Intoxicated Witnesses and Suspects: Procedures and Prevalence According to Law Enforcement

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Legal psychologists have generally neglected intoxicated witnesses and suspects in their research. One possible reason is the lack of objective information about the prevalence and characteristics of this witness and suspect group. Also unclear is whether standard police procedures for dealing with intoxicated individuals exist and what these may be. The present survey was conducted to help fill this void. Law enforcement officers completed a survey about their experiences with intoxicated witnesses and suspects. Their responses provide clear evidence that dealing with intoxicated witnesses and suspects is common and that there are few standard procedures for handling such individuals. As our data strongly suggest that this group has a significant presence in law enforcement contexts, several research and policy questions are apparent. For example, if the intoxicated differ from sober witnesses and suspects, should this warrant uniquely tailored procedural recommendations? Findings from this survey are intended to spur and guide research aiming to provide useful guidelines to law enforcement on how to interact with this potentially vulnerable and underresearched group.

Keywords: eyewitnesses, suspects, alcohol intoxication, interrogations, interviews

Intoxicated Witnesses and Victims of Crime

Information gained from witnesses is generally considered one of the most important factors in solving crimes (Fisher, 1995; Kebbell & Milne, 1998), and mistaken eyewitness testimony has been cited as a major contributing factor in DNA exoneration cases (Kassin & Gudjonsson, 2004). The importance of accurate witness testimony is further reflected in the immense volume of research conducted on eyewitness memory and witness-interviewing techniques over the past century (e.g., Toglia, Lindsay, Ross, & Read, 2007). However, only a handful of studies have focused on intoxicated witnesses. Similar to known vulnerable witness groups (e.g., children or the elderly), the intoxicated may show unique patterns of memory impairment that require specific attention from law enforcement and the legal community (Smith & Tilney, 2007).

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Alcohol and Memory Performance

Alcohol has been shown to impair memory performance across a variety of tasks and studies. Arguably, the most extreme effect that alcohol can have on memory is an alcoholic blackout, or alcohol amnesia (Goodwin, 1995; Goodwin et al., 1970). In most instances, however, alcohol has more subtle and specific negative effects on memory.

Although very little research has focused on intoxicated witnesses or alcohol and event memory specifically, research on alcohol and memory typically demonstrates a detrimental effect of alcohol on memory (Maylor & Rabbitt, 1993), impairing both encoding and retrieval (Ray & Bates, 2006; Soraci et al., 2007; Verster, van Duin, Volkerts, Schreuder, & Verbaten, 2003), even after a 1-week delay (Söderlund, Parker, Schwartz, & Tulving, 2005). At encoding, intoxicated participants are less able to attend to multiple cues, relate incoming information to existing knowledge (Steele & Josephs, 1990), use precise elaborators, and process semantic information (Hashtroudi, Parker, DeLisi, & Wyatt, 1983; Marinkovic, Halgren, & Maltzman, 2004). At retrieval, alcohol decreases sensitivity in recognition tasks (Maylor, Rabbitt, & Kingstone, 1987) and retrieval from long-term memory (Nelson, McSpadden, Fromme, & Marlatt, 1986). Overall, alcohol’s impact on memory consolidation appears to be greater than its impact on recall of established memories or the ability to hold new information in short-term memory (Soraci et al., 2007; White, 2003; but see Saults, Cowan, Sher, & Moreno, 2007). However, alcohol’s impact on recall depends on the recall format: Some findings suggest that intoxication impairs memory on explicit but not implicit tests (Lister, Gorenstein, Risher-Flowers, Weingartner, & Eckhardt, 1991; Ray, Bates, & Bly, 2004). Similarly, whether new information requires controlled/effortful or automatic processing at encoding may determine the effect of intoxication on cognitive processes and later recall (e.g., Abroms, Gottlob, & Fillmore, 2006; Curran & Hildebrandt, 1999; Kirchner & Sayette, 2003).

The impact of alcohol on working memory (WM) also appears to depend on the specific tasks involved: Alcohol (compared with placebo) only impaired WM for material encoded and maintained through rehearsal but had little effect on general WM holding mechanisms or tasks requiring undivided attention (Saults et al., 2007). Grottan-Miscoio and Vogel-Sprott (2005) found that, as WM approaches maximum capacity, alcohol can impair cognitive performance; however, some effects were reversible with incentives to perform.

Particularly important for eyewitness scenarios is alcohol’s affect on false memories. In contrast to two previous studies (Milani & Curran, 2000; Mintzer & Griffiths, 2001), Garfinkel, Dienes, and Duka (2006) found that, under some circumstances, alcohol can decrease false explicit memory compared with a placebo group. There was no effect of alcohol on implicit false memories. Unlike the other studies, this study tested recall, not recognition, suggesting that recall format plays a role in alcohol’s impact on false memory. Together with Craik (1977), Garfinkel et al. argued that superficial encoding during intoxication may account for the overall decrease in memory, including false memory.

There is some evidence that, under certain conditions, alcohol can enhance memory; for example, Moulton and colleagues (2005) found that the timing of intoxication matters. When consumed shortly after stimulus material was pre-
sented, alcohol facilitated later retrieval when sober. Moulton et al. argued that alcohol suppresses cognitive activity, which otherwise may have interfered with new memory formation. Others have also found alcohol’s retrograde facilitation and anterograde impairment of memory (Bruce & Pihl, 1997; Garfinkel et al., 2006), even with emotional stimuli and free recall instructions (Knowles & Duka, 2004).

Some of alcohol’s effects on memory may be explained by Steele and Josephs’s (1990) theory of alcohol myopia. Alcohol myopia posits that alcohol affects cognitive functioning either (a) through restricting the range of cues that can be perceived in a situation because disproportionate attention is given to immediate situational cues at the expense of weaker peripheral cues, or (b) by reducing the ability to process and extract meaning from the perceived information. The effect of intoxication on the performance of a given task depends on the presence or absence of other ongoing activity (Josephs & Steele, 1990). Because of reduced attentional capacity, intoxicated individuals are more likely than sober individuals to focus on a primary task at the expense of other stimuli. A recent study on inattentional blindness confirmed this notion: Mildly intoxicated people were less likely than sober ones to notice an atypical salient object while performing a competing attentional task (Cilfasefi, Takarangi, & Bergman, 2006). The effect of alcohol on witness memory might therefore depend on the type of activity/level of distraction during an event to be remembered, and the resulting attentional or encoding deficits. Further supporting alcohol myopia, Cunningham, Milne, and Crawford (2007) found that increased intoxication was associated with impaired free recall for neutral but not stereotypical items. They argued that, after stereotype induction, the intoxicated only encoded the salient stereotype congruent information, at the expense of neutral stimuli, because of the fewer available cognitive resources.

In summary, research has demonstrated several effects of alcohol on memory. However, most research has used stimuli such as word lists and recognition tests, rather than free recall of events, both hardly representative of real-world scenarios.

The limited existing research suggests that the cognitive impairments found in the intoxicated may render them more vulnerable to memory impairment and retrieval conditions than sober witnesses, similar to the cognitive limitations found in other vulnerable witness groups such as children.

Only two published studies have specifically addressed intoxicated eyewitnesses’ memories and both indicated that intoxicated witnesses’ memories may be less accurate than sober witnesses’. Yuille and Tollestrup (1990) found that intoxicated witnesses were less accurate and provided less information than sober witnesses when interviewed about a staged event. Intoxicated witnesses also showed a nonsignificant increase in false identifications in target-absent lineups, but there was no effect for the target present condition. This increase in false positives was replicated with target-absent showups in a field study (Dysart, Lindsay, MacDonald, & Wicke, 2002).

Taken together, both basic and applied findings suggest that intoxicated witnesses may show suboptimal memory performance under certain conditions and may therefore require special attention. However, it remains unclear how common intoxicated witnesses really are, how law enforcement interacts with
these witnesses, and how experimental designs can closely mimic real-world eyewitness conditions.

Of particular interest is whether investigative interviewing practices take the potentially unique needs of intoxicated witnesses into consideration. If intoxicated witnesses are indeed more vulnerable to interview content and context, they may require specialized interviewing practices, arrangements, and interviewer training, similar to what is proposed in research-based interview guidelines for child witnesses and witnesses with special needs (Ceci & Bruck, 1995; Poole & Lamb, 1998; Soraci et al., 2007; Sternberg, Lamb, Esplin, Orbach, & Hershkowitz, 2002; Vulnerable Witnesses (Scotland) Act, 2004). However, no interview guidelines to our knowledge have addressed how intoxicated witnesses should be interviewed to maximize information quantity and quality and to minimize contamination. This further confirms that intoxicated witnesses as a group have been neglected not only by researchers, but also in terms of policy recommendations.

**Prevalence of Intoxication in Witnesses and Victims of Crime**

This lapse may be due to the fact that reliable information about the prevalence of and procedures for dealing with intoxicated witnesses has not been investigated (e.g., Gudjonsson et al., 2004). Despite anecdotal evidence of intoxicated witnesses, there are currently no official and available U.S. statistics on the number of witnesses that were intoxicated at the time they witnessed the crime or at the time of their interview. Yuille and Tollestrup (1990) reported that it is difficult to know how prevalent alcohol intoxication is in eyewitnesses because this information is rarely included in police files and reports. Nonetheless, informal interviews with Canadian law enforcement officers revealed unanimous agreement that alcohol is extremely common in forensic contexts (Yuille, 1986).

There are some useful statistics regarding the prevalence of intoxicated victims of crime. For example, in 2002, the majority of all college victims of physical violence (63%) and forced sexual touching or fondling (74%) reported consuming alcohol and/or other drugs shortly before these incidents (Bureau of Justice Statistics, 2005). There is further evidence that heavy drinking increases the probability of sexual victimization: Alcohol use increased the risk and severity of sexual assault victimization in college women (Mohler-Kuo, Dowdall, Koss, & Wechsler, 2004; Testa & Parks, 1996; Ullman, Karabatsos, & Koss, 1999), and 37% of over 1,000 rape victims tested positive for alcohol (Hindmarch & Brinkman, 1999). In addition, the National Institute of Justice (2003) reported that, in cases of actual or attempted intimate partner homicide, the victim was intoxicated 14.6% of the time.

In addition to the dearth of empirical evidence on the prevalence of intoxication in witnesses in general, there is also no information on specific U.S. law enforcement procedures guiding interactions with this vulnerable witness group. It can be argued then that the lack of research on intoxicated witnesses’ memory may be partially due to the lack of evidence that intoxicated witnesses are common or are considered an important and possibly “special” witness group by law enforcement. Exploring police encounters with this witness group was therefore the first aim of the present study.
Intoxicated Suspects and Perpetrators of Crime

The second aim of this study was to examine police encounters with another intoxicated group: intoxicated suspects. Like inaccurate eyewitness testimony, false confessions have been cited as a major contributing factor to wrongful convictions in DNA exoneration cases (Wells, Memon, & Penrod, 2006). The importance of police interrogation techniques has prompted recent studies about interrogation techniques and false confessions, which demonstrates that some police interrogation techniques have the potential to elicit false confessions (e.g., Kassin & Kiechel, 1996; Russano, Meissner, Narchet, & Kassin, 2005) and that being innocent can actually put suspects at risk in interrogation settings (Kassin, 2005). Furthermore, it has been suggested that certain vulnerability factors such as adolescence, low IQ, or mental retardation may put interviewees at particular risk for false confessions (Drizin & Leo, 2004; Owen-Kostelnik, Reppucci, & Meyer, 2006; Redlich & Goodman, 2003). Similarly, it could be argued that intoxication may render both guilty and innocent suspects more susceptible to interrogation techniques, and therefore, more likely to confess. In fact, there are specific case examples in which alcohol (or other drugs) were given to addicted suspects before interrogation specifically to help induce confessions (Booth, 1930; Leo, 1994), suggesting a belief that alcohol may increase the likelihood of confession.

Alcohol, Decision Making, and Interrogative Suggestibility

There are several reasons to believe that intoxicated suspects would be more likely to confess than sober ones in an interrogation setting. In line with alcohol myopia theory (see Steele & Josephs, 1990), the most salient cues during an interrogation situation may be those provided by the interrogator, which likely indicate positive outcomes if a confession is provided and negative outcomes if no confession is provided (i.e., minimization and maximization; see Kassin & McNall, 1991). Those salient cues will be disproportionately attended to and processed when intoxicated, at the expense of peripheral cues, such as the long-term negative consequences of confessing. Such circumstances could result in drunken suspects, more than sober ones, choosing to confess for the apparent benefits of confessing, without sufficient consideration of the long-term costs of such an admission—regardless of actual guilt or innocence.

Suspects who were intoxicated at the time a crime took place may find themselves more prone to coerced–internalized false confessions specifically. Kassin and Wrightsman (1985) described three types of false confessions: voluntary, coerced–compliant, and coerced–internalized. Only coerced–internalized confessions result from suspects coming to believe (at least temporarily) that they did in fact commit the crime in question. Gudjonsson (2003) proposed that for such internalization to occur two elements are necessary: the presentation of false evidence by the interrogator and an untrustworthy memory for the time the crime occurred. Being intoxicated at the time of the crime has been associated with reports of increased confusion (Sigurdsson & Gudjonsson, 1994) and provides a plausible reason to doubt one’s memory for the event/time period. In fact, even the most severe effect of alcohol on memory, alcoholic blackouts, are actually
somewhat common: One survey found that approximately 50% of college students in the United States reported having experienced at least one blackout (White, Jamieson Drake, & Swartzwelder, 2002), and another found that of 212 drinkers in the Netherlands, 67% reported having experienced at least one blackout (Van Oorsouw, Merckelbach, Ravelli, Nijman, & Mikking-Pompen, 2004). Understanding the frequency with which blackouts occur is clearly important in the context of interrogations, as up to 30% of offenders claim amnesia after committing a crime (O’Connell, 1960; Taylor & Kopelman, 1984) and up to 80% of those report that the reason for the amnesia was extreme alcohol intoxication (Bourget & Bradford, 1995).

In addition to intoxication, alcohol withdrawal may be an important factor to consider. Sigurdsson and Gudjonsson (1994) found that over a third of prisoners interviewed reported experiencing withdrawal symptoms while being interrogated. This is troublesome, given that research conducted by Gudjonsson and his colleagues investigating interrogative suggestibility (as measured by the Gudjonsson Suggestibility Scales (GSS); Gudjonsson, 1997) has found that alcohol withdrawal is associated with increased suggestibility, especially in males (e.g., Gudjonsson, Hannesdottir, Petursson, & Bjornsson, 2002; Gudjonsson et al., 2004). These relatively high levels of suggestibility during withdrawal may last for several days postdrinking: The highest levels of suggestibility have been found on the third day of detoxification (e.g., Gudjonsson et al., 2002; Gudjonsson, Hannesdottir, Petursson, & Tyrnfingsson, 2000). It is important that the type of suggestibility that appears to be most elevated is vulnerability to negative feedback. This means that, although participants on Day 3 of detoxification were not initially more likely to give in to leading questions, after negative feedback they were more likely to change their answers. Incidentally, negative feedback is quite common in interrogation settings. For example, the Reid Technique, as described in the training manual used by many in U.S. law enforcement (Inbau, Reid, Buckley, & Jayne, 2004), advocates shutting down any attempts to deny involvement on the part of the suspect.

As with witnesses, there is sparse experimental research on the vulnerability of intoxicated suspects and their accuracy and confession rates. The only study looking at intoxicated “perpetrators” in a lab setting (Read, Yuille, & Tollestrup, 1992) examined memory but did not look at confessions or use any interrogation techniques. Read et al. found that when perpetrators of a mock crime were intoxicated, the accuracy of their memories for what happened during the crime was diminished, although this depended on the participants’ arousal level. Santtila, Ekholm, and Niemi (1999) examined the effect of intoxication on interrogative suggestibility (measured by the GSS) and found that the intoxicated were actually less suggestible than sober participants, and this effect was partially explained by the decreased anxiety in the intoxication group. Despite this particular finding, there is reason to believe that intoxication may put suspects at risk for self-incrimination: On the basis of data from a real-life observational study of 170 suspects in England, the best psychological predictor of a confession during interrogation was the taking of an illicit substance within 24 hrs of being arrested (Pearse, Gudjonsson, Clare, & Rutter, 1998).
Prevalence of Intoxication in Suspects and Perpetrators of Crime

In comparison with witnesses, there are more useful statistics addressing the prevalence of intoxication in perpetrators and suspects of crimes. A study for the Royal Commission on Criminal Justice found that a third of suspects indicated they had consumed alcohol shortly before their arrest (Gudjonsson, Clare, Rutter, & Pearse, 1993). Sigurdsson and Gudjonsson (1994) found that 64% of prisoners interviewed reported having been intoxicated when they committed the crime for which they were imprisoned; intoxication at the time of the crime and/or at the time of questioning was most common when the crime was violent or involved a serious traffic violation. Redlich, Silverman, Chen, and Steiner (2004) reported that, in a sample of community members, of those that had interacted with police as suspects, about half reported consuming drugs or alcohol shortly before being interrogated, and an estimated 36% of convicted offenders reported having consumed alcohol at the time they committed the crime for which they were convicted (Bureau of Justice Statistics, 1998). In addition, the National Institute of Justice (2003) reported that, in cases of actual or attempted intimate partner homicide, the perpetrator was intoxicated over 30% of the time. Although there is some data regarding intoxication and crime commission in the United States, much of the data regarding intoxication at the time of interrogation cited earlier involved European samples. Thus, relatively little is known about the prevalence of suspect intoxication during interrogations in the United States. There is also little insight into law enforcement procedures when suspects are intoxicated in the United States. In the United Kingdom, it is no longer common for intoxicated suspects to be interrogated (e.g., Gudjonsson et al., 1993). In contrast, in the United States, suspects are usually considered competent to waive their Miranda rights and undergo questioning while intoxicated (e.g., State v. Keith, 1993), making the relationship between intoxication and confession rates of particular interest. We argue however, that, unless the prevalence of intoxicated suspects in the United States as well as relevant law enforcement procedures are explored, empirical research on interrogation guidelines for the intoxicated is likely to be scant.

The Present Research

The goal of the present research was to answer calls for information about law enforcement’s experiences and behaviors (e.g., Turtle, Read, Lindsay, & Brimacombe, 2008) by obtaining objective, informative, and U.S.-specific data on the prevalence of alcohol intoxication in witnesses to crimes, victims of crime, and criminal suspects, as well as any standard law enforcement procedures for dealing with these groups. Given that such information is not consistently documented in case files (Yuille, 1986), an archival study was ruled out. Thus a survey of U.S. law enforcement officers’ experiences with these populations was conducted. Police officers and detectives were considered the most appropriate population to survey, as they could likely provide valuable insights and prevalence data based on their first-hand experiences interviewing and interrogating witnesses and suspects (hereinafter we refer to our respondents as investigators). We also sought to find out about the procedures that police departments use when they encounter intoxicated individuals. Of further interest were investigators’ experiences with
intoxicated individuals and their opinions about the credibility and effectiveness of intoxicated witnesses, victims, and suspects at trial. In addition to demonstrating the overall importance of studying intoxicated witnesses, victims, and suspects, investigators’ reports can provide critical insight about various issues surrounding these areas of examination.

Method

Participant Recruitment

To allow for flexibility in participation with regard to time and location and, in line with police departments’ preference, we chose to administer the survey online. Investigators from police departments across the country were invited to participate by an e-mail solicitation containing a link to the survey. Solicitations were sent to our personal contacts (including mailing lists maintained by the Roger Williams University Justice System Training and Research Institute), as well as to investigators and departments with contact information, specifically e-mail addresses, available on the Internet. Sometimes the solicitation was sent to an individual’s e-mail address, sometimes to a unit’s e-mail address, and sometimes to a departmental e-mail address. Because of this, and the fact that the solicitation e-mail invited the recipient to forward the information on to others who might be interested, the response rate (i.e., the proportion of participants who were sent the link that logged on) is impossible to determine. Participation took place between March and December 2008.

Procedure

Respondents were directed to a Web page displaying an informed consent agreement and provided informed consent by clicking on the consent button. Next, a demographic questionnaire was displayed. After providing demographic information and before beginning the survey, respondents read general instructions. These instructions indicated that, for the purposes of the survey, whenever the term intoxicated was used, no particular breath alcohol content (BAC) was implied, as someone could be below the .08 legal limit and still be considered intoxicated for our purposes. Respondents were told to base “intoxication” on their personal impression or assessment of an individual. The respondents were further asked to answer all questions on the basis of their professional experience and to indicate “I don’t know/not applicable” (IDK/NA) if the question addressed something that was not within their experience. The survey instrument was developed by the research team and used a combination of open-ended, multiple choice, and scaled questions, generally on a scale ranging from 1 (not at all) to 10 (extremely). To specify at which point in the investigation a witness or suspect was intoxicated, many of the questions were broken down by time of intoxication. Specifically, we asked for information about witnesses and suspects when intoxicated at the time of the crime only, as opposed to intoxication at the time of the interview/interrogation only or at both times.

\[1\] Please contact Jacqueline R. Evans to obtain a copy of the survey instrument.
The first two sections of the survey asked investigators about the overall prevalence of intoxicated witnesses and suspects, respectively. In the third section, investigators were asked more detailed questions about intoxicated witnesses. Specifically, investigators were asked about their department’s standard procedures for dealing with such individuals, their perceptions of intoxicated witnesses, and their beliefs about how intoxicated witnesses are perceived at trial. The fourth section was similar to the third but addressed intoxicated suspects. Participants were given an IDK/NA option for each question. As a result, for each question the total number of usable responses varied.

Results

Sample Characteristics

The consent form of the survey was viewed 998 times. The consent button was clicked 505 times. Of those who consented, 317 did not enter any data at all. Sixty-nine individuals entered demographic information and read the instructions but provided no substantive data. Our final sample therefore consists of 119 investigators who provided substantive data. There were no significant differences (all $p > .05$) in age; years of law enforcement experience; or years spent questioning witnesses, victims, and suspects between those investigators who provided only demographic data and those who continued with the survey.

All sample characteristics reported here are based on the responses of the 119 investigators who provided substantive information. The majority of the sample was male (84% men, 16% women) and Caucasian (87%; 6% Hispanic; 3% African-American; 2% Asian; 2% other). The average age was 43 years ($SD = 7.5$), and ages ranged from 24 to 59 years. On average, investigators had 19 ($SD = 8.1$) years of experience with law enforcement, ranging from 1 to 35 years. The investigators reported an average of 18 years experience in both interviewing witnesses ($SD = 7.8$) and interrogating suspects ($SD = 7.9$). Fifty-seven percent of the investigators reported working the day shift, 30% reported working the night shift, and another 21% indicated that their shift varied. A large portion of the sample was assigned to patrol (39%); another 15% indicated they were in an “investigations” or “detectives” unit. Some of the other units included training, operations, and administration. Seventeen percent of the sample provided no usable unit information. A large majority of the sample was from the northeastern United States (24% from Rhode Island, 21% Massachusetts, 8% Connecticut, 8% New Hampshire, 6% Vermont, 7% other Northeast), 10% was from the Miami area, 8% was from a broad range of geographic regions within the United States (e.g., Oregon, Minnesota), and the rest of the sample (8%) did not report a usable location.

The first section of the survey, on the frequency of intoxicated witnesses and victims, was completed by 119 individuals. Ninety-five of these continued on to complete the second section, addressing the frequency of intoxicated suspects. Of these, 77 completed the next section, which included additional questions about intoxicated witnesses and victims, and finally a total of 59 completed the last section of questions involving intoxicated suspects. Comparisons of those who began of the first half of the survey (the prevalence sections) but did not continue on to the second half and those who did begin the second half indicated that the
attrition was not systematic: There were no significant differences (all $p_s > .05$) on age, years of experience in law enforcement, years of experience interviewing witnesses and interrogating suspects, or frequency of questioning witnesses and suspects between the two groups.

**Intoxicated Witnesses and Victims**

As most questions addressed both intoxicated witnesses and victims together, here we simply use the term *intoxicated witnesses* to save space. Any questions that differentiated between the two will be reported as such. Please note that, for some questions, both in this section and the *Intoxicated Suspects* section, respondents were asked to assign percentages, which ideally should add up to 100%. However, we did not require that respondents’ responses sum up to 100%. In addition, for each section of multipart questions, the number of respondents differed. Therefore, it cannot be assumed that the same individuals answered the different parts of the question. For these reasons, the responses do not add up to exactly 100%.

*How common are intoxicated witnesses?* The results reported in this section are based on the responses of 119 respondents, unless otherwise indicated. The investigators were asked whether they believed contact with intoxicated witnesses was (a) very common, (b) common, (c) unusual, or (d), very unusual. The majority of investigators (52.9%) indicated that contact with intoxicated witnesses was common, and an additional 20.2% indicated that it was very common; the remaining investigators said it was either unusual (17.6%) or very unusual (5.9%; 3.4% IDK/NA). The results reported below provide further evidence of the widespread existence of intoxicated witnesses.

As a baseline, all investigators were asked how many witnesses they interview in a typical month and week, as well as in the past month and week specifically (see Table 1 for a detailed summary of this baseline data). They reported interviewing an average of 16.8 ($Mdn = 12.0, SD = 17.2$) witnesses in a typical month and 4.7 ($Mdn = 3.5, SD = 4.5$) in a typical week. The investigators also indicated that they interviewed an average of 14.2 witnesses ($Mdn = 10.0, SD = 14.3$) in the past month and 4.3 witnesses ($Mdn = 3.0; SD = 5.4$) in the past week.

The investigators were also asked to indicate how frequently they interacted with witnesses who were sober at both the time of the crime and the time of the interview, intoxicated at both times, or intoxicated at one time but not the other. In addition, they estimated the proportion of all the witnesses they had interviewed that fell into each of the four groups (i.e., intoxicated at crime only, intoxicated at interview only, intoxicated at both times, sober at both times). Their responses are fully presented in Table 2. Almost all investigators had interviewed witnesses who were sober both at the time of the crime and the interview. They reported having done so multiple times in the past month and indicated that the

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2 Please note that several respondents indicated that they are now in supervisory roles and thus no longer interact with witnesses, victims, or suspects directly. Therefore, when providing answers to questions regarding the last week or month, they reported zero, even though that does not accurately reflect their experiences when they held different positions.
majority of all individuals interviewed fell into this group. Also relatively common was interviewing a witness who was intoxicated when the crime took place but sober during the interview: A large majority of investigators indicated that they had done so. Within the population of all witnesses interviewed, this group was the second largest. The investigators were approximately evenly split between those who had interviewed at least one such witness in the past month and those who had not. A sizable majority of investigators also indicated that they had interviewed a witness who was intoxicated at both the time of the crime and the time of the interview. This group comprised only a slightly smaller proportion of all witnesses than those who were intoxicated at the crime only. Again, the investigators were approximately evenly split between those who had interviewed at least one such witness in the past month and those who had not. Finally, almost half of the investigators indicated that they had interviewed a witness who was intoxicated at some point (either at the crime, the interview, or both) had been encountered by most investigators at some point and by many in the past month.

From this point until the end of the Intoxicated Witnesses and Victims section, the results are based on the responses of 77 investigators. Investigators estimated that 51.5% ($Mdn = 50.0\%$, $SD = 30.0\%$) of all victims of sexual violence ($24.7\%$ IDK/NA) and 41.0% ($Mdn = 40.0\%$, $SD = 25.2\%$) of victims of violent nonsexual crime ($20.8\%$ IDK/NA) are intoxicated at the time of their victimization. When asked to list (in a free-report format) crimes typically involving intoxicated witnesses, by far the most frequently reported were domestic disputes, fights and assaults, and DUIs (instances of driving under the influence of alcohol). Also somewhat common were thefts and disorderly conduct. It appears that a substantial proportion of victims of violence are intoxicated, and the crimes most likely to be witnessed while intoxicated are violent.

### Table 1

Baseline Interviewing and Interrogating Frequency

<table>
<thead>
<tr>
<th>Procedure and timeframe</th>
<th>Interviews/interrogations conducted</th>
<th>$M$</th>
<th>$Mdn$</th>
<th>$SD$</th>
<th>% IDK/NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Witness/victim interviews</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In an average month</td>
<td>16.8</td>
<td>12.0</td>
<td>17.2</td>
<td>4.2</td>
<td></td>
</tr>
<tr>
<td>In the past month</td>
<td>14.2</td>
<td>10.0</td>
<td>14.3</td>
<td>6.7</td>
<td></td>
</tr>
<tr>
<td>In an average week</td>
<td>4.7</td>
<td>3.5</td>
<td>4.5</td>
<td>5.0</td>
<td></td>
</tr>
<tr>
<td>In the past week</td>
<td>4.3</td>
<td>3.0</td>
<td>5.4</td>
<td>5.9</td>
<td></td>
</tr>
<tr>
<td>Suspect interrogations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In an average month</td>
<td>8.4</td>
<td>4.0</td>
<td>14.0</td>
<td>9.5</td>
<td></td>
</tr>
<tr>
<td>In the past month</td>
<td>6.5</td>
<td>3.0</td>
<td>12.6</td>
<td>9.5</td>
<td></td>
</tr>
<tr>
<td>In an average week</td>
<td>2.2</td>
<td>1.0</td>
<td>3.5</td>
<td>9.5</td>
<td></td>
</tr>
<tr>
<td>In the past week</td>
<td>1.8</td>
<td>1.0</td>
<td>3.5</td>
<td>10.5</td>
<td></td>
</tr>
</tbody>
</table>

*Note. IDK/NA = I don’t know/not applicable.*
Table 2

Frequency of Contact With Intoxicated and Sober Witnesses/Victims and Suspects

<table>
<thead>
<tr>
<th>Status at crime</th>
<th>Status at questioning</th>
<th>Role</th>
<th>% Who have ever questioned</th>
<th>Mean no. in past month</th>
<th>Mdn in past month</th>
<th>SD</th>
<th>% IDK/NA</th>
<th>% of All</th>
<th>M</th>
<th>Mdn</th>
<th>SD</th>
<th>% IDK/NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sober</td>
<td>Sober</td>
<td>Witness/victim</td>
<td>97.5</td>
<td>9.6</td>
<td>6.0</td>
<td>10.5</td>
<td>5.9</td>
<td>60.1</td>
<td>70.0</td>
<td>31.6</td>
<td>4.2</td>
<td></td>
</tr>
<tr>
<td>Drunk</td>
<td>Sober</td>
<td>Witness/victim</td>
<td>89.1</td>
<td>4.2</td>
<td>3.5</td>
<td>0.0</td>
<td>10.9</td>
<td>13.4</td>
<td>21.3</td>
<td>12.5</td>
<td>23.5</td>
<td>10.9</td>
</tr>
<tr>
<td>Sober</td>
<td>Drunk</td>
<td>Witness/victim</td>
<td>47.1</td>
<td>16.0</td>
<td>2.0</td>
<td>0.0</td>
<td>8.3</td>
<td>39.5</td>
<td>4.5</td>
<td>1.0</td>
<td>9.1</td>
<td>36.1</td>
</tr>
<tr>
<td>Drunk</td>
<td>Drunk</td>
<td>Witness/victim</td>
<td>81.5</td>
<td>2.5</td>
<td>3.3</td>
<td>0.0</td>
<td>7.6</td>
<td>20.2</td>
<td>19.4</td>
<td>10.0</td>
<td>22.2</td>
<td>16.8</td>
</tr>
<tr>
<td>Sober</td>
<td>Sober</td>
<td>Suspect</td>
<td>90.5</td>
<td>3.2</td>
<td>4.0</td>
<td>1.0</td>
<td>8.2</td>
<td>17.9</td>
<td>44.9</td>
<td>50.0</td>
<td>35.7</td>
<td>14.7</td>
</tr>
<tr>
<td>Drunk</td>
<td>Sober</td>
<td>Suspect</td>
<td>77.9</td>
<td>9.5</td>
<td>2.5</td>
<td>0.0</td>
<td>10.9</td>
<td>26.3</td>
<td>31.2</td>
<td>20.0</td>
<td>32.6</td>
<td>23.2</td>
</tr>
<tr>
<td>Sober</td>
<td>Drunk</td>
<td>Suspect</td>
<td>36.1</td>
<td>12.6</td>
<td>0.5</td>
<td>0.0</td>
<td>1.4</td>
<td>60.0</td>
<td>4.6</td>
<td>3.5</td>
<td>8.4</td>
<td>60.0</td>
</tr>
<tr>
<td>Drunk</td>
<td>Drunk</td>
<td>Suspect</td>
<td>72.6</td>
<td>3.2</td>
<td>2.8</td>
<td>0.0</td>
<td>8.4</td>
<td>28.4</td>
<td>21.4</td>
<td>10.0</td>
<td>27.0</td>
<td>26.3</td>
</tr>
</tbody>
</table>

*Note.* IDK/NA = I don’t know/not applicable.
The investigators were asked to indicate the proportion of witnesses under the influence of any substance who are under the influence of (a) alcohol only, (b) marijuana only, (c) another illegal substance only, (d) multiple substances, or (e) other substances. Their responses are detailed in Table 3. Investigators estimated that most witnesses who are under the influence of any substance are under the influence of alcohol only. The next most common group was witnesses under the influence of multiple substances. The investigators estimated that the rest were approximately equally likely to be under the influence of marijuana only or another illegal drug only. The respondents reported that very few witnesses are under the influence of some other substance (e.g., prescription drugs). The investigators estimated that, on average, 39.8% \( (Mdn = 33.3\%, SD = 26.0) \) of intoxicated witnesses have alcohol abuse problems \( (33.8\% \text{ IDK/NA}) \). It seems that, of all substances, alcohol is the most likely to be a factor for investigators when dealing with witnesses.

Measuring intoxication. When asked whether they use an instrument to measure witnesses’ BAC when intoxication is suspected, most investigators \( (71.4\%) \) indicated that they do not \( (6.5\% \text{ IDK/NA}) \). However, when asked if they do anything else to determine intoxication, about half indicated that they do \( (53.2\%; 7.8\% \text{ IDK/NA}) \). The investigators were asked to provide examples of the actions they take to determine intoxication. Some of the reported actions included the standard field sobriety test, observing the witness’s behavior, and checking for the odor of alcohol. The investigators were asked to estimate the typical intoxicated witness’s BAC. Their average response was 0.11 ml/kg \( (Mdn = 0.12, SD = 0.04; 28.6\% \text{ IDK/NA}) \). Investigators were also asked to rate how intoxicated inebriated witnesses are during interviews on a 10-point scale ranging from not at all intoxicated (1) to extremely intoxicated (10). The mean response was 4.9 \( (Mdn = 5.0, SD = 1.7; 11.7\% \text{ IDK/NA}) \). Thus, it seems that witnesses who are intoxicated are moderately so and likely to be over the legal limit.

Police practices with intoxicated witnesses. The investigators were asked whether their department’s standard procedures for interviewing intoxicated witnesses were (a) the same as for sober witnesses or (b) different from sober witnesses. The investigators were almost evenly split regarding their departments’ standard procedures for dealing with intoxicated witnesses: 44.2% indicated that

<table>
<thead>
<tr>
<th>Substance</th>
<th>% Witnesses/victims under the influence</th>
<th>% Suspects under the influence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>M</td>
</tr>
<tr>
<td>Alcohol only</td>
<td></td>
<td>58.6</td>
</tr>
<tr>
<td>Marijuana only</td>
<td></td>
<td>18.0</td>
</tr>
<tr>
<td>Other illegal substance</td>
<td></td>
<td>11.8</td>
</tr>
<tr>
<td>Multiple substances</td>
<td></td>
<td>24.0</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td>6.6</td>
</tr>
</tbody>
</table>

Note. IDK/NA = I don’t know/not applicable.
the procedures are the same as with sober witnesses, and 45.5% indicated that the procedures are different (10.4% IDK/NA). The investigators who indicated that the procedures were different were asked what the differences were. By far, the most common response was that when witnesses are intoxicated at the initial interview, then they should be reinterviewed when they are sober. The investigators were then asked whether (a) they usually interview witnesses while still intoxicated, (b) they let the witnesses sober up, or (c) if it depends. The majority of investigators (74.0%) indicated that whether they interviewed intoxicated witnesses while they were still intoxicated depended on the particular situation. The rest were almost evenly split between interviewing while intoxicated (10.4%) and waiting for the witness to sober up (11.7%; 3.9% IDK/NA). Thus, it seems that several factors are weighed when deciding when to interview an intoxicated witness.

As a baseline, the investigators were given the definition of a lineup (a witness is shown several people or photos and asked to make a selection) and a showup (a witness is shown only one person or photo to identify) and asked how many of each they administered in a typical month. The investigators reported administering 0.8 lineups ($Mdn = 0.0, SD = 2.1$) and 1.0 showup ($Mdn = 0.0, SD = 2.3$) in a typical month (19.5% IDK/NA for both). Only 16.9% of investigators indicated that they had ever given a lineup to a witness who was intoxicated either at the time of the crime, the identification, or both times (23.4% IDK/NA). Providing a showup to such a witness was more common: 44.2% of investigators indicated that they had done so (18.2% IDK/NA). Thus, it seems that lineup procedures are rarely used with witnesses who were intoxicated at any point and that showups, although also somewhat rare, are the more likely identification procedure.

Believability of intoxicated witnesses. Investigators were then asked whether intoxicated witnesses provide the most information, in terms of absolute quantity, when interviewed (a) right after the crime, (b) later on when sober, (c) as soon as the witness has sobered up, or (d) while intoxicated again at a later time. Over half of the investigators believed that when intoxicated witnesses are interviewed repeatedly, they provide the most information right after the crime while still intoxicated (57.1%); 11.7% believed they provided the most information days or weeks later when sober, 9.1% believed the most information was provided as soon as the witness sobered up, and 1 individual (1.3%) believed that the most information would be provided while intoxicated again at a later time (20.8% IDK/NA).

Participants further rated the accuracy of witness reports (as opposed to identifications) on a scale ranging from 1 (not at all accurate) to 10 (extremely accurate) when the witness was (a) intoxicated at the time of the crime only, (b) intoxicated at the time of the interview only, (c) intoxicated at both times, and (d) sober at both times. Parallel ratings were made for witness believability/convincingness at the time of the interview (see Table 4 for a detailed summary of these results). The responses for accuracy and believability/convincingness were very similar. Witnesses were seen as most accurate and believable when they were sober at the time of the interview, and especially so if they were also sober during the crime as well. It appears that investigators are less trusting of information
obtained from witnesses who are intoxicated at the time of the interview or were intoxicated at the time of the crime.

The investigators were asked whether, compared with sober witnesses, intoxicated witnesses were (a) more likely to end up testifying in court, (b) less likely to end up testifying, or (c) just as likely to end up testifying. About half of investigators (49.4%) indicated that they believed intoxicated witnesses were less likely to testify in court than sober witnesses; 29.9% indicated that they believed sober and intoxicated witnesses were just as likely to end up testifying, and 2.6% indicated that intoxicated witnesses were more likely to testify (18.2% IDK/NA). The investigators also indicated that they believed that jurors considered both intoxicated witnesses and victims to be less credible than sober witnesses and victims, regardless of whether the intoxication was at the time of the crime, at the time of the interview, or at both times (see Table 5). It seems likely that prosecutors are aware of the potentially diminished credibility of witnesses who

Table 4
*Perceptions of Witnesses’/Victims’ Accuracy and Believability/Convincingness During an Interview*

<table>
<thead>
<tr>
<th>Time of intoxication</th>
<th>Accuracy</th>
<th></th>
<th></th>
<th>Believability/convincingness</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$M$</td>
<td>$Mdn$</td>
<td>$SD$</td>
<td>$%$</td>
<td>$M$</td>
<td>$Mdn$</td>
</tr>
<tr>
<td>Crime only</td>
<td>5.6</td>
<td>5.0</td>
<td>1.6</td>
<td>6.5</td>
<td>5.7</td>
<td>6.0</td>
</tr>
<tr>
<td>Interview only</td>
<td>4.7</td>
<td>5.0</td>
<td>1.6</td>
<td>19.5</td>
<td>4.6</td>
<td>5.0</td>
</tr>
<tr>
<td>Crime and interview</td>
<td>4.5</td>
<td>4.0</td>
<td>1.7</td>
<td>11.7</td>
<td>4.5</td>
<td>4.0</td>
</tr>
<tr>
<td>Sober at both times</td>
<td>8.0</td>
<td>8.0</td>
<td>1.4</td>
<td>7.8</td>
<td>7.8</td>
<td>8.0</td>
</tr>
</tbody>
</table>

*Note.* Perceptions were rated on a scale ranging from 1 (not at all) to 10 (extremely). IDK/NA = I don’t know/not applicable.

Table 5
*How Credible Are the Intoxicated to Jurors?*

<table>
<thead>
<tr>
<th>Time of intoxication</th>
<th>% of investigators indicating</th>
<th>More credible than sober</th>
<th>Less credible than sober</th>
<th>Just as credible as sober</th>
<th>IDK/NA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At the time of the crime only</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Witnesses</td>
<td>1.3</td>
<td>54.5</td>
<td>10.4</td>
<td>33.8</td>
<td></td>
</tr>
<tr>
<td>Victims</td>
<td>3.9</td>
<td>45.5</td>
<td>20.8</td>
<td>29.9</td>
<td></td>
</tr>
<tr>
<td>Suspects</td>
<td>3.4</td>
<td>47.5</td>
<td>18.6</td>
<td>30.5</td>
<td></td>
</tr>
<tr>
<td>At the time of questioning only</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Witnesses</td>
<td>1.3</td>
<td>53.2</td>
<td>6.5</td>
<td>39.0</td>
<td></td>
</tr>
<tr>
<td>Victims</td>
<td>2.6</td>
<td>50.6</td>
<td>7.8</td>
<td>39.0</td>
<td></td>
</tr>
<tr>
<td>Suspects</td>
<td>3.4</td>
<td>45.8</td>
<td>15.3</td>
<td>35.6</td>
<td></td>
</tr>
<tr>
<td>At both times</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Witnesses</td>
<td>1.3</td>
<td>58.4</td>
<td>6.5</td>
<td>33.8</td>
<td></td>
</tr>
<tr>
<td>Victims</td>
<td>2.6</td>
<td>57.1</td>
<td>7.8</td>
<td>32.5</td>
<td></td>
</tr>
<tr>
<td>Suspects</td>
<td>1.7</td>
<td>50.8</td>
<td>13.6</td>
<td>33.9</td>
<td></td>
</tr>
</tbody>
</table>

*Note.* IDK/NA = I don’t know/not applicable.
were intoxicated and therefore are less likely to put them on the stand than sober witnesses.

**Intoxicated Suspects**

*How common are intoxicated suspects?* The results reported in this section are based on the responses of 95 respondents, unless otherwise indicated. The majority of investigators indicated that having contact with intoxicated suspects was common (56.8%), and an additional 26.3% indicated that it was very common. The rest said it was either unusual (8.4%) or very unusual (5.3%; 3.2% IDK/NA). As with intoxicated witnesses, intoxicated suspects appear to be common.

As a baseline, all investigators were asked how many suspects they interrogate in a typical month and week. They reported interrogating 8.4 ($Mdn = 4.0$, $SD = 14.0$) suspects in a typical month and 2.2 ($Mdn = 1.0$, $SD = 3.5$) in a typical week. The investigators also indicated interrogating an average of 6.5 ($Mdn = 3.0$, $SD = 12.6$) suspects in the past month and 1.8 ($Mdn = 1.0$, $SD = 3.5$) in the past week. (See Table 1 for a complete summary of this baseline data.)

The investigators were also asked to indicate how frequently they interacted with suspects who were sober at both the time of the crime and the time of the interrogation, intoxicated at both times, or intoxicated at one time but not the other. In addition, they estimated the proportion of all the suspects they had interrogated that fell into each group (i.e., intoxicated at crime only, intoxicated at interrogation only, intoxicated at both times, sober at both times). Their responses are fully presented in Table 2. A large majority of investigators had interrogated suspects who were sober both at the time of both the crime and questioning. They reported having done so several times in the past month and indicated that nearly half of all suspects they interrogated were sober at both times, making consistently sober suspects the largest group of suspects. The second largest group of suspects comprised those who were intoxicated when the crime took place but sober during interrogation. Most investigators indicated that they had interrogated such a suspect. Over 40% of investigators reported that they had interrogated at least one such suspect in the past month. Most investigators indicated they had interrogated a suspect who was intoxicated both at the time of the crime and the time of questioning. This group of suspects was slightly smaller than the group of suspects intoxicated at the time of the crime only. Over 40% of investigators indicated that they had interrogated at least one such suspect in the past month. Finally, approximately a third of investigators indicated they had interrogated a suspect who was intoxicated at the time of interrogation but sober when the crime took place, but only a few had done so in the past month. The investigators indicated that this group of suspects was quite rare. Although suspects who were consistently sober were encountered most often by investigators, suspects who were intoxicated at some point (either at the crime, the interrogation, or both) had been encountered by most investigators at some point, and by many in the past month.

From this point, until the end of the *Intoxicated Suspects* section, the results are based on the responses of 59 investigators. Investigators estimated that 45.1% ($Mdn = 50.0\%$, $SD = 24.7$) of suspects of sexual violence (37.3% IDK/NA) and
48.4% ($Mdn = 50.0\%, SD = 23.7$) of suspects of violent nonsexual crime (28.8% IDK/NA) are intoxicated at the time of the crime. When asked to list crimes typically involving intoxicated suspects, investigators most frequently reported domestic disputes, fights and assaults, DUIs, and disorderly conduct. It appears that as many as half of the perpetrators of violent crimes may be intoxicated.

The investigators were asked to indicate the proportion of suspects under the influence of any substance that are under the influence of (a) alcohol only, (b) marijuana only, (c) another illegal substance only, (d) multiple substances, or (e) other substances. Their responses are detailed in Table 3. Investigators estimated that about half of suspects who are under the influence of any substance are under the influence of alcohol only. The next most common group of suspects comprised those under the influence of multiple substances. Other suspects were approximately equally likely to be under the influence of marijuana only or another illegal drug only. The respondents reported that very few suspects are under the influence of some other substance (e.g., prescription drugs). The investigators estimated that, on average, 49.6% ($Mdn = 50.0\%, SD = 25.4$) of intoxicated suspects have alcohol abuse problems (25.4% IDK/NA). As with witnesses, with suspects, alcohol seems to be the substance most likely to be a factor for investigators.

**Measuring intoxication.** Over half of investigators (54.2%) indicated that they do not use an instrument to measure suspects’ BAC if intoxication is suspected (5.1% IDK/NA). However, most (72.9%) indicated that they do take other actions to determine whether a suspect is intoxicated (8.5% IDK/NA). Some of the reported actions included the standard field sobriety test, observing the suspect’s behavior, and asking both the suspect and others whether the individual had been drinking. When asked to estimate the typical intoxicated suspect’s BAC, the average response was .13 ml/kg ($Mdn = .14, SD = 0.04; 35.6\%$ IDK/NA). When asked to rate how intoxicated inebriated suspects are during interrogation, on a scale ranging from 1 (not at all intoxicated) to 10 (extremely intoxicated), the mean response was 5.9 ($Mdn = 6.0, SD = 1.6; 20.3\%$ IDK/NA). It seems that intoxicated suspects are likely substantially impaired and possibly even more intoxicated that intoxicated witnesses. However, it also appears that investigators are somewhat more likely to obtain a BAC measure for intoxicated suspects that intoxicated witnesses.

**Police practices with intoxicated suspects.** The majority of investigators indicated that their departments’ standard procedures for dealing with intoxicated suspects were the same as with sober suspects (64.4%), whereas 32.2% indicated that the procedures were different (3.4% IDK/NA). The investigators were asked whether (a) they generally interrogate while the suspect is still sober, (b) they generally wait for the suspect to sober up, or (c) it depends. The majority of investigators (62.7%) indicated that whether they interrogated intoxicated suspects while they were still intoxicated depended on the situation (e.g., the level of intoxication, the type of crime). Only 6.8% indicated that they let the suspect sober up before interrogation; 22.0% indicated that they interrogated the suspect while he or she was still intoxicated (8.5% IDK/NA). It appears that, as with intoxicated witnesses, many variables determine when questioning begins. However, more so than with intoxicated witnesses, with intoxicated suspects, investigators are likely to continue with questioning despite intoxication, and the procedures used are the “same as usual.”
Vulnerabilities of intoxicated suspects. The investigators were asked whether intoxicated suspects were (a) more likely, (b) less likely, or (c) just as likely to waive their Miranda rights relative to sober suspects. Nearly half of the investigators believed that intoxicated suspects were just as likely to waive their Miranda rights as sober suspects; a quarter believed that the intoxicated suspects were more likely to waive their rights. Only 10% believed that they were less likely to do so (see Table 6). Investigators rated suspects’ likelihood of self-incrimination on a scale ranging from 1 (not at all likely) to 10 (extremely likely) when the suspect was (a) intoxicated at the time of the crime only, (b) intoxicated at the time of interrogation only, (c) intoxicated at both times, or (d) sober at both times. These ratings were 5.9 (Mdn = 6.0; SD = 1.8, 13.6% IDK/NA), 5.8 (Mdn = 6.0, SD = 1.9; 28.8% IDK/NA), 6.0 (Mdn = 6.0, SD = 2.1; 22.0% IDK/NA), and 4.9 (Mdn = 5.0, SD = 1.8; 10.2% IDK/NA) respectively. The majority of the investigators (55.9%) believed that, when interrogated repeatedly, the most information, in terms of absolute quantity, is provided while the suspect is still intoxicated. Some believed that the most information is reported as soon as the suspect becomes sober (10.2%), but very few believed the most information is reported later on when sober (3.4%); none believed that the most information is provided when the suspect is intoxicated again at a later time (30.5% IDK/NA). Thus, it seems that investigators believe that suspects who were intoxicated at some point are slightly more likely to waive their Miranda rights and to incriminate themselves. Given this, and the fact that investigators tend to believe that the most information is provided by suspects when still intoxicated, it seems likely investigators are motivated to interrogate suspects while they are intoxicated.

Investigators were asked how likely intoxicated suspects were to testify in their own defense relative to sober suspects. A quarter of respondents indicated that intoxicated suspects were just as likely to testify in their own defense as sober suspects, and another quarter indicated that they were less likely to testify. Very few believed that they were more likely to testify (see Table 6). Investigators further believed that jurors considered intoxicated suspects to be less credible than sober suspects (see Table 5). Over 40% of investigators believed that intoxicated suspects were just as likely to be convicted as sober suspects; few believed that they were more or less likely to be convicted (see Table 6).

Table 6
How Likely Are Intoxicated Suspects to Waive Miranda Rights, Testify in Their Own Defense, and Be Convicted?

<table>
<thead>
<tr>
<th>How likely are intoxicated suspects to . . .</th>
<th>% of investigators indicating</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>More likely than when sober</td>
</tr>
<tr>
<td>Waive Miranda rights</td>
<td>25.4</td>
</tr>
<tr>
<td>Testify</td>
<td>5.1</td>
</tr>
<tr>
<td>Be convicted</td>
<td>13.6</td>
</tr>
</tbody>
</table>

Note. IDK/NA = I don’t know/not applicable.
Discussion

The experiences of intoxicated witnesses, victims, and suspects with both law enforcement in particular, and the legal system in general, is clearly an underresearched area in legal psychology. One of the possible reasons for the lack of research and policy attention paid to this area is insufficient data on the prevalence of alcohol intoxication regarding both witnesses and suspects of crime. Moreover, there is very little known about actual law enforcement procedures and experiences with these groups that can inform and guide empirical research on this matter. This survey sought to address these gaps in knowledge.

Overall, our data demonstrated that both witnesses and suspects under the influence of alcohol are common in investigative settings. Investigators reported all possible combinations of intoxication timing: They encounter individuals who are intoxicated at the time of the crime only, the time of the interview/interrogation only, and at both times. Although investigators have little control over the conditions at the time of the crime (estimator variables), they do have control over interview/interrogation conditions (system variables; see Wells, Memon, & Penrod, 2006). Thus, well-informed policies on handling inebriated witnesses and suspects would be useful. Although our data do not speak directly to what procedures would be more effective than others, we do offer some tentative food-for-thought policy suggestions based on our data in combination with the little available research. Most important, given the frequency with which intoxicated individuals interact with the criminal justice system, more research on their possible vulnerabilities is needed. Only after more empirical research has been conducted, with ecologically valid designs, can comprehensive evidence-based policies for handling intoxicated witnesses and suspects be developed.

Level of Intoxication

Unfortunately, it appears that investigators rarely take official readings of witness BACs and do so only slightly more often for suspects. Thus, we are left to rely on the investigators’ impressions of intoxication level. When estimating the average intoxication level of the intoxicated witnesses they encounter, investigators reported rather high average BACs (i.e., above the legal limit for most U.S. and European drivers), suggesting that intoxicated witnesses are typically quite impaired while interacting with law enforcement (see also the Council on Scientific Affairs, 1986). Future research on this witness group should mirror these intoxication levels if its results are to be applied to real-world scenarios. Because of institutional human research concerns, however, this breath alcohol level has been, and will continue to be, difficult to implement in experimental lab studies, leaving field studies as an important research alternative. Similar methodological issues apply to future research on intoxicated suspects; their estimated intoxication level was even higher than that of witnesses, making it difficult to replicate in a laboratory setting. It should be noted however, that it will be difficult to disentangle alcohol expectancy and pharmacological effects in field studies. Thus, depending on the specific research question, a combination of field and lab studies (including placebo conditions) may be the most fruitful research strategy. One possible procedural recommendation for law enforcement is to routinely obtain official BAC readings from both witnesses and suspects. This will create
a standardized record of their intoxication levels, as well as document pertinent information for legal decision makers who later may need to assess the reliability of any information elicited.

**Timing of Intoxication**

Our data further suggest that witness intoxication at the time of the crime, time of the interview, or both, is commonplace. Therefore, research examining the role of intoxication should address all these possible encoding and retrieval combinations. Previous eyewitness studies have looked only at sober–sober, intoxicated–intoxicated, or intoxicated–(long delay) sober encoding–retrieval conditions (Dysart et al., 2002; Yuille & Tollestrup, 1990), leaving out, for example, the sober–intoxicated pairing encountered by some members of our sample. Similarly, previous research has neglected to examine the effect of letting witnesses sober up before their interview (intoxicated–(minimal delay) sober). Although the interviewing of intoxicated witnesses both immediately and after they have sobered up was reported, it appears that most law enforcement departments do not have standardized procedures for intoxicated witnesses in general, nor do they have specific procedures for the various intoxicated witness encoding–retrieval combinations.

Research on memory’s “encoding specificity” (Godden & Baddeley, 1975; Tulving & Thomson, 1973) suggests that, under certain conditions, witnesses are better at recalling information under the same circumstances in which they originally encoded it (Higham, 2002). Thus, if a witness is intoxicated while originally encoding an event, intoxication at retrieval should facilitate recall. However, despite anecdotal evidence, research on state-dependent learning under the influence of alcohol is mixed (Eich, 1980; Lisman, 1974; Lowe, 1982, 1983; Weissenborn & Duka, 2000; White, 2003). Therefore, future research should include more realistic (witness) stimuli/scenarios and recall formats to address investigators’ needs while also contributing theoretically to the debate on state-dependent learning in the intoxicated. Although, from a policy perspective, it is likely impractical to suggest that a witness become intoxicated at a later date for the purpose of an interview, further research on this topic may be able to clarify whether it would be most productive to interview a witness who was intoxicated at the time of the crime while still inebriated or whether, and how long, investigators should wait before beginning an interview.

The lack of standard procedures for dealing with intoxicated witnesses applied to suspects as well: Some respondents indicated that they allowed suspects to sober up before beginning an interrogation, whereas others begin the interrogation immediately. As with intoxicated witnesses, it was also reported that law enforcement encounters suspects who are intoxicated at the time of the crime, at time of interrogation, or both times, suggesting that the impact of the various intoxication–sobriety combinations on suspects’ statements and potential vulnerabilities also needs to be addressed empirically. As research indicates that alcohol withdrawal may be associated with higher levels of suggestibility, and our findings suggest that no relevant procedural safeguards exist, one policy recommendation that may be considered is evaluating suspects for alcohol abuse issues and, when applicable, the severity of their withdrawal symptoms. On the basis of
this evaluation, the interrogation of such suspects could be scheduled to avoid
times of especially high vulnerability.

Identifications

Investigators reported that, by far, the most common crimes involving intox-
icated witnesses are domestic disputes, in which the witness is typically familiar
with the perpetrator. Therefore, for many situations involving intoxicated wit-
nesses, a lineup or showup procedure will not be necessary—possibly contrib-
ting to the fact that most investigators indicated that they had never given a lineup
or showup to an intoxicated witness. Given that identification procedures with the
intoxicated are somewhat rare, researchers should consider specifically focusing
on investigative interviewing techniques with intoxicated witnesses.

The two relevant previous studies have focused on identifications made by
intoxicated witnesses (e.g., Dysart et al., 2002). Both studies suggest that intox-
ication at the time of encoding may be associated with an increased risk for
false-positive identifications when later choosing from a target-absent lineup or
showup. We recognize that many identifications occur in the context of a show-up
immediately after the crime, yet we urge caution when administering field
showups to intoxicated witnesses because of this concern about false-positive
identifications (Dysart et al., 2002; Yuille & Tollestrup, 1990).

Self-Incrimination

Investigators indicated that intoxicated suspects were generally more likely,
or just as likely, to waive their Miranda rights and to incriminate themselves as
sober suspects. It is interesting that it was also reported that the most information
was provided by suspects while still intoxicated—a reason, perhaps, for law
enforcement officers to view interrogation while intoxicated positively. These
reports are noteworthy, as they support previous findings (e.g., Pearse, Gudjon-
sson, Clare, & Rutter, 1998) that intoxicated suspects may be vulnerable to
self-incrimination. The fact that intoxicated suspects in the United States are
considered competent to waive their Miranda rights (e.g., State v. Keith, 1993)
makes the possible tendency to self-incriminate even more significant. Any
potential tendency toward self-incrimination may be very significant for a suspect,
as many of the crimes our sample reported as typically perpetrated by intoxicated
individuals were quite serious (e.g., assault), and therefore, any admission could
have very serious consequences. From a policy perspective, we urge the curtail-
ment of the interrogation of intoxicated suspects, which our data suggest is
somewhat common. The primary reason is that research suggests that, because of
limited processing capacity, intoxicated suspects may not fully appreciate the
consequences of making incriminating statements, calling into question whether
any statements elicited while intoxicated should be considered voluntary and
admissible in court. Although acknowledging the need of further empirical
investigation, on the basis of our data, we cautiously suggest that law enforce-
ment agencies adopt a policy of either requiring that intoxicated suspects consult with
counsel before consenting to an interrogation or that law enforcement should wait
to conduct interrogations until after the suspect is sober. If an interrogation does
take place, the use of minimization and maximization should be avoided, as
intoxicated suspects may be excessively swayed by any implied positive consequences of confessing.

Given the high level of intoxication present for some suspects suggested by our data and the relatively common phenomenon of alcoholic amnesia (e.g., White et al., 2002), suspects intoxicated at the time of the crime are likely to be especially vulnerable to internalized false confessions. Thus, another recommendation would be the limitation of the interrogation techniques permitted if the suspect was intoxicated at the time of the crime—regardless of intoxication during the interrogation. The most important restrictions should address techniques associated with internalized false confession. Thus, in line with the psychological research, we suggest (a) disallowing the presentation of false evidence and (b) avoiding the exploitation of a lack of memory for the time of the crime.

At Trial

According to the experience of investigators in our sample, intoxicated witnesses are less likely to ultimately testify in court than sober witnesses. This may possibly be related to our finding that jurors also tend to find intoxicated witnesses less credible than sober witnesses. This observation by our investigators is supported by a recent study, which found that identifications made by intoxicated witnesses are viewed as less credible than those made by sober witnesses, because of the intoxicated witnesses’ impairment (Evans & Schreiber Compo, in press). Although the lower credibility ratings reported by our respondents may not specifically be due to skepticism regarding identifications made by intoxicated witnesses, they may reflect a general tendency to judge the memory of intoxicated witnesses to be less accurate.

Similarly, investigators believed that jurors found intoxicated suspects to be less credible than sober suspects, and intoxicated suspects were just as, or less, likely to testify in their own defense as sober suspects. It is interesting that, although many respondents believed that intoxicated suspects were just as likely to be convicted as sober suspects, those who indicated otherwise tended to be split between believing that jurors were more lenient on intoxicated suspects and believing they were more harsh. This parallels the mixed findings regarding the malevolence assumption, which states that blame is transferred from an individual to alcohol, leaving the actor less blameworthy (Aramburu & Leigh, 1991; Critchlow, 1985; Hamilton & Collins, 1981; Leigh & Aramburu, 1994; MacAndrew & Edgarton, 1969; Richardson & Campbell, 1982).

Limitations and General Implications for Researchers

There are some important limitations of the present study. First, our sample size and its representativeness are limited because of the difficulty in recruiting investigators on a national level to complete a relatively lengthy survey. Our findings should ideally be replicated with a more diverse, representative national sample of investigators to allow for the examination of possible experiential and policy differences between states and regions. However, given the difficulties recruiting from the law enforcement population for research purposes, and the lack of research on this area, we believe that the reported findings offer an important first insight into this new area. We further believe that our results are
a fair representation of investigators’ experiences, as respondents from many different units participated without special incentives for participation.

It is important to note that, although every effort was made to design a survey that would elicit accurate reports, our data are only as reliable as the respondents’ memories and thus are subject to the pitfalls of retrospective, self-report data. We point out, however, that investigators’ own responses provided further evidence that such a survey was much more feasible than an archival study. For example, respondents reported that they often do not measure BAC for witnesses, victims, or suspects, indicating that no official records of encounters with the intoxicated would exist in police files. Another potential limitation of the data collection method is that, in an effort to maintain participant confidentiality, we did not require any identifying information from the respondents. Therefore, we are unable to determine whether any respondents completed the study multiple times. However, given the lengthy nature of the survey, we find it highly unlikely that repetitions would have occurred often, if at all.

Our findings have important implications for legal psychology research. Specifically, they provide evidence that research on intoxicated witnesses and suspects, which is disappointingly limited, is important, and should continue to be conducted. These findings also provide guidance regarding which topics should be most urgently explored in future research. For example, studies should address the effects of intoxication at levels that meet or exceed legal limits. To further increase the ecological validity of such research, more appropriate stimulus materials and recall formats should be used (i.e., studies on memory for events followed by an interview, as opposed to list-learning tasks). Researchers should also examine the recall performance of individuals who were intoxicated at the time of encoding, at the time of recall, or at both times. Although research on identifications appears to be less critical, such research should focus on showup identification procedures, as opposed to lineups, as our data indicate that showups are more common with intoxicated witnesses.

Research should also examine suggestibility while intoxicated, as no studies have examined the misinformation effect with intoxicated individuals, and most of the relevant research examining interrogative suggestibility has been in the context of alcohol withdrawal, not intoxication. The available research indicates that arousal level and anxiety are important variables to include when examining the relationship between alcohol and suggestibility.

Another important line of research entails the evaluation intoxicated witnesses, victims, and suspects by other relevant members of the legal community. For example, beyond the results of the present survey, it is unknown how defense attorneys choose to deal with clients who were intoxicated and how prosecutors handle witnesses who were intoxicated. Similarly, there is little research examining how potential jurors react to such individuals. The problems resulting from evidence obtained from the intoxicated may be more or less severe depending on whether the limitations (to the extent they exist) are recognized and accounted for by decision makers.

Research is not only urgently needed to meet the specific needs of this witness and suspect population but also to inform investigators and the legal system on best practices and post hoc evaluations. Despite the clear need for additional research, we have ventured to offer some tentative policy recommendations,
which of course should be refined and revised as our knowledge base accumulates.

References


INTOXICATED WITNESSES AND SUSPECTS


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