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Reporting on Police Interrogations: Selection effects and bias related to the use of text, video and audiotape

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Abstract

As a result of technological developments, digital recording of police interrogations has become a straightforward option in many legal systems. Videos of interrogations can now be used during criminal proceedings, instead of or in addition to written reports. Text, image and sound have different effects in the criminal justice system. This article first discusses the existing research into these effects. A study is presented in which written reports of 55 real-life Dutch police interrogations of suspects are compared to the audio and video recordings. Interrogations appear to be rigorously summarized and edited in the written reports, which may lead to biased or misinformed judgments. Risks for fact-finding are discussed and ways of enabling a better review of police interrogations are examined.

Keywords: *Police interrogations, audio report, video report, written report, selection, bias.*

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Introduction

Background

Centuries ago, all Western countries made a transition in which written texts became authoritative sources, often at the expense of an oral delivery of content. Criminal justice systems

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now face the
challenge of whether,

and to what extent, they should replace such texts with electronic modalities (Tiersma, 2001).

Police interrogations of suspects can be reported as text, or recorded on audio or video. Technological developments of the past decades have led to an increased use of audio and video recording of interrogations. However, summarizing an interrogation in a written report, or making verbatim transcriptions, continues to take place alongside electronic recording.

Countries differ in their general preference for one modality over another. England and Wales chose to make the electronic recording of suspect interrogations mandatory at a relatively early point in time (Cape, 2011), whereas Switzerland (Capus et al., 2013) and the Netherlands (Malsch et al., 2015) predominantly use written summaries of police interrogations and make little use of electronic recording (Lamb et al., 2000). In the Netherlands, where the study reported in this article was conducted, the use of written reports of interrogations as evidence is legally permitted.¹ Consequently, written reports are often used instead of face-to-face interrogations in court, especially in respect of witnesses and experts. It is, therefore, crucial that these written reports reflect the police interrogations accurately, and that is the central focus of this article.

Over the past decades, a number of wrongful convictions have occurred in the Netherlands. In some of these wrongful convictions, improper police interrogations and the – inaccurate – way in which they were reported played a role (for analyses of these wrongful convictions, see Posthumus, 2005; Van Koppen, 2008; Van Koppen et al., 2010). In combination with previous research on how the criminal justice systems of different countries deal with various types of evidence (Malsch & Nijboer, 1999; Van Koppen & Penrod, 2003; Malsch & Freckelton, 2005), these cases were cause to investigate how suspect interrogations are being recorded, and how these records are being used in criminal proceedings.

In the study presented here, we have examined if and how written reports adequately reflect the police interrogation. We have mapped the differences between the written reports and the recordings of the actual interrogations. This comparison was facilitated by the fact that the (audio) visual recording of suspect interrogations has been mandatory in serious cases in the Netherlands since 2010.² At the same time, the written reports of these interrogations continue to play a primary role during the criminal process. The written reports are included in the case file while the digital recordings remain in the background. The actual use of the digital recordings thus continues to be restricted to exceptional cases.

Audio and video recordings have their own effects as compared to the use of written reports. Image and sound offer a much more complete representation of the interrogation, but digital recordings may have a more suggestive effect than texts on paper. Findings of the current study³ are compared to what is known from the literature about the effects of the various presentation modalities: text, sound and image. We pay due attention to nonverbal behaviors, which can be perceived much better when video or audiotaping is being used. Such behaviors may, when perceptible, exert certain influences on the judgment of the suspect and his or her statement.

This article starts with a discussion of the literature on how police interrogations are reported and recorded, as well as the effects of the three possible presentation modalities: text,

¹ Written reports of interrogations can be considered as a type of ‘hearsay evidence’. The Dutch Supreme Court has approved of the use of written reports as evidence in court, see HR 20 December 1926, *NJ* 1927, p. 85.

² This obligation follows from the *Aanwijzing auditief en audiovisueel registreren van verhoren van aangevers, getuigen en verdachten* (2010A018) (Guideline audio and video-recording of interrogations of witnesses and suspects), 1 September 2010. (<https://zoek.officielebekendmakingen.nl/stcrt-2010-11885.html>).

³ In phase 1 of this study, we compared written reports of police interrogations to the audio and video recordings. In phases 2 and 3 of this study, we conducted both interviews and an experiment to obtain insight into the effects of the different modalities (and the role of nonverbal behaviors) on the assessment of the suspect’s guilt, the credibility and plausibility of the suspect’s statement and the controllability of the interrogation. These phases are not discussed in this article (see the full research report: Malsch et al., 2015).

video and audio recording. We will identify two types of effects, selectivity and bias, and how they work out for the three modalities. The article then deals with the methods used in the study, after which the findings are presented. The article ends with conclusions and discussion.

Text, Sound, Image and Nonverbal Behaviors: a Review of the Literature

Text

Each modality of presenting an interrogation puts the emphasis on different aspects. We begin with the effects of the text modality. A number of substantive and stylistic differences have been found between the spoken word and the text, when police officers have documented interrogations in a written report (Jönsson & Linell, 1991; Shuy, 1998; Lamb et al., 2000; Rock, 2001; Coulthard, 2002; Komter, 2003; Eades, 2008; Malsch et al., 2010; De Keijser et al., 2012; Capus et al., 2013). Since police reports are written both as a representation of the spoken word during the interrogation and as information for the professionals in the rest of the criminal law process, the style comprises a curious mix of legal phrases and colloquialisms that would never appear in speech (Jönsson & Linell, 1991; Komter, 2003). The written versions have a more elaborate and visible narrative structure, and greater emphasis is put on a legally relevant perspective; there is a shift from vagueness to precision, from incoherence to coherence, and from emotionality to a more neutral tone (Jönsson & Linell, 1991). Shuy (1998: 98-104) found similar differences between original interrogations and the written police reports: details were added, ambiguities in the spoken interaction were resolved in the written text, language was upgraded to a more middle-class version, and sentence type changed from simple sentences into complex and compound sentences.

In previous years in the Netherlands, police officers generally adopted a Monologue style in written reports of interrogations. This style presents the interrogation as if the suspect is telling his or her story without being pressed to do so, as if no questions have been asked, and as if no conflicts occurred during the interview – these have been omitted from the report. In recent years, the ‘Question-Answer style’ has become more prevalent in the Netherlands (Malsch et al., 2012). In over half of the written reports examined, some nonverbal suspect behaviors were noted (Malsch et al., 2012). These may under certain circumstances convey an incriminating impression to readers of the report: for example, nervous behaviors may elicit a sense in the report’s reader that the suspect is hiding something from the interrogators and may therefore be lying (Vrij, 2008; Van Zanten et al., forthcoming).

Video and audiotaping.

Video draws attention to the individual’s visible appearance and the way he or she behaves. Images may divert the viewer’s attention away from other types of information, such as the substance of the story being told (Chaiken & Eagly, 1983; Feigenson, 1999; Sherwin et al., 2006). Unlikeable suspects are found guilty more easily than likeable suspects are, while the subjects are generally unaware of this effect (Chaiken & Eagly, 1983). Comparable suggestive effects play a role when audio recordings are used: the individual’s speaking style may influence his or her perceived credibility (Erickson et al., 1978). Written texts, by contrast, may create more distance between the reader and the information described in the report, which is assumed to enable a more objective judgment (Dubelaar, 2011).

People appear to become less critical when they look at pictures or videos; they are generally under the impression that ‘everything’ that might be important can actually be witnessed and that the images are ‘objective’ (Daston & Galison, 1992). They are unaware of any suggestive or distorting effects inherent in the use of images, such as, for example, the ‘camera perspective bias’ (Lassiter et al., 2006). Confessions recorded with the camera focused on the suspect, compared to video tapes made from other camera angles (which also bring the interrogators into view), lead individuals to assess the confessions to be more voluntary and the suspect more likely to be guilty (Lassiter et al., 2002; Warner & Pickel, 2010). Different judgments of the suspect’s guilt may thus result from different camera perspectives. People trust their own judgment more when watching video than when they read a text (Sherwin et al., 2006).

Nonverbal behaviors

Video or audio recordings provide a far more complete representation of nonverbal behaviors than written reports do. Nonverbal behaviors such as looking away, leaning back, smiling, laughing, crying and being silent can be witnessed, which may or may not be relevant for the judgments in the case (Malsch et al., 2010, 2012; De Keijser et al., 2012). The interrogators’ nonverbal behaviors can, in principle, be shown on videotape to the same extent as those of the suspect,⁴ which is one of the most relevant differences with written summaries of interrogations. On audiotape, only the audible nonverbal behaviors can be heard, such as silences, speaking style, volume of the voices, the use of ‘er’, coughing, et cetera. In terms of developing an impression of the interrogation, however, even this is substantially more than when exclusively written reports are used.

The increased perceptibility of nonverbal behaviors as a result of video and audio being used during the criminal process may have two types of consequences. Such behaviors may exert a suggestive effect, while simultaneously enabling a more thorough review of the interrogation techniques applied. Many people think they can detect whether a suspect is lying or telling the truth, based on nonverbal behaviors; but they are often wrong. There is no strict relationship between nonverbal behaviors and lying. People are easily deceived at this point, lay people and professionals alike, including police officers (Vrij & Semin, 1996; Vrij & Mann, 2001). There is no behavior that is unambiguously indicative of lying (Vrij, 1998; Vrij, 2008).⁵ The increased visibility and audibility of nonverbal behaviors may therefore pose certain risks in this respect, because these behaviors may lead to the conclusion that a suspect is lying when he is not.

On the other hand, video and audio tapes offer better opportunities for examining how interrogations have actually been conducted. Naturally, video gives the best review opportunities here, because both visible and audible behaviors are recorded – on the part of the suspect as well as the interrogators. Judges and the other process participants may decide to view the interrogation on video to determine whether unlawful techniques were employed, or techniques that put undue pressure on the accused, and to check whether the suspect might have falsely confessed as a result (Lassiter et al., 2007).

Existing research suggests that nonverbal behaviors do influence the assessment of the credibility and truthfulness of the suspect’s statement. When these behaviors are witnessed on video or have been documented in a written report of the interrogation, suspect statements appear to be judged as less credible and truthful in comparison to the situation in which such

⁴ Naturally, this is dependent on the number, quality of representation and focus of the camera(s) used for the recording.

⁵ Mann et al. (2004) found, however, that some highly experienced police officers viewing videotaped interrogations achieved higher accuracy rates with regard to detecting suspects’ lies than is typically found for nonprofessionals.

behaviors cannot be perceived. However, this effect appears to be largely absent when audiotapes are used (Malsch et al., 2015).⁶

To summarize, the use of text, audio and videotaping of police interrogations have different consequences for the criminal process. While selection effects may be reduced by the use of video and audiotaping, provided that the interrogations are recorded in full,⁷ the risk of suggestive effects and, with that, of bias may increase.

Selection and Bias

The effects of the presentation modality described above ultimately come down to the concepts of ‘selection’ and ‘bias’. The actual use of written texts can be characterized by *selection*: it is relatively easy to leave out parts of the event (the interrogation) while drawing up a written report, without the reader noticing this. *Bias* may also result from a textual description of an event. Words may be noted down differently to how they were spoken, the narrative may be modified, words may be added that were not spoken – again without the reader necessarily noticing this; and this may exert a biasing effect on readers of the text. Changing the text while writing a report is not always a deliberate action intended to influence the reader, however. It may also be due to personal differences in interpretation. But the risk of bias remains the same (Malsch & Kranendonk, 2016).

Similarly, selection and bias effects may occur when audio and videotapes are made: the recording may be stopped for a while and then continued; a certain camera perspective may generate a suggestive effect. A powerful style of speech may induce an impression of the speaker being more confident and having a higher status or authority than is actually the case (Kelley & Thibaut, 1969). Visible nonverbal behaviors may be suggestive of lying, which may lead to biased judgments of the suspect’s credibility, truthfulness or even guilt, or they may lead to sympathy or antipathy towards the individual (see the literature as summarized in Malsch et al., 2015).

An awareness of these influences, and actions to combat them when considered undesirable, are important in view of the increasing opportunities to use technical equipment in the recording and presenting of evidence. The aim of the study below is, therefore, to establish whether written police reports adequately reflect actual interrogations. In doing so, we hope to gain knowledge about the accuracy and completeness of police reports, as well as the risks in the event they are fallible.

Method

A total of 55 real-life Dutch police interrogations of suspects written reports were compared to electronic recordings of these interrogations to establish whether written police reports adequately reflected the actual interrogations and, if this was not the case, what the differences were.

Materials

Of the 55 interrogations, 10 videotapes and 45 audiotapes were available to the researchers, as well as written reports of all interrogations. Data collection took place in three

⁶ The experimental study of Malsch et al. (2015) made use of law students as respondents during class: an interrogation was presented to the lecture room on either video or audiotape, or as a written report.

⁷ Garrett (2009), discussing miscarriages of justice, gives a number of examples of interrogations that were only partly recorded.

periods: September 1997 to August 1999 (N=20: data collection 1); October 2007 to June 2008 (N=14: data collection 2); and August 2013 to February 2014 (N=21: data collection 3). In all three periods, the data were collected at police stations in the Western part of the Netherlands. In total, five police stations were involved in the data collection. During the first two data collections, the researchers recorded the interrogations; during the third data collection, recordings were provided by the police.

The suspects in the interrogations were accused of crimes ranging from simple theft (the first two data collections) to violent crimes, sexual crimes, extortion and (attempted) murder (the third data collection). The longest interrogation took four-and-a-half hours; the shortest took thirteen minutes.

In the first two sets of interrogations, 15% of the written reports followed the style of recording in which the questions asked by interrogators were separated from the answers (Question-Answer style). An example is:

Q: Where were you yesterday evening?

A: I was in Station Street in Amsterdam, in the Sunset bar.

The other 85% of these interrogations were reported in a Monologue style, including various variants of this style. In this type of style, the suspect's story is presented as a first-person monologue. Most, or all, questions asked by the interrogators are left out of the written reports. As a consequence, the interaction between interrogators and suspects remains obscure (Jönsson & Linell, 1991; Komter, 2003).

In the third collection of interrogations, the ratio between the Question-Answer style and the Monologue style was reversed: 85% of interrogations were reported in a Question-Answer style, and 15% in a Monologue style. This reversal may reflect an evolution in thinking in the Netherlands about the role of police interrogations and how they should be recorded. Over time, increasing value is being attached to written reports that reflect the interrogation more accurately and more in full. Thus the Question-Answer style, which gives a more comprehensive account of the interrogation, is now used more frequently (see also Malsch et al., 2012). This development is related to the afore-mentioned, wrongful convictions in the Netherlands, and the reflection on these cases that followed in society and in circles of the police and judiciary (Posthumus, 2005; Van Koppen, 2008; Van Koppen et al., 2010).⁸

It is not clear whether the interrogations used for the study were representative of all police interrogations of suspects in the Dutch criminal justice process. However, the researchers did not aim to obtain a representative sample of all interrogations. The materials collected concern real-life interrogations, of which the written reports and the recordings have been very helpful for obtaining in-depth insight into how police interrogations are being recorded, what is left out, what is edited, what is added, and what the risks of bias and selection actually are.

Questions

The comparisons of written reports to the interrogations were focused on mapping what was left out, what was changed, and what was added. The analysis not only focused on the

⁸ This article does not pay further attention to differences in reporting style (Monologue style, Question-Answer style, variations on these styles) and the specific consequences they have for the transparency of the written reports. For discussion of these styles, see: Malsch et al., 2015.
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number of words spoken during the interrogations or the duration of the interrogations, but also addressed nonverbal behaviors displayed by both the suspects and the interrogators, and whether and how these were reported. The analysis focused both on the information (contents) that was included, edited or omitted in the written reports, and on the interaction between suspects and interrogators that could be either registered or left out. The interaction could be of a verbal and a nonverbal nature.

Procedure and Analysis

The researchers compared the electronic recordings to the written police reports, using a standardized checklist. The number of words spoken during the interrogations were counted and compared to those in the written reports; changes in the texts were noted; nonverbal behaviors of both suspects and police officers were observed on the electronic recordings, read in the written reports and registered, and they were compared between the various situations. The three collections of interrogations were not analyzed in exactly the same way. Where the analyses differ, this is noted below.

Results

Information Left Out: Verbal Information

On average, 24% of all words spoken during the interrogations were documented in the written reports.⁹ This implies that over three-quarters of the interrogations was not reported. The largest proportion of the words recorded in one interrogation was 37%, while the smallest was 2%. Many of the questions asked were left out of the written reports (mainly those that were written in Monologue style), and this happened also, albeit to a slightly lesser extent, in reports with the Question-Answer style. Of all questions that introduced a new topic during the interrogations ('primary' questions), 63% were included in the reports, while only 25% of the follow-up questions were reported. Thirty-two per cent of all verbal actions, such as questions, answers, confrontations, remarks made by the interrogators, and the presentation of investigative and forensic clues, were included in the written reports.

Follow-up questions may play an important role in exerting pressure on the suspect to answer questions. Suspects were often unwilling to answer questions during the interrogations, or denied the crime in part or in whole.¹⁰ The interrogators then tried to pressure them into giving a statement, for example by confronting or encircling suspects with tactical evidence. These attempts often resulted in antagonistic communications or even in conflict between the suspects and the interrogators.

While asking follow-up questions, the interrogators may change perspectives or use interrogation techniques to 'hem in the suspect': cut off his or her ways out. Some written reports only presented the 'primary' question asked by the interrogators, after which the various answers to all follow-up questions were noted as one answer. These answers had frequently been given after a lengthy period of somewhat antagonistic communications, but these communications were often omitted from the report. For example, during one of the interrogations studied, the interrogator asked eleven follow-up and two clarification questions after the primary question. The police report, however, only included a brief summary of the primary question, and none of

⁹ From the third Data Collection.

¹⁰ Most interrogations (61%) included in this study concerned suspects who denied the alleged crime or certain elements of what allegedly had occurred, and continued to do so during the interrogation.

the follow-up and clarification questions were noted. The suspect's several answers were summarized as one answer to the primary question. In addition, confrontations with, for example, incriminating evidence or the suspect's own contradicting statements, were not always reported in full: 24% of the confrontations were left out of the report or were, sometimes rigorously, summarized.

An example of the latter is a case in which the suspect, after being interrogated for some time, said he had shot a person more than ten years ago (see Example 1). He declared not to have known whether the person died as a result of his action and neither had he, as he stated, acted on the orders of another person. As the interrogation came to an end, the suspect suddenly stated: "Hey, about something else, er, what I'm going to say now, er, it sounds a bit strange, yes, I am here for an, er, elimination, er (...). For an er shoot-out [or], er, something like that".¹¹ The word 'elimination', which the suspect had not said before, prompted the interrogator to continue asking questions. In the written report, this part of the interrogation reads as follows:

Example 1

Written report

- P:¹² Now, do you still have any questions?
 S: No, I know that I'm here because I've eliminated somebody.
 P: Now, what do you mean with eliminated?
 S: I've killed somebody. That is what eliminating means, isn't it?

Immediately after the suspect used the word 'elimination', he stated that he did not know the meaning of the word. He said that he had shot a person, and thought this was generally described as 'elimination'; he had seen this on television. He asked the interrogators multiple times whether he was using the correct term: "For shooting someone, it's called elimination, right?" The interrogator answered that it is also called homicide, attempted murder or bad luck. The interrogator then wanted to stop the interrogation and here the written report ends. Afterwards, however, as the recording shows, the suspect continued to ask questions about the true meaning of the word 'elimination'. The interrogators explained this to him and the suspect then responded as follows:

Interrogation

- S: No, it really didn't happen like that.
 (...)
 P: You clearly stated: I'm here for an elimination.
 V: I've used the wrong word! You must believe me, it's the truth!
 P: Okay.
 S: Honestly!
 P: Okay.
 S: Then you must really believe me.
 P: Okay.
 S: I didn't do what somebody told me to, go and kill that man.
 P: We will include this.
 S: It's really true.

¹¹ The suspect's and interrogators' statements are presented literally in the examples in this article.

¹² S = suspect; P = police officer.

The suspect clearly stated that he had used the wrong word and did not intentionally, or on the orders of another person, shoot the victim. However, the words in the written report: “I have killed somebody. That is elimination, right?” suggest something else. Since these sentences are the last ones in the written report, and subsequent discussion about the word ‘elimination’ was left out, these sentences will probably stand out most prominently in the reader’s memories of the interrogation. The written report is therefore probably more incriminating than the interrogation itself, as it makes the suspect seem guilty of a more serious crime. Since a judge generally bases his or her opinion on the written report only and does not view or listen to the complete interrogation, he or she is thereby missing important information. Confrontations and conflicts are critical moments during the interrogation. For this reason, leaving relevant parts out of the written report may give the judge and the other process participants an inaccurate impression of the interrogations.

Information Left Out: Visual and Auditory Information

Written reports of police interrogations generally include only a few observations of visual and auditory information: for example, the suspect falling silent for a while, or certain suspect behaviors (see Malsch et al., 2012, 2015).

According to the Guideline audio and video-recording (see note 3),¹³ video and audiotapes must be started before the suspect enters the interrogation room and stopped after he has left the room. The interrogators must notify the suspect of the recording. From watching and listening to the records, it appeared that this rule was not fully observed in a minority of the interrogations: in five out of the six auditory recordings studied,¹⁴ taping was only started when the suspect was already in the room. In four audio and in two video recordings, the suspect was still in the room when the recording was stopped. What happened before or after pushing the button was not recorded, therefore, and could not be reviewed at a later point in time.

In cases of serious crime in the Netherlands, it is mandatory that three cameras are used to videotape the interrogation: one focused on the suspect, one on the interrogators and one giving an overview of the interrogation room. Of seven video recordings,¹⁵ six complied with this rule. The one exception made use of a single camera, which showed the suspect full-face and revealed only the back of the interrogators’ heads.

Where three cameras were used, the camera that provided the overview of the interrogation room did not allow for a clear view of the facial expressions or minor participant movements.¹⁶ On the cameras that provided close-ups of suspects and interrogators, nonverbal behaviors could be perceived much better. These images, however, were not always in focus. Facial expressions could not always be observed very well.

Changed Verbal Information

In the written reports, spoken text was changed in several ways. The predominantly qualitative analysis performed by the researchers showed that language of a legal nature was used

¹³ The aim of such a recording is to enable review of interrogation techniques. Naturally, the recordings also enable nonverbal behaviors to be observed, thereby increasing the potential for bias caused by such behaviors.

¹⁴ From Data Collection 3.

¹⁵ From Data Collection 3. In Data Collections 1 and 2, only auditory recordings were available and used in the analysis.

¹⁶ Which could decrease the potential risks of interpreting nonverbal behavior incorrectly, but also decreases the controllability of the interrogation.

more extensively in the written reports, as compared to the actual, everyday language used during the interrogations. Different words were used, hesitations on the part of the suspects were left out and replaced with phrases in which the suspect seemed to make confident statements. Suspect statements were regularly made more fluent, logical and clear than they had actually been spoken. In reality, sentences voiced by both suspects and interrogators were full of stammers and stutters, 'er's and incorrect grammar (see examples presented in this article). These were omitted in the written reports; as a consequence, it is suggested that sentences were spoken fluently and without interruption. In one of the interrogations studied, two questions were asked of the suspect about his length and posture. In the interrogation, the suspect answers: 'I believe one 1.91 (inaudible)', and 'Well yeah stocky'. In the written report, the following fluent answer is noted: 'I am a man of 191cm tall, I have a stocky posture'.

Sometimes police officers promised to present a statement in the suspect's words, as is required by the law, but used their own words instead. Interrogators' knowledge from other sources was, in some cases, presented as if stated by the suspect. Words spoken by the interrogators appeared in some of the written reports as if they had been said by the suspect (see the word 'mentally' mentioned by the interrogators, but written down in the suspect's answer in Example 2). It is consequently unclear what or who was the source of certain information, or the information was simply presented as spoken by the suspect while that was not the case.

Example 2

Interrogation

S: Yes, I would not now know, one two three, exactly when, er. I do know that she was busy, Sanne, then in that period with those courses to make herself strong. But I have not really compared with, er, the other children. They all had something.

P: And what do you mean with becoming stronger, physically?

S: Yes, physically, like, she comes, er, out of isolation, is strong because of that, that she stands up for herself and that she sticks up for herself and so on.

P: So, mentally.

S: Yes.

Written report

I do know that Sanne followed courses to become stronger. With this I mean mentally stronger, that she sticks up for herself.

Although it is understandable that interrogators prefer not to confront readers with texts that are annoying to read and make them stumble over words and sentences, through this cosmetic operation the written summaries gave an impression of the interrogation that was far removed from reality. Due to the police officers' adaptations, written reports often conveyed a sense that the interrogation had taken place without any serious conflicts between interrogators and suspects, while looking at or listening to the electronic recordings made clear that miscommunications and conflicts abounded. In addition, textual adaptations sometimes placed a different emphasis to what the suspect had said, or suggested a different intention on the part of the suspect. The differences between the written report and the actual interrogation may lead to a different interpretation of the suspect's statement. This can be the result of an interrogator's specific interpretation, and may lead to a biased judgment by the reader of the text.

Added Verbal Information

Interrogators sometimes inserted words in their written reports that had not been said during the interrogations. These words regularly originated from previous contact with the suspects, and concerned, for example, simple information about the location and time of the event. Words were also added to make sentences clearer and more understandable.

A typical moment when information was added to the written reports that had not been voiced by the suspect, was before the interrogations started, when the suspect received the official warnings that he/she is not obliged to answer the questions asked ('caution') and that the interrogation would be recorded on tape. These actions, which are required by law and by other regulations, generally received a lot of attention in the written reports, while in reality they had only taken little time and only a few words had been spent on them. These words seemed intended to emphasize that the suspect had indeed heard the caution and had understood it. The electronic format used when drawing up a written report of an interrogation on the computer may have played a role in this respect: at the start of the interrogation, the reporting officer enters the special police computer system, which opens a form-filling screen where the items automatically appear as the officer enters the required information in the slots. This screen has a number of blank fields that must be filled in by the officer before he or she can print the document (Komter, in press; Van Charldorp, 2011: 81).

Nonverbal Behaviors

In 62% of the written reports,¹⁷ nonverbal behaviors were described (Malsch et al., 2012, 2015). The nonverbal behaviors noted most often in the written reports were: (functional) silences (N=20), suspect emotions (N=17), and suspect body language and movements (N=20). Interrogators sometimes verbally reflected on the suspect's nonverbal behavior. This was noted 12 times in the 13 reports. When no video is being used, the absence of images may sometimes obstruct an adequate review of the interrogation, see the following situation (see Example 3).

Example 3

Interrogation

P: You say it almost with a smile on your face.

S: I am not saying it with a smile on my face.

P: Well that is what you are expressing.

S: No.

P: Nonverbally.

S: No.

Written report

P: We see that you are close to telling it with a smile on your face, how come?

V: That is not true you know.

P: That is what you are expressing.

A: Well, that is not the intention.

Only nonverbal behaviors of suspects were reported; those of the interrogators were omitted. Evidently, only a small proportion of all nonverbal behaviors was reported. Describing all nonverbal behaviors would lead to excessively long documents that would be extremely

¹⁷ From third Data Collection. In the 'older' Collections 1 and 2, nonverbal behaviors were rarely or not reported in the written reports.

cumbersome to read. From the analysis, it appeared that nonverbal behaviors were not predominantly or exclusively reported at the very moments when the suspect was confronted with incriminating evidence or was otherwise put in a difficult situation by the interrogators; they were documented at a variety of moments. It may thus be hypothesized that the interrogators did not intend to make their written reports suggestive of lying and that they merely attempted to report what struck them as 'relevant' (see also Malsch et al., 2012; Van Zanten et al., forthcoming).

Conclusions

Conclusions of the Study

Written reports do not accurately reflect actual interrogations. The interrogations are rigorously summarized in written reports. Texts are changed and words are added. This may help to cause biasing effects on the readers (Malsch et al., 2015). The source of texts is sometimes shifted from the interrogators to the suspect. Important moments with regard to deciding the suspect's guilt, such as confrontations and verbal conflicts, are sometimes summarized or left out of the written report altogether. Many questions asked by interrogators are omitted from the written reports, also when the Question-Answer style is used. By far the majority of nonverbal interaction is omitted from the written reports. Only nonverbal behaviors of the suspects are documented in the reports; those of the interrogators are left out. As a result, a large proportion of the (verbal and nonverbal) communications and interactions between interrogators and suspects remain unknown, and they may include nonverbal threats or promises to the suspect. The atmosphere of the interrogations is adapted, too: interrogations seem to run fluently and statements seem to be given voluntarily and with confidence, while in reality most interrogations were full of conflicts. Both the effects of 'selection' and of 'bias' have thus been detected in the written reports, and they may exert their influence on the pivotal decisions that must be made in a case.¹⁸

These findings suggest that the use of electronic recordings is of the utmost importance for fact-finding in a case. They are indispensable for enabling a more thorough review of the interaction and the interrogation techniques applied. However, as we have made clear above, certain drawbacks are inherent in the use of video and audiotaping as well. Nonverbal behaviors can be perceived much better on video and they appear to exert their influence on the judgment of the suspect's statements (Vrij, 2008; Malsch et al., 2015).

General Discussion

Selection effects and biases are inherent in all presentation modalities. *Selection* can take place most readily in the *text modality*, as shown by the findings of the study presented here. A large proportion of each interrogation is left out of the written report, probably without readers noticing that this had happened or knowing which parts of the interrogation have been omitted. If readers do not make the effort to look at or listen to the electronic recording of the interrogation (if available), they may not know how, exactly, it was conducted, which interrogation techniques were employed, and how suspects and interrogators interacted.

¹⁸ Previous research has shown that different police officers reporting on the same interrogation write strikingly different reports, which appear to lead to different judgments on the suspect's guilt. See Malsch et al., 2010; De Keijser et al., 2012.

Bias occurs in the written reports of interrogations as well: communication is made more fluent, suspects seem more confident, stable and cooperative, and words spoken by the interrogators are sometimes attributed to the suspect. The researchers observed that written reports often suggested a different atmosphere than was actually evident during the interrogations: confrontations and conflicts were summarized or omitted, and this may have a biasing effect on assessments of the interrogation. The effects of selection and bias overlap to a certain extent: selection may help to induce bias.

The literature presented suggests that nonverbal behavior, in interaction with the presentation modality, affects the judgment of interrogations. Suspect statements are seen as less truthful and credible because of the nonverbal behaviors that can be perceived. Such bias seems most prominent in the video and text modalities (Malsch et al., 2015).

Selection effects can also take place during the *electronic recording* of interrogations. The recording can be started later; for example, after the suspect has confessed. Or it can be halted for a while; for example, at the moment when the suspect is confronted with certain evidence or when a lot of pressure exerted (e.g. Garrett, 2009; Kassin et al., 2010). Cameras may not clearly show all participants in an interrogation. *Bias* may result from a certain camera perspective. Where interrogations are recorded in full, however, selection effects will occur to a much lesser extent than is the case for written reports.

In view of the effects found in this study and reported in the literature, a number of recommendations can be formulated. *Videotapes* are best used in serious cases in which the evidence is disputed. They provide the most complete representation of the interrogation and offer the best opportunities for thorough examination of techniques, interactions and communication. The use of *audiotapes* is most effective in avoiding undesirable, suggestive effects of images on process participants. The equipment for audiotaping is also simple and convenient: a small device that can be put on the table is sufficient. By contrast, video recording generally requires a studio with more than one camera, so it is more laborious and complicated in its use.

The most efficient representation of an interrogation in a criminal process seems to be the *written report* (Malsch et al., 2012, 2015). Written reports are generally summaries that reflect the essence of the interrogation, while leaving out unnecessary details. The report can easily be included in the case file, together with the other written pieces of evidence. Written reports can also be very helpful for obtaining and keeping an overview of the interrogation, which is more difficult with an electronic record: it is easier to browse through a paper document than through an electronic tape. In addition, reading from paper is more pleasant than looking at a monitor for long periods of time. The use of written reports is advisable when the evidence is not disputed and the case at hand is simple. However, in view of the serious potential for selection and bias, in combination with the fact that different police officers appear to write different reports of the same interrogation (see Malsch et al., 2010; De Keijser et al., 2012), we strongly advise against reliance on written reports *exclusively*. Whatever the choice of modality is, an electronic record should be available at all times to enable process participants to review how the interrogation was conducted.

Limitations to this Study

It is not clear whether the 55 interrogations studied were representative of all suspect interrogations in the Netherlands. However, since selection and bias effects have been noted for interrogations in both non-serious and in serious cases, the selection of the cases does not seem to have had an influence in this respect: all written reports showed a substantial reduction in the

number of words as well as other adaptations. The only difference between the case types was found in relation to the registration of nonverbal behaviors: that happened to a substantial extent in serious cases, but far less so in non-serious cases.

The effects found occurred in all styles of reporting as well: selection and bias were observed in both the Monologue style and the Question-Answer style. It can therefore be cautiously concluded that a potential absence of representativeness in the materials has not been of influence on the findings.

The number of 55 interrogations used for the study is fairly small. However, our findings are largely aligned with previous findings of research, both in the Netherlands and abroad. The results of the study provide significant refinements with respect to the findings of previous studies. The authors feel that a larger sample would not have led to different results.

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