



# Access to Justice for Children with Autism

## MAKING IT FAIR FOR CHILD WITNESSES

### Our team

The Making it Fair for Child Witnesses study was led by Professor Lucy Henry and Dr Laura Crane (from City University London), and Dr Rachel Wilcock (from the University of Winchester).

Our research team included Dr Gilly Nash, Dr Zoe Hobson, Dr Mimi Kirke-Smith and Ms Debbie Collins, along with postgraduate students Jamie Chui, Megan Doherty, Carmen Marti-Sanchez and Fiona McCormack.



Lucy Henry



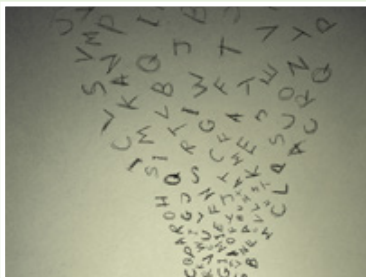
Rachel Wilcock



Laura Crane

### A note on language

There is a debate regarding the most appropriate way to refer to children and adults on the autism spectrum. Whilst person-first language (i.e. 'person with autism') has typically been advocated, many autistic individuals prefer disability-first language (i.e. 'autistic person'). Throughout this document, both terms are used, to respect this diversity of views.



### What is Autism?

The National Autistic Society define autism as: 'a lifelong developmental disability that affects how a person communicates with and relates to other people, and how they experience the world around them'. People with autism display two key features:

- (1) Difficulties with social interaction and communication
- (2) The presence of restricted and repetitive behaviours, interests or activities.

Autism is known as a spectrum disorder – this means that whilst all autistic people share certain difficulties, their autism affects them in different ways.



Autism is considered a 'hidden' disability - this is because it is not always obvious that a child or adult is diagnosed with autism (autistic people do not look any different from non-autistic people).

It is not clear what causes autism, and there is no 'cure'. However, with the right support, autistic people can live happy, fulfilling and rewarding lives.

# The research process

A total of 274 children (aged 6-11 years) took part in our project: 202 typically developing children and 72 children diagnosed with an autism spectrum condition.

This research study involved several key phases:

## Stage One: Live event and evidence gathering statements

The children watched two men give a short talk about what school was like over 100 years ago (either 'live' in school assembly, or on a video). Immediately after the talk, they were questioned about what they saw, to see how much they could remember.

## Stage Two: Investigative interviews

One week later, the children took part in mock

police interviews, using one of four different interview techniques:

**Verbal labels** – the children were asked to tell the interviewer about the event before being prompted to talk about specific aspects (e.g. the people, their actions, the setting) in more detail.

**Sketching** – the children were asked to draw a sketch of the event, in as much detail as they

wished. They were also asked to describe each aspect of the sketch as they were drawing it.

**Intermediary assistance** – the children were supported during their interview by a Registered Intermediary, whose role was to facilitate communication between the child and the interviewer.

**Standard police interview** – the children were interviewed in line with current guidelines for police officers in England and Wales.

## Stage Three: Identification parade

Immediately after the interview, the children were shown two video line-ups (developed by the Metropolitan Police) and were asked to identify the two men who gave the talk.

## Stage Four: Cross-examination

Approximately one year later, the children were questioned about the talk by a barrister. In actual court cases, barristers question child witnesses using a live television link. We simulated this in our research using Skype. The barrister had a 'defence statement' from one of the two men giving the talk (detailing his version of events, which was slightly different to what actually happened). The barrister used this to question the children – seeing whether they changed their answers in response to his/her questions.

## Stage Five: Juror perception of child witnesses

Some parents kindly gave permission for their children's interview to be video recorded and subsequently shown to a group of mock 'jurors', to see how credible the 'evidence' was. This was a really important part of the project – irrespective of whether the child's testimony is accurate and comprehensive, if the jury do not perceive the child to be credible, there will be no conviction.



## Stage Six: What factors predict how well children will perform?

During the research process, we assessed each



child in a number of areas. These included general ability, language, suggestibility, anxiety, and memory. A key aim of the project was to explore whether any of these factors predicted how well children performed as witnesses. If so, this may help professionals in the criminal justice system to identify the most vulnerable children who are most in need of support.

## What is an intermediary?

The justice system in England and Wales currently provides vulnerable witnesses (e.g. those with an autism spectrum condition, or those under the age of 18) with the option of a Registered Intermediary. An intermediary is an impartial, trained professional who facilitates understanding and communication between vulnerable witnesses and legal professionals (e.g. judges, barristers, police officers). Intermediaries conduct initial assessments of the witnesses, prepare

reports, and advise how best to enable vulnerable witnesses to understand and respond at different stages of an investigation. All vulnerable witnesses are eligible for the assistance of an intermediary.

You can find out more about the role of an intermediary by visiting Intermediaries for Justice – [www.intermediaries-for-justice.org](http://www.intermediaries-for-justice.org)

## Results of our study

Research takes time! It has taken us three years to complete all of our assessments of the children in the study and to analyse that information. The next step is to write reports about our work. The reports need to be assessed by experts, who check that our research has been conducted to a sufficiently high standard and that we have interpreted and reported the results correctly. It will likely be a few more years before all the results of our project are available, and these will be posted on our website ([www.childwitnesses.com](http://www.childwitnesses.com)) as soon as they are ready.

In the meantime, we are delighted to be able to share some initial results with you...

One of the key findings from our research was that intermediaries were found to be very beneficial for typical children



– improving the amount of information they recalled at interview and the number of correct identifications made during the video line-up – without having a negative effect on perceptions of credibility (as judged by mock jurors). The verbal labels technique was also effective at increasing the amount of information recalled during interview for these children.

The results for the autism group were more complex and it was not clear that any of the interview techniques improved the amount autistic children recalled. There were, however, some encouraging findings: although children with autism recalled less information at interview, they also made fewer errors, so were just as accurate overall as typical children.

Regarding cross-examination, the results are more complicated than we expected and we have been awarded some additional funding that will enable us to explore these results in a bit more depth.

Finally, we found that the way in which information about autism was presented to jurors had an effect on how credible some, but not all, of the children were rated. This suggests that care needs to be taken with how the courts describe autism to jurors and that they should adapt their approach for each autistic child they encounter in the courtroom.



## Reflections on cross-examination

One of the barristers who assisted with our research explains why our study is so important:

“Cross-examination is the questioning of a witness or defendant by the opposing barrister. In the case of a child witness, or any vulnerable witness, you need to take a gentle approach; suggesting that their memory of what happened is not correct, so as to highlight differences between their account and what other witnesses say. Questions have to be carefully phrased, to avoid confusing the witness and to ensure that you don’t manipulate their answers. Your tone of voice is important, as is the speed and complexity of the questions asked. The aim is always to be fair to the witness, whilst doing the job of defending your client to the best of your ability; it is not an easy balance, but is a crucial one.

Research into cross-examination is vitally important – especially in relation to children with autism. As in education, good practice for a child with autism is good practice for all children, and the lessons learned from research such as this, can only help to inform advocates tackling cross-examination of all children and vulnerable witnesses. In recent years, there have been many positive developments to support vulnerable witnesses in the courts. I hope that this research provides a much needed foundational step to facilitate further developments in this area.

I have cross-examined over 80 children (with and without autism) as part of this project and loved working with them. From the children who made me smile with their answers (and sometimes their own questions to me as well) to those who helped out with the technical difficulties when our Skype link wasn’t working well (one boy ingeniously suggested and set up his mobile phone as a wi-fi hotspot to help), it has been both an enjoyable and a heart-warming experience. Whilst some of the children were very chatty and had astonishingly good recall of events from a long time ago, some of the most fascinating conversations came from some of the more anxious children, who felt that they would not be able to contribute anything, but who tried their best to answer questions, and hopefully walked away feeling that they had helped. It has been a great pleasure to work with the children, and I hope that the feeling was mutual”.

Amanda Millmore was called to the Bar in 1996 and practised as a barrister for 8 years in the areas of criminal law, family law, and personal injury work. In 2004, she established the CPD training website [www.legaltraining.co.uk](http://www.legaltraining.co.uk) and she also works as a Lecturer at the University of Reading. Amanda is the parent of a child with autism.

## News

Our team wrote a feature for the National Autistic Society's online resource 'Network Autism' entitled '*Police interviewing of witnesses and defendants with autism: What is best practice?*' in June 2015. Access the article here: [ow.ly/1ox8ER](http://ow.ly/1ox8ER)



in February 2016 ([ow.ly/1oxaa3](http://ow.ly/1oxaa3)). Read the full research report here: [ow.ly/1ox9WU](http://ow.ly/1ox9WU).

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**Dr Laura Crane** recorded a podcast about autism and policing for The Pod Academy. Listen here: [ow.ly/1oBTW1](http://ow.ly/1oBTW1)



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As part of our outreach activities, **Professor Lucy Henry** gave a very well-received talk to family lawyers at the Law Society event 'Vulnerable Witnesses in the Family Courts' in December 2015.



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Some related research by **Dr Laura Crane** - calling for greater autism training for police officers - was featured in The Guardian



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**Dr Rachel Wilcock** presented findings from our study at several international conferences for academics and legal professionals, which generated considerable interest in our work. She is also due to give a lecture at City University's Law School later this year.

## Autism awareness events for police officers

As part of our project, we held two autism awareness events for police officers – in November 2015 and March 2016. These events were attended by over 200 police officers (covering a wide range of commands and ranks) from six different police forces in England and Wales. The events were delivered by a team of autistic adults, academics, police officers and intermediaries and the feedback was overwhelmingly positive.



**"Really glad I came today – possibly the best and most useful input I've had during my career"**

Detective Constable from the Metropolitan Police Service who attended one of our events.



## Guidance for criminal justice professionals

The Advocacy Training Council (which provides leadership and training for barristers, judges and other relevant legal professionals) set up The Advocates Gateway (TAG), to provide free access to practical, evidence-based guidance on vulnerable witnesses and defendants in the justice system. Working with TAG and other legal professionals, our team developed a toolkit entitled: 'Witnesses and defendants with autism: memory and sensory issues'. This provides guidance

on interviewing autistic people and is freely available online: see [www.theadvocatesgateway.org](http://www.theadvocatesgateway.org)

We are also working with the National Autistic Society to update their Guide for criminal justice professionals. Due for publication in late 2016, the existing guide will be adapted to reflect our research findings, as well as the latest developments in the criminal justice system. It will be tailored so it is specifically for police officers.

## Thank you!

There are many people who gave their time and efforts to assist with this research. Thanks to all the legal professionals (police officers, barristers and intermediaries) who assisted with our project and our associated autism awareness events. We are also incredibly grateful to the schools, charities and support groups who helped with recruitment for this study. Most importantly, thank you to all the children and their families who took part in the study – we couldn't have done it without you!

Find out more about our research by visiting our website: [www.childwitnesses.com](http://www.childwitnesses.com)

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