
REDUCING SECONDARY VICTIMIZATION IN SEXUAL ASSAULT TRIALS: THE IMPACT OF TRAUMA-INFORMED JUDICIAL TRAINING ON CROSS-EXAMINATION PRACTICES IN ADULT COURTS

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ABSTRACT

Sexual assault complainants who testify in adult criminal courts frequently describe the trial process itself, and cross-examination in particular, as more distressing than the original offense, a phenomenon researchers term secondary victimization. This paper offers a narrative review and conceptual analysis of trauma-informed judicial training as a strategy for reducing secondary victimization during cross-examination. Drawing on socio-legal, psychological, and conversation-analytic literature, the paper examines how defense questioning reproduces rape myths and credibility contests, surveys existing judicial education initiatives in the United States, United Kingdom, Canada, and Australia, and evaluates the mechanisms through which trained judges might exercise greater control over courtroom questioning, including ground rules hearings, active intervention in improper questioning, and communication style. The review finds that while evaluation evidence for adjacent interventions, such as trauma-informed police interview training and pre-recorded cross-examination schemes, is mixed and often methodologically limited, several converging findings suggest that judicial knowledge, discretion, and case management practices are a plausible and currently underused lever for reform. The paper concludes with a proposed framework for evaluating judicial training programs and recommendations for future controlled research, given the near-total absence of outcome studies isolating the effect of judicial (as opposed to police or advocate) training on complainant experience.

Keywords: secondary victimization; trauma-informed practice; judicial training; cross-examination; sexual assault trials; rape myths.

Introduction

Reporting rates for sexual assault remain low across common-law jurisdictions, and one of the most consistently cited deterrents to reporting and continued participation in prosecution is fear of the trial process itself. Complainants describe cross-examination as an experience that can rival or exceed the psychological harm of the assault, a pattern long documented in victimology and increasingly analyzed through the linguistic and interactional structure of courtroom questioning. This phenomenon, commonly labeled secondary victimization, refers to the harm inflicted not by the original offender but by the institutions and actors responsible for responding to the offense, including police, prosecutors, defense counsel, and the court itself.

Judges occupy a distinctive position in this dynamic. Unlike police officers or victim advocates, judges retain formal authority during trial to control the scope, tone, and manner of questioning, to intervene when cross-examination becomes argumentative, repetitive, or degrading, and to shape the broader courtroom climate that complainants experience. Yet judicial conduct has received comparatively less empirical and reform attention than police practice or statutory protections such as rape shield laws. This paper asks whether trauma-informed training for judges is likely to reduce secondary victimization during cross-examination in adult sexual assault trials, and what the existing evidence base can and cannot tell us about that question.

The paper proceeds in six parts. Section 2 defines secondary victimization and situates cross-examination as a primary site of its production. Section 3 reviews the existing landscape of judicial education on trauma and sexual violence. Section 4 develops a conceptual framework describing the mechanisms through which trained judges could plausibly reduce harm during cross-examination. Section 5 critically examines the available evidence, including findings from adjacent interventions such as trauma-informed police training and pre-recorded cross-examination pilots. Section 6 discusses structural tensions, including judicial independence, adversarial culture, and defendants' fair trial rights, before the paper closes with recommendations for practice, policy, and future controlled research.

Secondary Victimization and Cross-Examination

Conceptual Foundations

The concept of secondary victimization originates in early victimological work distinguishing

the direct harm of a crime from the additional harm caused by the response of criminal justice institutions. Subsequent scholarship has extended this concept to describe a systemic pattern in which complainants are re-traumatized through the disbelief, minimization, or adversarial treatment they encounter after reporting. A recent conversation-analytic study of celebrity sexual assault cross-examinations describes this pattern as a “double bind”: complainants must present as emotionally credible without appearing rehearsed, and as rationally composed without appearing detached, so that almost any demeanor can be reframed by defense counsel as evidence of unreliability.

This double bind is not incidental to adversarial procedure; it is produced through specific interactional techniques available to defense counsel during cross-examination, including leading questions that presuppose facts, repeated requests for precise chronological detail that trauma-affected memory often cannot supply, and questions that invoke rape myths, such as expectations about resistance, immediate disclosure, or emotional display, to imply a witness's complicity or fabrication.

Cross-Examination as a Distinct Site of Harm

Complainants encounter secondary victimization at multiple stages, including initial police contact, forensic examination, and pre-trial proceedings, but cross-examination is frequently identified as the most acute. Cross-examination is designed, structurally, to discredit the witness, expose inconsistencies, and advance alternative explanations of events. Researchers examining the retraumatizing effects of cross-examination note that this adversarial function is not inherently improper; the difficulty lies in techniques that exploit trauma-related memory effects or rely on discredited assumptions about how genuine victims behave, rather than in the function of testing evidence itself. Distinguishing legitimate probing from techniques that serve primarily to distress or discredit through rape-myth reasoning is precisely the judgment that trauma-informed judicial training seeks to sharpen.

The Current Landscape of Judicial Training

Judicial education on trauma and sexual violence has expanded substantially over the past decade, though it remains uneven across jurisdictions and is rarely mandatory. In the United States, the Bolch Judicial Institute at Duke Law has developed a full-day trauma-focused orientation for new judges, a trauma-informed bench card, and applied research examining how

judges interact with court users; the Institute frames trauma-informed practice around the “4 Rs”: realizing the prevalence of trauma, recognizing its signs, responding by integrating trauma knowledge into practice, and actively resisting re-traumatization. The National Judicial Education Program has separately compiled guidance drawn from judges who have presided over adult sexual assault cases, synthesizing practical lessons about minimizing retraumatization while preserving defendants' due process rights. More recently, Florida State University's Center for Prevention and Early Intervention Policy launched a self-paced statewide course intended to translate trauma science into judicial decision-making across case types.

Outside the United States, comparable efforts exist. Canadian federal justice reviews have called for specialized trauma-informed training for all professionals in the sexual assault adjudication pipeline, including judges, prosecutors, and defense counsel, on the basis that judicial misunderstanding of trauma responses has historically contributed to gendered bias in case outcomes. In England and Wales, judicial control of cross-examination is exercised partly through ground rules hearings, pre-trial conferences in which judges can set limits on question form, vocabulary, and duration, particularly where an intermediary has been appointed to assist a witness with communication needs. Australian scholarship has likewise called for structured judicial leadership in cross-examination reform, arguing that judges' case-management authority, if exercised consistently, could be extended from current protections for children and vulnerable witnesses to adult complainants more broadly.

Despite this activity, several features distinguish judicial training from other criminal-justice training efforts discussed in the literature. First, judicial independence limits the degree to which training can be mandated or its uptake enforced, in contrast to, for example, mandatory continuing-education requirements imposed on police officers in some jurisdictions. Second, much existing judicial training addresses trauma-informed practice broadly, spanning family, juvenile, and drug courts, rather than the specific skills required to manage cross-examination in adversarial sexual assault trials. Third, and most consequentially for this review, almost no published outcome evaluation isolates the effect of judicial training on courtroom questioning practices or complainant experience; the evidence base consists overwhelmingly of program descriptions, bench cards, and judges' self-reported perceptions rather than controlled or longitudinal outcome studies.

A Conceptual Framework for Judicial Impact on Cross-Examination

Although direct outcome evidence is scarce, the structural role of judges suggests several plausible mechanisms through which training could reduce secondary victimization. This section develops these mechanisms as a framework intended to guide future evaluation, rather than as an established causal model.

Active Judicial Control of Questioning

Judges in adversarial systems retain inherent authority to disallow questions that are repetitive, misleading, degrading, or irrelevant, and to intervene *sua sponte* even absent defense objection. Trauma-informed training could plausibly increase judges' willingness and ability to exercise this authority by improving their capacity to recognize when a question relies on a rape myth, such as an assumption that genuine victims resist physically or disclose immediately, versus when it tests a genuine evidentiary inconsistency. Analyses of courtroom cross-examination transcripts suggest that harmful questioning techniques are often subtle and cumulative rather than singularly objectionable, which may partly explain why defense counsel's own objections, and unprompted judicial intervention, are relatively rare even when questioning strays into credibility attacks grounded in gendered stereotype rather than evidentiary relevance.

Ground Rules Hearings and Pre-Trial Case Management

Ground rules hearings, used in the United Kingdom particularly where intermediaries are involved, allow judges to set expectations for question length, vocabulary, and pacing before testimony begins, and to agree on non-verbal signals a witness or intermediary can use to request a pause. Research on the extension of these procedures to intimidated adult complainants in sexual offense cases found that such safeguards were frequently “hollowed out” in practice, with barristers and judges treating adult complainants as less deserving of structured protections than children or witnesses with recognized vulnerabilities, and with training and toolkits developed for vulnerable witnesses often regarded as inapplicable to adult sexual assault complainants. This finding is instructive: it suggests that procedural mechanisms alone are insufficient without judicial commitment and consistent application, reinforcing the argument that training must target not only awareness of trauma but also judges' willingness to extend existing protective tools to the much larger population of adult complainants.

Judicial Communication Style and Courtroom Climate

Beyond formal rulings, judges shape the emotional climate of the courtroom through tone, pacing of proceedings, explanations offered to witnesses, and responsiveness to visible distress. Bench-card guidance developed for trauma-informed courts recommends, for example, replacing potentially shaming direct questions with framing that acknowledges the witness's situation without presupposing blame, and extending trauma-sensitive practice to all courtroom personnel rather than the judge alone. While this guidance has primarily been developed for family, juvenile, and dependency courts, its underlying logic, that institutional tone measurably affects perceived fairness and psychological safety, is directly transferable to adult sexual assault trials, though it has rarely been tested in that specific setting.

Evidence on Effectiveness

Evidence from Adjacent Interventions

Because controlled evaluations of judicial training specifically are essentially absent from the published literature, the strongest available evidence comes from adjacent interventions targeting other actors in the sexual assault justice pipeline. A randomized controlled trial of victim-centered, trauma-informed interview training for police investigators, using standardized patient actors to simulate victim interviews, found that the training improved officers' knowledge of trauma-informed practice, their perceptions of victims, and their observed interview behavior, consistent with prior literature and advocacy recommendations. This finding offers modest support for the premise that structured, skills-based training with experiential practice components can shift professional behavior in trauma-sensitive directions.

However, a separate longitudinal evaluation of a department-wide trauma-informed training module for police found a more cautionary result: while officers reported greater subjective understanding of trauma-informed investigation months after training, the intervention produced no measurable reduction in rape myth acceptance or occupational burnout, and burnout increased over the study period regardless of training attendance. Taken together, these two studies suggest that training format matters considerably, with experiential, skills-based approaches showing more promise than knowledge-transmission formats, and that improvements in self-reported understanding do not reliably translate into changes in underlying attitudes such as rape myth acceptance, a distinction directly relevant to judicial

training design given that most current judicial programs rely on lecture-based orientation sessions and self-paced online modules rather than simulated practice.

Evidence from Pre-Recorded Cross-Examination Reform

A second relevant body of evidence concerns Section 28 of the Youth Justice and Criminal Evidence Act 1999 in England and Wales, which allows cross-examination of vulnerable and, more recently, intimidated witnesses to be video-recorded before trial under judicial direction, with the accused and jury viewing the recording rather than witnessing live cross-examination. This reform is not a judicial training intervention per se, but its implementation and evaluation illustrate the same underlying dependency identified above: procedural protections for complainants function only to the extent that judges and counsel actively apply them. Doctoral research examining the extension of Section 28 to complainants in sex offense cases found that its protective aims were undermined by inconsistent planning and guidance, that intimidated complainants were treated as less deserving of protection than recognized vulnerable witnesses, and that ground rules hearings and written questions, safeguards intended to structure fairer cross-examination, were frequently treated by judges and barristers as unnecessary formalities in these cases even where cross-examination was, in practice, conducted more slowly and calmly than at live trial.

The outcome data on Section 28 further illustrate why judicial discretion and consistent application matter so much: one study found conviction rates roughly ten percent lower overall, and around twenty percent lower in most rape trial categories, where pre-recorded cross-examination was used, while a subsequent government impact assessment reached a different conclusion, finding no measurable effect on conviction rates. This unresolved discrepancy underscores a broader point for the present analysis: reforms intended to reduce secondary victimization can have contested and poorly understood downstream effects on case outcomes, and any evaluation of judicial training must examine not only complainant experience but also its interaction with trial fairness and case outcomes, rather than treating complainant wellbeing as the sole relevant metric.

Judges' Own Perspectives on Trauma-Informed Practice

Qualitative research eliciting judges' own accounts of trauma-informed practice has found that while many judges endorse its underlying principles, they report difficulty translating general

concepts, such as recognizing trauma responses, into concrete courtroom behavior, partly because published guidance and bench cards tend to remain at the level of abstract principle rather than offering specific, situation-tested techniques. This gap between stated commitment and applied practice mirrors findings from the police training literature described above, and again points toward the likely importance of experiential and scenario-based training design over passive instruction.

Barriers and Tensions

Judicial Independence and Discretion

Judicial independence, a foundational safeguard of the rule of law, constrains the degree to which trauma-informed training can be mandated, standardized, or enforced. Unlike police departments, courts generally cannot compel individual judges to attend particular training or to apply specific courtroom techniques, meaning that even well-designed programs depend on voluntary uptake and cannot guarantee consistent application across a jurisdiction's bench, a dynamic reflected in the uneven adoption of ground rules hearings described above.

Defendants' Fair Trial Rights

Any reform to cross-examination practice must be evaluated against the constitutional and common-law rights of the accused, including the right to test the prosecution's evidence through effective cross-examination. Critics of expanded protective measures, including pre-recorded cross-examination, have raised concerns about disclosure timing, the practical difficulty of recalling a witness once cross-examination has been recorded, and the risk that procedural changes designed to protect complainants could, in some circumstances, disadvantage the defense. Trauma-informed judicial training must therefore be framed, and evaluated, as a tool for distinguishing legitimate from illegitimate lines of questioning rather than as a general curtailment of defense cross-examination, since training that were perceived as one-sided would be vulnerable to legal challenge and professional resistance alike.

Adversarial Culture and Professional Resistance

The adversarial trial format itself creates structural incentives for defense counsel to use techniques that traumatize complainants where doing so serves the client's interest, and cultural norms within the legal profession have historically treated aggressive cross-examination as a

marker of advocacy skill. Training aimed at judges alone addresses only one actor within this system; without complementary training and professional norms for defense counsel, prosecutors, and court staff, judicial intervention risks being perceived as an isolated and adversarial act rather than an accepted feature of professional practice, a concern echoed in Canadian federal justice recommendations calling for coordinated, multi-disciplinary trauma-informed education across the sexual assault adjudication pipeline rather than judiciary-only initiatives.

Definitional and Implementation Inconsistency

Broader trauma-informed care literature, including reviews of trauma-informed practice in youth and family justice settings, has found substantial variation in how the concept is defined and operationalized, with only limited consistency around specific, concrete techniques despite general agreement on abstract principles. This same inconsistency likely affects judicial training on sexual assault cross-examination, complicating both implementation and evaluation, since programs described under the same “trauma-informed” label may differ substantially in content, duration, and pedagogical approach.

Recommendations for Practice and Policy

Based on the foregoing review, several recommendations follow for judicial educators, court administrators, and policymakers seeking to reduce secondary victimization through judicial training.

First, training should move beyond lecture-based transmission of trauma science toward experiential, scenario-based formats that give judges practice identifying and intervening in specific problematic questioning patterns, mirroring the stronger outcomes observed in simulation-based police training relative to knowledge-only formats.

Second, training should explicitly extend existing protective frameworks, particularly ground rules hearings and structured pre-trial case management, from their current, inconsistent application with child and recognized vulnerable witnesses to adult sexual assault complainants generally, given evidence that these safeguards are too often treated as inapplicable to this population.

Third, judicial training should be paired with, rather than substituted for, coordinated education

for prosecutors and defense counsel, since judges act within a system whose adversarial incentives and professional norms will otherwise continue to generate the questioning patterns training seeks to address.

Fourth, training programs should be designed from the outset with embedded evaluation components, including observational coding of courtroom questioning before and after training, and complainant-reported experience measures, so that the field can move beyond the self-report and program-description evidence that currently dominates the literature.

Fifth, any reform must build in mechanisms to protect defendants' fair trial rights, including transparent criteria distinguishing legitimate probing of inconsistency from rape-myth-based credibility attacks, so that judicial intervention is defensible on appeal and resistant to claims of partiality.

Limitations

This paper is a narrative literature review and conceptual analysis rather than an original empirical study, and its conclusions are correspondingly limited. The review draws on a purposive rather than systematic search of available literature and does not claim to be exhaustive. Most directly relevant sources address judicial training on trauma broadly, or training for other actors such as police, rather than judicial training targeted specifically at cross-examination of adult sexual assault complainants, a gap that itself constitutes a central finding of this review. Where outcome data exist, as with Section 28, they concern procedural reforms rather than judicial training per se, and even these findings are contested, as illustrated by the conflicting conviction-rate findings discussed above. Readers should treat the framework proposed in Section 4 as a set of testable hypotheses for future research rather than as established causal findings.

Conclusion

Secondary victimization during cross-examination in sexual assault trials is well documented at the level of complainant experience and courtroom interaction, and judges hold formal authority that plausibly positions them to reduce it, through active control of questioning, extension of structured case-management tools such as ground rules hearings, and attention to courtroom climate. Yet the evidence base establishing whether, and how, trauma-informed

judicial training translates into changed courtroom behavior and reduced complainant harm remains thin, drawing largely by analogy from training evaluations of other justice-system actors and from the mixed record of adjacent procedural reforms such as pre-recorded cross-examination. Closing this gap will require judicial training programs designed with evaluation in mind from the outset, coordinated with parallel training for prosecutors and defense counsel, and grounded in experiential rather than purely informational pedagogy. Until such evidence accumulates, claims about the effectiveness of trauma-informed judicial training, however intuitively plausible, should be advanced with appropriate caution.

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