case study of professional practice is discussed in some detail, where investigators (when interviewing) asked for drawings of suspected crime scenes to be undertaken by witnesses, victims and suspect. It is argued that this deployment of drawings assisted in a significant way to resolve an investigation of historical abuse.

**Keywords:** *Interviewing, historical investigations, victimology, civil investigation*

### Introduction

The following case study concerns an investigation that the author recently was involved with alongside her colleague, a retired police inspector, and how art played a role in determining what had actually happened. During the 2009 IIIRG conference at the University of Teesside, UK, Professor Aldert Vrij (University of Portsmouth), spoke about using a form of art when interviewing to help establish facts. Professor Vrij advised about a study where both truth tellers and liars drew the scene they were supposed to have witnessed and in what ways the pictures were different. It was thought that this was an interesting idea and the author awaited an appropriate opportunity where it might be suitable for its use within an investigation in the future. Such an opportunity arrived in 2010. Both the author and her colleague, in their professional capacities, were hired by an organisation to investigate allegations made against one of their employees. Names have been changed to protect the anonymity of the organisation, the witnesses, complainants and alleged suspects.

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The case involved the allegation that ten years ago a series of sexual assaults (including rape) had been perpetrated on a then nine or ten year old girl (Sally) by her fifteen or sixteen year old brother (Peter). The complainant refused to go to the police because the alleged incidents were historic and she didn't think she would be believed. Sally made the original disclosure to an individual who was associated with the brother's employer. That individual (a former police officer) took the complainant's statement and forwarded it along with his observations and recommendations to the employer. As a result, the employer contacted the author's colleague (a retired police inspector) to determine what actions or investigations could be taken to ascertain the truth of the matter. The author herself was subsequently asked to act as a consultant by way of conducting all the interviews. This case was potentially viewed a political, legal, and psychological minefield.

## Agendas

The employing agency was caught in a dilemma. The suspect; Peter, was well-liked, married and had a promising career as a youth director. There were no suggestions that he had ever behaved inappropriately with any of the young people he worked with or with anyone else. The employing agency was taking the allegations seriously but had strong doubts about whether there was any substance to them. The difficulty they faced was that even if they were concerned, they couldn't just act. Under New Zealand employment law they couldn't dismiss an employee on an unsubstantiated allegation without the risk of the matter having to go through an employment court and, if the case was found against the employer, the employer being required to pay reparations for the loss of the young man's career and reputation. Equally of concern was the matter that if the allegations were proven to be true they might be putting the young people at risk by any inertia. Furthermore if in the future there was a complaint, and it was discovered that they were aware of an historical allegation and had not acted, the employer would be liable for compensation and their reputation would be adversely affected. Recent revelations in the UK (i.e., the Jimmy Saville case) have had similar, at any rate, potential consequences to the BBC's worldwide reputation. So much so they launched an internal (but transparent) high profile investigation to attempt to minimise the potential damage that could be caused by such adverse publicity.

## Investigative challenges

From the outset, the investigators were confronted with issues that could potentially hamper the subsequent investigation. For example, before the investigation had commenced, it was found that the employer had already attempted to resolve the matter in-house. Peter had been confronted by the employer with the complainant's statement and asked for an explanation. Peter denied the allegations and copied the statement, which he then disseminated to potential witnesses. It was at this impasse that we were called in to investigate. The starting point was an allegation about a series of incidents that may have happened ten years ago. Given the complexity of the issue, the potential lack of any substantive physical or corroborating evidence, we were concerned it would come down to a matter of one word against the other. Peter was well-respected and liked by his employer and work colleagues. Sally, by contrast, had a history of mental health issues. She was undergoing counselling and had been assessed by a clinical psychologist as exhibiting behaviour consistent with that of someone suffering from post-traumatic stress disorder. Sally was considered by family members and other impartial witnesses

to be unreliable with the truth and sometimes had exhibited violent tendencies.

## Civil proof

The burden of proof in a criminal case is 'beyond any reasonable doubt'. In this case, since we were seeking the truth not a conviction, we settled on a lower burden of proof, that is appropriate in cases of civil restitution. Thus, the investigation was predicated in terms of evidence gathering on the balance of probabilities. For those unfamiliar with this concept one might describe that the accumulation of assembled evidence, albeit individually not particularly strong or circumstantial, might make a case against an individual look more or less probable. On the other hand, if contrary information is introduced any case may become less likely in the balance of probabilities. Of course should any further information come to light that corroborates the original information the original premise of guilt in this example becomes once again more likely in the balance of probabilities. It was against this particular backdrop of contaminated and conflicting witness and other agendas, and dubious mental pathology that interviews were undertaken.

## Interviewing the witnesses

The witnesses, mostly family members, were now living across New Zealand so visits to several cities and small towns were necessary to conduct the interviews. From there it was found that several dominant themes began to emerge. These were;

- The family was a fractured unit with allegiances towards the brother and against the sister. Sally was described to us repeatedly as someone who was unstable, emotional, dishonest, vindictive and aggressive.
- The complainant's original statement (which Peter had copied) had been used by key family members to 'prepare' for their interviews and refute the complainant's allegations.
- With the exception of one family member (who had another agenda) the family had clearly decided to close ranks around Peter and oppose Sally's position.

In due course, Sally was interviewed by the author and her colleague. From this interview it was agreed by that Sally made a less than ideal witness, For example, she was erratic, aggressive and generally she was difficult to like. However, it was also considered that she made a perfect victim in that she was rarely believed. Her family history was filled with anecdotes in which she was the family joke. Her self-esteem within the family unit was extremely low. As the interviews progressed with Sally, our balance of probabilities model began to take shape. All family members recalled similar incidents and similar timeframes that were key to the case, but about which they had different perceptions.

## Witnesses' drawings

As a matter of course in each interview witnesses were asked to draw the family home where the alleged incidents took place and to indicate where the rooms were and what furniture belonged in each room. (The information about furniture was critical to the pattern of alleged offending and to details in the complainant's statement). Every family member except the complainant and the accused drew exactly the same thing. Their drawings were over-views of the

floor-plan of the property. There was also a high level of congruence about where they placed the furniture.

## Sally's interview and drawings

Sally's picture, in contrast, was interesting, not from the standpoint of what she drew but rather how she approached the task. When asked to draw the property where the alleged offending took place Sally picked up the pen and began by drawing the outline of the house that was more or less to scale. It should be noted that most of the alleged offending was purported to have taken place in a sleep-out (small flat) attached to the house by a veranda. Instead of drawing the sleep-out next, which every other witness had done, Sally began to draw the house and its garden, trees and outbuildings. The distinct impression from this order of drawings was that she was putting off drawing the sleep-out, but she wasn't necessarily aware that she was doing it. Eventually everything else had been drawn and Sally turned her attention to the sleep-out. It was noticed that her breathing changed, she became more tense, she spoke in a more stilted way, and her behaviour alternated between being slightly aggressive and dispassionate. This was in contrast to her behaviour during the interview where she was co-operative and tearful. Sally drew the sleep-out in great detail. However, in contrast to the rest of the drawings, the sleep-out was not to scale, being drawn larger when compared to the house. It was the only part of the picture that was not in proportion to the actual structure. It was thought that the sleep-out may well have been highly significant to Sally.

## Peter's interview and drawing

Peter was interviewed in two phases. Firstly, a cognitive interview was undertaken to obtain his version of events. This cognitive interview produced a number of anomalies that required further attention and clarification. After a break the interview resumed. Peter was challenged upon the anomalies from the earlier interview and also on the inconsistencies between his statement and those of the other witnesses. He became agitated and claimed to have a faulty memory. As with all the other witnesses, Peter was asked to draw the property where the incidents were alleged to have taken place. Initially, Peter was reluctant to commit anything to paper, claiming he didn't know what we wanted. He was advised that we were just interested in the layout and that everyone else had drawn one for us. He was persuaded eventually to undertake a drawing of the house. He started by drawing the family's shop which was attached to the front of the house. He drew it in detail, placing windows, doors and furniture with confidence. (His statement included the assertion that he could not have committed the alleged acts because he was working in the family shop). No other single witness drew the shop, even other family members who worked in it didn't draw it. Then he proceeded to draw the house.

The house was also drawn to scale and included detail on the placement of doors, windows and furniture. His drawings coincided well with the pictures drawn by the other witnesses. Finally, Peter turned his attention to the sleep-out. The sleep-out contained a bedroom (Peter's), a bathroom and a living area. Peter had lived in the sleep-out for at least six months. It was his space. It was also the main site in Sally's allegations of sexual abuse. Peter drew the outline of the sleep-out floor-plan and then filled in the internal walls. The sleep-out in Peter's picture was much smaller than the house but only marginally smaller than scale. Peter was asked to indicate where the doors and windows were and he stated that he couldn't remember these details. He was then asked how he accessed the sleep-out and he drew the connecting door to the veranda. He was also asked about the placement of windows, He repeated that he couldn't remember.

Every other family member, none of whom had lived in the sleep-out, had easily remembered where the doors and window were. Once that anomaly had been put to Peter, he drew the doors and windows. Peter was then asked about the placement of furniture in the living space and his bedroom and he became agitated, claiming he could not recall where his bed was or what furniture he had in his room. He was asked how that was possible, since he had moved the furniture into his room, and slept on the bed for at least six months. He conceded this point and drew where he thought the bed 'might' have been. He was then asked about the position of wardrobes and drawers. He said he didn't remember what he had or where they were. He was also asked about where a TV and computer (key ingredients to the complaint) were situated. Peter said he didn't know about them either.

It became increasingly clear to us as interviewers that Peter had rehearsed his story and prepared for the interview as well as he could but when asked to commit to the physical act of drawing the place that the alleged incidents took place, he was unprepared, stressed and highly averse to doing so. We had not expected this reaction. It was in stark contrast both to everything we had been told about Peter and to his behaviour earlier in the interview. Along the investigative process, we had been formulating our balance of probabilities model and were coming to the conclusion that it was certainly possible that something had occurred and even likely that the low-level incidents had taken place but Peter's reaction was so untypical of his normal behaviour that it helped consolidate our thinking. It was only a piece in the puzzle but when you are dealing with incremental weightings, it was felt a strongly weighted piece of the puzzle. After conducting some follow-up interviews, weighing all the information from the interviews against the premises and researching disclosure events, it was asserted by the author and her colleague that although we could not be conclusive, we believed that on the balance of probabilities Peter had more likely than not sexually abused his younger sister.

The employing agency met with Peter and told him that the report was not favourable towards him and that they would take the matter further, if necessary. Peter resigned. Sally was relieved and gratified that someone finally believed her. She had told her parents about the abuse when it occurred (a fact both her parents admitted in their interviews). However, because of the family dynamics, she was not believed. As with many similar cases, the information gathered in the interviews was critical to getting an outcome. The combination of using the PEACE framework and employing cognitive and conversation management techniques were invaluable to obtaining the required information. However, significant to the case resolution was the drawings by all the protagonists, which added another dimension to this case. It could not have been predicted from the outset how valuable that tool would eventually become. It would be very interesting to know about research that has examined such matters.

## Discussion

It is argued that the key elements were:

- the size of the sleep-out in Sally's drawing
- the delay tactic that Sally employed of drawing everything around the periphery before confronting the place she was abused
- the rationalisation Peter implied by drawing the shop first
- the strong reluctance Peter displayed to drawing at all
- the continued assertions that Peter made that he couldn't remember which was thought to be more about being afraid the information would reveal his wrongdoing because drawing the scene confronted his assertions of innocence

- the marked changes in breathing, behaviour and emotion that each party displayed during the drawing process

The author values the combination of research and practice that exists within IIRG and would hope that this article may stimulate some thoughts. If this is the case the author welcomes the opportunity to discuss these matters further.