

“I never said that”: Negotiating misunderstandings in police interviews¹

Abstract

Police interviewers in England and Wales engage in the practice of investigative interviewing that is based on obtaining neutral, institutionally accepted account from suspects. This involves a process not only of eliciting information from suspects, but also managing the interview by choosing topics for questioning, seeking clarification and additional details, and shaping the account to fulfil institutional requirements. Interviewers must therefore be sensitive to any unclear meanings from the suspect and avoid potential misunderstandings in order to avoid misrepresentation of account. This study uses authentic police interview data to exemplify the interactional process of meaning negotiation between police officers and suspects, examining how multiple constraints of this very restrictive communication context can affect which meanings are put on record and resolved, and which are ignored or left unresolved. The paper finishes by offering practical applicable insights about how interviewers can avoid misunderstandings in the interview room.

Keywords

grounding; institutional discourse; misunderstanding; police interview; repair

1 Introduction

Understanding the potential ways in which language can be misinterpreted is of utmost importance in any situation in which communication is the primary mode of operation, whether that is at home, in the workplace, or an institutional environment. This is because, in the worst cases, undetected and/or unresolved misunderstandings can have real-world catastrophic and lasting effects for individuals, groups, and/or whole societies (e.g. Filipović 2007, 2021a; Elder and Beaver 2022). Such potential for negative outcomes means that misunderstandings are typically thought of as something to be avoided in communication, and pragmatic theories of communication to date have laid emphasis on the mechanisms by which interlocutors achieve this (e.g. Kecskes 2010; see Section 3 for details and examples).

In this paper we focus on police communication to investigate how institutional communicative goals and restrictions can affect the process of meaning negotiation when misunderstandings arise. Various aspects of communication in police interview contexts have been previously studied in relation to different law enforcement jurisdictions around the world (e.g. in the USA: Berk-Seligson (2009, 2011, 2016), Filipović (2007, 2022a); in the UK: Coulthard and Johnson (2007), Rock (2007), Filipović (2021a, 2022b); and in Australia: Eades (1994, 2008), Heydon (2005, 2008, 2012). In our case the context in focus is that of policing in England and Wales, which is where our dataset comes from (see Section 4.2). This is because interviews between police officers and suspects provide a rich and fruitful testing ground for our central hypotheses, namely, that i) negotiation of meaning in this highly sensitive context of interaction is characterised by additional difficulties that differentiate it from other contexts; and that ii) a detailed study of real-life data using *interactional pragmatics* can provide us with invaluable authentic examples that, in turn, can

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serve to sensitise practitioners to potential communication problems that can arise in this context, as well as to ways in which they can be resolved through direct application of such research findings in professional settings.

We start with an overview of previous studies on misunderstandings in UK police interviews (Section 2), before using the theoretical and methodological apparatus from interactional pragmatics (Section 3) to zoom in on the different parts of the interviews in our database (Section 4). In Section 5 we begin our analyses with two separate cases involving the UK police caution (i.e. the communication of suspects' rights) that is delivered by the police officer and examine how the suspect demonstrates their (mis)understanding of it. Then we take a closer look at other parts of the interviews and discuss different instances of meaning negotiation, including: rephrasing of the original wording by the suspect, explicit checking of understanding, and direct dispute of record. We conclude (Section 6) with concrete practical suggestions for professional training on how to handle potential misunderstandings in the interview room. The outcomes of this paper thus provide some guidance on how to manage the interaction efficiently and effectively, allowing for early detection of potential misunderstandings, which would reduce the need for time-costly backtracking in the interview process that is dependent on public funding.

2 Misunderstandings in UK police interviews

In England and Wales, in accordance with the PEACE model of investigative interviewing, the goal of police interviews is to elicit high quality account, both for investigative and evidentiary purposes.² This is achieved in part by highlighting and resolving potentially ambiguous or unclear language from the suspect in order to avoid misrepresentation of account, requiring police interviewers to be sensitive to difficulties in communication. If this is not achieved, unresolved misunderstandings can have a significant impact on real-world outcomes, such as whether a suspect is found guilty or innocent, or considered to be telling the truth or lying (Filipović and Hijazo-Gascón 2018; Filipović 2019, 2021b, 2022b). But while police interviewers in the UK are trained to obtain as neutral an account of events as possible from the suspect, the interviewer is also responsible for directing the interview so as to obtain institutionally accepted account for the record. In this respect, the process of eliciting account is not simply a case of suspects offering information, but the interviewer plays a significant role in obtaining that account as they summarise and clarify what has been said, choose topics for further questioning, and shape the account to fulfil institutional requirements (Johnson 2008). This can lead to tensions in the creation of account: while the interviewer should avoid sustaining misunderstandings as far as possible, the process of meaning negotiation can result in (mis)construing a suspect's account in order to make it conform to an institutionally accepted format (see e.g. Heydon 2008).

Previous work has identified potential sources of misunderstandings to which interviewers must be sensitive in order to obtain quality account from the suspect. As Filipović (2019) points out, interviewers' own language can cause difficulties in understanding, especially when questions include multiple embeddings, complex conditional

² PEACE is the model of investigative interviewing adopted in England and Wales, and many other jurisdictions around the world, including Australia (see Milne and Bull 1999; Clark and Milne 2001; Walsh and Milne 2008; see also Cullen et al. 2021 for confirmation that elements of the PEACE model appear to be implemented within most Australian jurisdictions). The acronym P.E.A.C.E. refers to the five stages of managing the interview process: Preparation and Planning, Engage and Explain, Account, Closure, Evaluation.

constructions, or are framed as negative questions. Interviewers should also avoid specialised jargon that, even if not used to be intentionally deceptive, may impact the quality of account acquired from the suspect. ‘Policespeak’ can be difficult enough for native speakers to comprehend (Gibbons 2001), but an additional layer of complexity is added when bilingual interviews are mediated through an interpreter (see e.g. Filipović 2022c).

Interviewers also need to be sensitive to suspects’ use of ambiguous language, which may - perhaps inadvertently - be considered incriminating evidence, such as “I am sorry for *what* I did”, or “I wish that *it* didn’t happen” (Shuy 2017: 74). Moreover, interviewers need to ensure that suspects satisfactorily answer questions in the way they were intended to be addressed, being vigilant to suspects who may be unwilling to cooperate and hence may deliberately direct interactions in subversive directions. This lack of cooperation can be manifested as being deceptive (provide untrue account), responding only with ‘no comment’ responses, or staying silent and thus refusing any participation. As Haworth (2006) demonstrates, suspects can evade providing direct answers by capitalising on unintended, but nevertheless inferable, aspects of the interviewer’s question, thereby still appearing compliant to the questioning process. They can do this by, for example, answering a subtly different, but nevertheless relevant, question to the one asked; by appealing to authority on what is ‘usually’ done (rather than what they as an individual did or did not do); reformulating the interviewer’s question and answering that one instead; or by exploiting the interviewer’s own ambiguities to avoid answering the intended question, even when that question is clearly inferable.

This paper builds on this line of research by looking at the process of meaning negotiation that ensues between police officers and suspects when misunderstandings arise. Specifically, it addresses the question of how the constraints stemming from the specific institutional goals (i.e. obtaining investigation-relevant information) can affect the interactional process of clarifying account, examining how meanings are interpreted, negotiated and reformulated when speakers have different interactional roles. Examples have been drawn from a corpus of interviews between police officers and suspects conducted in 2016 at a local police constabulary (see Section 4 for more details about the dataset and methodology). These examples have been selected to showcase the types of misunderstandings that occur, and that are characterised by: i) a specific situational context (highly restricted due to defined roles and procedures), ii) institutional expectations (the goal of evidence elicitation), and iii) cultural norms of behaviour (general conversational expectations in a formal situation in the British English-speaking environment).

3 Negotiating misunderstandings: Theoretical backdrop

Following Grice’s (1957) work on non-natural meaning, ‘successful communication’ is typically said to occur when recipients infer speakers’ communicative intentions. ‘Miscommunication’ is then typically pitted in binary opposition to successful communication as “a mismatch between the speaker’s intended meaning and the hearer’s understanding of this meaning in a particular context of interaction” (Tzanne 2000: 34), and misunderstandings are instances where a recipient infers a meaning that was not intended by the speaker. Such mismatches can arise at any level of linguistic comprehension, from ambiguities at the word level (“bats” - animals or sports equipment?), sentence level (“free whales!” - are they cost-free or to be unrestrained?), referential ambiguities (“put it there” -

where?), to ambiguities in speaker intentions (“is the kettle on?” - question or request?) (McTear 2008).

However, there is a growing body of research emphasising that the intention-inference conceptualisation of misunderstandings is too narrow (e.g. Elder 2019; Elder and Haugh 2023). On the one hand, speakers may not have determinate a priori intentions, making it less clear-cut what it would be for a recipient to recognise those intentions (e.g. Haugh 2008; Terkourafi 2014). On the other hand, recipients may infer a message that was not plausibly intended by the speaker, but the speaker may concede the misunderstanding if it is not functionally significant to the interaction at hand (Elder and Beaver 2022). Sometimes conceded miscommunication can occur precisely because the speaker has one communicative intention, but due to the way they formulated their utterance, inadvertently communicated something else instead. In such cases, recipients can hold speakers accountable for communicating their meanings even in the absence of a communicative intention to do so (Elder 2021), and speakers may even endorse the message if they accept it is inferable from what they said (Ariel 2016).

In contrast to the Gricean intentional model of communication, work in talk-in-interaction and Conversation Analysis (CA) adopts the methodology of making inferences about meaning from on-record, publicly available information, avoiding speculating about presumed mental states and speaker intentions. In this analytical tradition, repair is considered a desirable activity to engage in as it enables interaction to progress (Sacks et al. 1974). Indeed, more recent research in interactional sociopragmatics that is informed by CA suggests that engaging in local processes of resolving misunderstandings can be beneficial to conversational outcomes, as they encourage speakers to engage in an exploratory process that facilitates better understanding (e.g. Brennan and Schober 2001, Healey 2008, Bjorndahl et al. 2015), and previous studies (e.g. Weizman 1999) have highlighted the importance that self-regulation has in facilitating communication. Empirical evidence thus supports the importance of understanding how meanings are co-constructed among speakers in interaction, affording recipients’ interpretations an integral part of the process of coming to joint understandings (e.g. Elder and Haugh 2018). That is, rather than putting the full responsibility of conveying meanings on the speaker signalling their communicative intentions, the recipient has, what Allwood (1995) terms, an ‘obligation of responsiveness’.

Recipients can fulfil this obligation by engaging in a process of grounding (Clark and Brennan 1991), indicating how they have understood a previous speaker’s turn, serving to regulate and demonstrate mutual understanding in the process of communication. Recipients can achieve grounding by using positive feedback to demonstrate their understanding of a prior turn, both implicitly by offering a relevant next turn, and explicitly through nodding and backchannelling responses such as ‘yes’, and ‘uh huh’. Repetition and paraphrasing of previous turns can also demonstrate that the recipient has understood, or at least recognised, what has been said. By contrast, a recipient can signal their mis- or non-understanding by offering negative feedback through silence or confused looks, or by using explicit repair strategies, clarification requests or corrections (see e.g. Fernandez 2015). Of course, misunderstandings can also occur even if the recipient is not aware of it (Elder and Beaver 2022). Such misunderstandings may be signalled to speakers through positive grounding attempts, such as by producing an irrelevant or inappropriate next turn that clearly indicates a lack of understanding.

The degree of understanding that has been achieved between speakers and recipients can be explained using the four levels of communication outlined by Clark (1996) and analogously by Allwood (1995):

- Level 1: The recipient recognises the speaker wishes to communicate something;
- Level 2: The recipient perceives the signal the speaker has produced;
- Level 3: The recipient understands the (semantic) content of the utterance;
- Level 4: The recipient reacts appropriately to the speaker's utterance.

The idea is that positive grounding efforts can signal understanding - or indeed misunderstanding - at any of these four levels of communication. According to Clark's (1996) 'principle of downward evidence', when a recipient's response indicates recognition at a certain level of communication, they also indicate that the lower levels have been satisfactorily understood. So, for a recipient to appropriately react to the main content of a speaker's utterance (level 4), it must also be the case that the recipient has understood the (semantic) content of the utterance (level 3), which presupposes the recipient has perceived the signal that the speaker has produced (level 2), and, at the simplest level, has recognised that the speaker wishes to communicate something (level 1).

However, guaranteeing mutual understanding through grounding is not always this straightforward, as feedback utterances can be ambiguous not only with respect to the content of what the feedback targets, but also the level of communication at which grounding is achieved. As Fernandez (2015) points out, while a recipient's ability to paraphrase a speaker's utterance at least indicates understanding at level 3, simply repeating a speaker's utterance can only guarantee understanding at level 2. Similarly, it is possible to react 'appropriately' to a speaker's utterance (level 4) without necessarily having fully understood the semantic content of that utterance (level 3).

So, even when positive grounding efforts may on the surface signal mutual understanding, it is possible that misunderstandings can be present even without any overt indication of such. From a Conversation Analysis point of view, repair initiation is taken as evidence for participants' orientation to communicative troubles, and hence repair is a way of publicly displaying problems in understanding (Schegloff, Jefferson and Sacks 1977; Schegloff 1992). The corollary is, however, that the *absence* of repair is taken as evidence that there is sufficient understanding between participants such that conversation can continue unhindered (Robinson 2014). High stakes interactional contexts such as police interviews provide an important reminder about the limitations of viewing repair as indicative of misunderstandings, as positive grounding efforts do not always signal that sufficient mutual understanding has occurred, and moreover, because unnoticed and unrepaired misunderstandings can have severe negative repercussions for evidentiary purposes if information obtained from suspects is not accurately or fairly gathered.

The remainder of this paper examines the process of meaning negotiation between interviewers and suspects when different types of misunderstandings arise, paying attention to the meanings that are grounded and put on record, as well as to those meanings that are ignored or left unresolved.

4 Current Study: Data and Methodology

4.1 Data

Our study examines the process of eliciting suspect account in police interviews from which the interviewer aims to reconstruct events. Examples have been extracted, transcribed and anonymised from a corpus of 15 monolingual and interpreter-mediated bilingual police-suspect interviews totalling 8 hours and 24 minutes. The corpus was obtained from a local police constabulary and made available for research as part of a larger collaborative project [name anonymised - website reference]. The current standard procedure is that these interviews are audio recorded, then for any case which will proceed to court, a transcript is produced by administrative staff employed by the relevant police force.³ This dataset was shared with us only in the audio format without any official transcripts.

For the purposes of analysis of repair and grounding, the English interpreted turns only were transcribed by the first author and considered in our analyses. Including English-only turns is standard practice for transcripts produced by police forces as detailed above, although it must be acknowledged there may be additional issues that arise due to the interpreting process that may have affected the elicited accounts in our dataset. For some recent detailed discussion of such issues, see e.g. Filipović and Hijazo-Gascón (2018), Hijazo-Gascón (2019), Filipović (2022c). To overcome this limitation, we could have included monolingual interviews in our dataset only; however, we found it important to include interpreter-mediated interviews as the types of misunderstandings identified and discussed here are likely to occur in both monolingual and multilingual contexts. In fact, the misunderstandings may be even more severe and numerous in multilingual contexts if they are exacerbated by language contrasts and communication via an interpreter (see Filipović 2022c for detailed argumentation and exemplification to this effect). Nevertheless, our focus is on illustrating the types of misunderstandings that can appear with or without an interpreter, and that can be used as a model for both monolingual and multilingual research, and our decision to consider the English-only turns is not expected to affect our general conclusions.

4.2. Methodology

The analysis began with a search for instances of misunderstandings arising between participants. This posed an immediate methodological challenge: since misunderstandings are not always explicitly acknowledged in interaction – either because they are not noticed, or because they are ignored by participants – their identification can be difficult for empirical study. To overcome this, explicit linguistic cues of other-initiated repair (as opposed to self-repair) were identified in which there is an explicit request to explain the meaning of what has been said (e.g. “what do you mean by X”, “can you explain what Y means”) as evidence of a misunderstanding that may have occurred in this particular instance, which, in turn, can offer insights into analogous linguistic practices where there are unrepaired misunderstandings (see Robinson 2014 for more detail on the CA paradigm and repair).

³ It has to be noted here that all the interviews in England and Wales police jurisdictions are audio recorded as per the full national implementation of the 1984 Police & Criminal Evidence Act (PACE), and then a transcript is produced for any case that is to be heard at court. The transcript contains only the speaker turns in English. If a foreign language was spoken (as is the case in bilingual interviews) no record of it would be provided in the transcript. The transcript is the document that is relied upon in further proceedings rather than the audio recording, which makes this document an extremely important one. However, transcripts produced by different police forces in England and Wales reveal that substantial portions of conversation may be either completely left out or only briefly summarized by transcribers (see Filipović 2019, 2022b; Haworth 2023).

What counts as a repair turn was also not completely straightforward. This is because it is the nature of police interviews that the interviewer will ask many clarification questions regarding the account, some of which elicit new information on a given topic, and others of which target the content of previous utterances (see Grant et al. 2015 for a taxonomy of question types in UK police interviews). Since questions that seek new information can include explicit references to what was ‘said’ by the suspect (e.g. “you mentioned X”, “you said that Y”), these can, on the surface, appear as instances of repair. In this study, clarifications that are additive, that is, that seek new information on prior account, are not included in the analysis; only instances in which repair work aims to clarify existing content of what has been said (“what did you mean by that?”), or repair in the form of correction (“no, I didn’t mean that”), were included.

The extracts were transcribed using some CA transcription conventions (Jefferson 2004), laid out to reflect the turn-taking structure of the interaction, as well as overlapping speech. However, in order to make the transcripts accessible to readers unfamiliar with CA conventions, standard spellings have been used. Question marks have been used to indicate rising intonation indicative of a question, and full stops have been used to indicate falling intonation indicative of the end of a turn. The extracts were then analysed using principles from interactional pragmatics (e.g. Elder and Haugh 2018), which consist of identifying which meanings are operationalised, grounded and put on record, and which are ignored and/or left unresolved by participants, for example by suspects responding to interviewers’ questions in unexpected ways, or by interviewers ignoring irrelevant but nevertheless inferable meanings from suspects’ contributions if they do not conform to the topic at hand. This analysis thus adds to current understanding of linguistic norms in a British police interviewing practice, providing us with an insight into how an account is negotiated and reformulated as a joint activity between an interviewer and a suspect within the confines of institutionally restricted context of communication.

5 Data Analysis: Repair and Misunderstandings in UK Police Interviews

5.1 Police cautions: Displaying understanding

At the start of the UK police interview before questioning commences, as part of the Engage & Explain phase of the interview (see Section 2), suspects are read the following police caution by the interviewer: “You do not have to say anything. But, it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence” (www.gov.uk/arrested-your-rights). Following this caution, the interviewer is then supposed to break the official caution wording down into simpler language (as stipulated in PACE 1984). The paraphrasing of the caution may involve standard script, as we found was the case in our dataset, but it may also involve varied and idiosyncratic ways of paraphrasing (Heini 2023). Finally, they then follow up with three questions (standardised as below in our dataset, which may not be the case across different police forces) in order to test the suspect’s understanding of the respective parts of the caution:

- (1) “Do you have to answer my questions today?”;
- (2) “If this matter goes to court, and you tell the court something in your defence that you could have told me during the interview, what might the court think?”; and

(3) “How will the court know what you have said today?”.⁴

Each of these questions is designed to elicit evidence from the suspect that they have understood their legal rights while being questioned. The only acceptable answer to the first polar question (in terms of adequacy based on the question type; see Grant et al. 2015) is “no”. The second two tests require the suspect to provide a paraphrase of the caution, and thus target their understanding of the semantic content of the caution, i.e. satisfying communication level 4 through providing an appropriate response, which in turn would evidence understanding at communication level 3. In this respect, if a suspect fails to offer an adequate paraphrase, this flags to the interviewer a possible lack of sufficient understanding and hence further explanation of the caution is required.

It is quite disturbing to know that such fundamental pieces of police communication, such as the caution in the UK, and its equivalent, the Miranda rights in the USA, are difficult to understand for both native and non-native speakers of English (Ainsworth 2008, 2010; Berk-Seligson 2016). In the UK context specifically, it is the second part of the three-part caution that is found to be the most problematic because of its structural complexity (see Filipović 2022b, 2022c). The situation becomes even more complex if these difficult meanings need to be communicated across different languages via interpreters, without the availability of a standardized foreign language versions (Russell 2001; Pavlenko 2008; Berk-Seligson 2009; Monteoliva-García 2020).

We illustrate this difficulty in understanding in Extract 1, whereby the suspect fails the tests for understanding. Extract 1 is taken from a bilingual, interpreter-mediated interview between a police interviewer (P1) and suspect (S1) (English only included).

Extract 1: Checking comprehension; bilingual interview, interpreter-mediated

- 1 P1 If this matter goes to court, and you tell the court something in your defence that you could have told me during the interview, what might the court think?
- 2 S1 **Can I have that repeated again?**
- 3 P1 Um, if the matter goes to court, and you tell the court something in your defence that you could have reasonably told me during the interview, what might the court think?
- 4 S1 **No.**
- 5 P1 Right. Basically, um, the middle part of the caution, means that if there’s anything er that you don’t tell me today, that you then decide you want to tell the court if the matter goes to court, they might wonder why you didn’t tell me today, and why you’ve waited until then, and they might not believe you.
- 6 S1 **I have understood.**

The interviewer’s question in turn 1 aims to test understanding of the middle part of the caution regarding what the court might think if the suspect were to mention something in court that they did not mention in the interview. In response to this question, the suspect explicitly requests clarification in turn 2, “Can I have that repeated again?”. The interviewer repeats the question, almost verbatim, to which the suspect responds in turn 4, “No”. Note

⁴ For a detailed study specifically on the caution in the police contexts of England and Wales see Rock (2007).

here that the response “no” is not an appropriate response to the wh-format of the question “what might the court think?”, and hence it is likely that the suspect did not adequately understand the question, although may not be aware of their lack of understanding. The interviewer demonstrates their awareness of the suspect’s inadequate response, and proceeds to explain the relevant part of the caution in turn 5, to which the suspect responds with positive feedback in turn 6, “I have understood”. There is no further interaction on this matter, and the interviewer moves to the next part of the caution.

Note that while the suspect’s statement, “I have understood”, explicitly makes a claim of understanding, it does not provide the interviewer with any evidence of the content of what has, in fact, been understood. Admittedly, the interviewer does attempt to give an explanation of the caution in turn 5 in such a way as to provide an ‘answer’ to the test, and in this respect is taking the burden of responsibility off the suspect. However, the interviewer does not request the suspect to provide their own further paraphrase, instead taking the suspect’s claim of having ‘understood’ as sufficient evidence of comprehension following the caution.

As this was a bilingual interview mediated by an interpreter, one might suspect that problems of comprehension were exacerbated by the additional complexity of the translation process. Indeed, Pavlenko (2008) has demonstrated at length how the Miranda warnings in the USA are notoriously difficult to understand by non-native speakers of English because of the linguistic complexity of the statements involving multiple layers of embedding and technical terms, and that the use of interpreters and/or translators does not remove this complexity and hence does not solve the problem. Similarly, in the UK context, the middle part of the three-part police caution (the UK equivalent of the US Miranda rights) is the section that causes most misunderstanding because of its structural complexity (see Russell 2001; Filipović 2022c). But in fact, as summarised by Shuy (2017: 69), there is evidence that it is not only non-native speakers who have troubles understanding either the Miranda rights statements in the USA or the standardised cautions in the UK, but that they can be just as difficult for native speakers to comprehend. We can see evidence of this in the following extract, taken from a monolingual interview with a native speaker of English.

Extract 2: Checking comprehension; monolingual interview

- 1 P2 If this matters goes to court and you tell the court something in your defence that you could have told me in this interview, what are the court likely to believe?
- 2 **(5 second silence)**
- 3 P2 So if you tell me something, if you g- if this matter goes to court
- 4 S1 Yeah
- 5 P2 And you tell the court something in your defence at court
- 6 S2 Mm
- 7 P2 Er and you don’t, and you don’t tell me something during the interview, what might the court think?
- 8 S2 **Well, no?**
- 9 P2 That’s it.

In this extract, the interviewer is testing the same part of the caution as in Extract 1. In this case, the test for understanding is met with negative feedback in the way of a five-second

silence. There may be different reasons for the suspect's silence, such as not knowing the answer or considering how to phrase it; see Heydon 2007). Crucially, one such reason may be that the suspect has not understood the question, so there is a need to pick up on the suspect's lack of response. In this case, the interviewer repeats the question, which this time is met with positive feedback from the suspect in the way of backchannelling ("yeah", "mm"), displaying engagement with the question. However, following the final part of the question "what might the court think?", in turn 8 the suspect responds in a similar way as in the bilingual interview above: "well, no?". Again, "no" does not felicitously answer the question "what might the court think?" as it does not detail any content of a person's potential beliefs or thoughts. However, unlike the situation in the bilingual interview, the interviewer in this case takes the suspect's response as evidence of having understood the relevant part of the caution, shown through their grounding of the response with "That's it" in turn 9. In this respect, there is even less guarantee in this extract that the suspect did, in fact, understand the caution, than in the bilingual interview above. In addition, the rising intonation (signalled here by a question mark) after the word "no" indicates that some kind of confirmation was expected, which further indicates that the suspect was uncertain about his understanding.

The issue of clarifying standardised statements has been discussed by Heydon (2005) in the context of police interviews in Australia, which, since the 1990s, uses analogous interviewing practices to those in the UK following the PEACE model (Dixon 2010). Heydon notes that while interviewers are obliged to repeat relevant information when the need for clarification arise, they tend to remain faithful to the formal language of the original statements even though the guidance suggest the use of won words for clarification. As Heydon suggests, this inflexibility of police interviewers to go 'off script' can lead to unnecessary misunderstandings, and in some cases lengthy interactions as the interviewer spends a long time attempting to elicit adequate evidence of comprehension from the suspect. In this regard, it can be concluded here that the technical and formal nature of both the caution and the checks for comprehension, are partially responsible for eliciting misunderstandings in the first place.

Nevertheless, Heydon (2005: 57) does provide some rationale for why police interviewers may be reluctant to offer alternative phrasing in layperson terms. As she notes, as interviews are recorded, and can be used as evidence in court, the scripted language ensures that interviewers have adhered to their institutional duties, as any incorrect information supplied may render the interview evidence as inadmissible, or worse, as Yoong (2010: 703) points out, from being charged with misconduct during the interview.

In our UK data, it can be seen that irrespective of police interviewers' own attempts to offer plain language explanations, they can be too quick to assume a suspect's understanding of the formal caution. The absence of repair from a suspect may on the surface appear to suggest absence of troubles in communication, while overt positive feedback by claiming their own understanding through statements like "I have understood" can explicitly indicate a suspect's own stance towards their own comprehension. However, as we know, misunderstandings are not always recognised by participants themselves (Elder and Beaver 2022), and hence more explicit grounding efforts from police interviewers are imperative. This is not only important as it is the morally right thing to do, but from a procedural perspective: as Pavlenko (2008) has demonstrated, there can be severe negative repercussions for an entire investigation if it a suspect did not understand their rights at the outset, at best

excluding statements made by the suspect from court proceedings or, far worse, being charged with crimes they did not commit.⁵

In addition to Heydon's (2005) call for police interviewers to improve their plain language explanations of institutional jargon, the analysis in this paper highlights the importance of eliciting evidence from suspects of their understanding at the highest level of comprehension - that is, not only through reacting appropriately (i.e. communication level 4), but through explicit demonstration of their understanding (communication level 3). This is best demonstrated through a suspect's ability to paraphrase key information, which can be achieved by repeating the conventional tests for understanding, even in the presence of apparent, albeit implicit understanding. Prefacing the tests with phrases such as "it might seem silly", or "it might seem obvious" can help indicate that the question is 'just a formality' so as to avoid seeming as though the interviewer is questioning the suspect's intelligence (cf. Stokoe and Edwards 2008), while satisfying the ethically and procedurally important confirmation of understanding.

5.2 *Alternative phrasing of descriptions*

In the next example, we draw attention to a different type of misunderstanding, namely misunderstandings on behalf of the suspect due to alternative phrasing offered by the interviewer. Extract 3 is taken from a case involving domestic violence, in which the suspect is describing an incident in which their partner has hit him.

Extract 3a: Alternative phrasing, monolingual interview

- 1 P3 Whereabouts did she hit you?
2 S3 **Right in the side of my head**, like, [yeah]
3 P3 [Right]
4 S3 Yeah. And **tried to hit me a couple more times** and had a bit of a scuffle and, somehow, I don't know maybe I'm- maybe I caught her nose, maybe she bashed her nose, I don't know. Yeah? But, in that scuffle, she's ended up with a bloody, very bloody nose and that, and, at that point, I- I just left.
5 P3 Mm.

First, the suspect has mentioned that his partner has hit him, to which the police interviewer asks for clarification on "whereabouts" in turn 1. This leads the suspect to elaborate on the incident, repeating that she (i.e. his partner) "tried to hit me a couple more times". The interviewer continues with a different line of questioning, before returning to this incident four minutes later, presented in Extract 3b.

Extract 3b: Alternative phrasing, monolingual interview

- 1 P3 So, **you've said that she's thrown these punches, caught you the side of your head**. What have you done next?

⁵ Pavlenko (2008) details a case of a non-native speaker of English in the US who unwittingly waived their Miranda rights. As a result of the interrogation, in which they believed they were a witness and not a suspect, they were erroneously charged with first degree murder.

- 2 S3 Well she's tried to hit me again so I stood up and just pushed her away from me
- 3 P3 OK
- 4 S3 Try and come at me again and I- I didn't purposefully intend- I didn't intentionally hit her at all but
- 5 P3 OK
- 6 S3 Just trying to get her away from me. And I see all her blood and that, and spat some blood at me and I left. That's it.
- 7 P3 OK. Is she said- **you've said that she's thrown a couple more, um, blows at you**, could you describe what they're, what that's been?
- 8 S3 Uh. Ah- **what do you mean?**
- 9 P3 I think **you said that she's- she's hit you once** and she's [tried another couple of times]
- 10 S3 [Yeah, yeah yeah]
- 11 P3 Right? Just describe what, what you mean by that?
- 12 S3 Well she's swinging her arms about, trying to slap me, do you know what I mean?

The interviewer revives the line of questioning of the previously discussed incident, stating in turn 1 that “you’ve said that she’s thrown these punches”, and then asking what the suspect did next. Note here that the interviewer uses the word “punch”, which, despite the claim that this is what the suspect “said”, is not how the suspect themselves described the event. However, we can speculate that since the interviewer’s mentioning of “the side of your head” matches the suspect’s previous account that his partner had hit him “right in the side of my head”, there was no problem in understanding the event that the interviewer was referring to. Indeed, the suspect provides additional account as required from turns 2 to 6, with the interviewer offering backchannelling throughout.

Following the suspect’s description of events, the interviewer states again in turn 7, “you’ve said that she’s thrown a couple more blows at you”. Again, despite reference to what the suspect “said”, the interviewer uses a new term, “blow”, to refer to the event, which the suspect had not previously used. This is met with some confusion from the suspect (possibly exacerbated by the ungrammatical follow-on in the same turn “what that’s been?”), leading to an explicit request for clarification in turn 8, “what do you mean?”. In response, the interviewer reverts back to the suspect’s own term, this time stating that “you said that she’s hit you once and she tried another couple of times”. The suspect then displays understanding through their own backchannelling (“yeah, yeah yeah”), and is then able to give more detail on what this incident involved.

This extract exemplifies the practice of police interviewers asking for clarification or confirmation on previous account, as opposed to soliciting new information (Cerovic 2010). Interviewers may seek alternative descriptions of events from a suspect in order to establish a suspect’s intent regarding both committing an action as well as an action’s effects (Edwards 2008). Indeed, we can see that by returning to the ‘hitting’ event, the suspect volunteers his assessment that he didn’t “purposefully intend” to hit his partner in retaliation to her hitting him first.

While in our case the suspect’s discussion of intent was not due to the interviewer’s choice of words in describing the event, alternative phrasing can assist in determining

criminal intent. Edwards (2008) discusses a case in which a suspect uses two different words to describe the same event of hitting a car window, namely ‘punched’ and ‘smashed’. While the two words may appear synonyms for the same event, there is an important semantic difference between these two verbs: while ‘smashed’ specifies an effect but not an action, ‘punched’ specifies an action without referring to any effect. The separation of actions from effects is important in cases of criminal damage, for which both the effects of the action as well as the intent to cause the effects need to be established when determining criminal culpability.

As suggested by Edwards above, there can be benefits to using synonyms: selecting different kinds of verbs that separate actions from effects can help with determining criminal intent; while a suspect can make their account clearer by using terms that specify concepts more precisely. Note that in Edwards’ case, it was the suspect themselves who introduced both terms, which the interviewer then picked up on to clarify. This is found by Pounds (2019) to be good practice: she reports that trainers of police interviewers tend to discourage naming details that were not mentioned by the suspect themselves in order to avoid providing their own interpretation of events or influencing the suspect and undermining the credibility of the account. Instead, interview trainers promote the practice of using the suspect’s own words and phrasing as far as possible.

In Extract 3b above, the interviewer’s first apparent synonym, “punch”, provides a more precise description of striking with a closed fist than the suspect’s more generic term “hit”. The interviewer’s later phrase, “throw a blow”, also carries the connotation of a punch, but is less commonly used and hence may have added to the suspect’s confusion. The interviewer’s paraphrasing of the suspect’s account through the use of synonyms can demonstrate understanding of semantic content and hence Level 3 understanding. However, this practice also requires the interviewer to make their own inferences about the details of the incident being described, thus risking influencing the account acquired. These findings thus support Pounds’ (2019) suggestion that suspects’ own terms should be prioritised in the repeating of account. This is not to say that alternative reformulations cannot be used; however, in order to avoid confusion, misunderstandings or - at worst - suspects inadvertently corroborating police-authored account, Heydon’s (2008) recommendation of a two-part strategy that involves transparently introducing synonyms followed by appropriate linguistic prefacing should be adopted. This strategy has the advantage that the alternative versions are explicitly brought to awareness and interactionally easier to refute. Consequently, this would allow the suspect to play an active role in the collaborative development of richer account through the use of alternative phrasings.

5.3 *Ungrounded account*

Finally, the third type of issue that we draw attention to is ignored account through the practice of *not* grounding. It is regular practice for police interviewers to repeat prior questions if they are not satisfactorily answered and new information from the suspect thus remains ignored. While more detailed account can be acquired from the suspect on the interviewer’s chosen topic, any additional contributions from the suspect’s previous turn remain ungrounded, and hence unexplored.⁶

⁶ We are grateful to one of the anonymous reviewers who pointed out that even if the additional contributions are not picked up as a topic to explore further, they may be picked up later in the legal process (e.g. in court).

As highlighted by Heydon (2005, 2008), suspects may elaborate on their responses to questions, thereby offering more information than was strictly asked for. This is a way for suspects to initiate topics, thereby providing unsolicited background information, while satisfying the constraints of their role as an interviewee. Police interviewers must then decide whether to use the additional information as a line for further questioning, or to ignore it.

Extract 4 is an example of a case where the interviewer abandons their question when it is not answered as expected by the suspect, and instead prioritises the suspect's additional, albeit unsolicited, account.

Extract 4: Disputing the record, monolingual interview

- 1 P4 And you said that he refers to his brother as being thick, **what did you mean by that?**
- 2 S4 **No I never said that.**
- 3 P4 I thought you said earlier that (name) calls his brother thick.
- 4 S4 No I-
- 5 No I didn't even talk about his brother at all, but (name) mentioned that his brother is ill.
- 6 P6 His brother is ill. How is his brother ill?

Here, the police interviewer refers back to a previous statement that was allegedly made by the suspect, stating in turn 1 that "you said that he refers to his brother as being thick", before asking for clarification on what was meant by this statement. The suspect responds by disputing the background assumption of what he had previously said, correcting the interviewer with "I never said that" in turn 2. The interviewer queries the suspect's correction in turn 3, before the suspect follows up in turn 5, "No I didn't even talk about his brother at all", thereby disputing the interviewer's recollection of what had been previously discussed. This is immediately followed up with the conjunction "but", using what Heydon (2008) calls 'stepwise transition', to offer further information than was asked for: in this case, adding the information that the person under discussion "mentioned that his brother is ill". The interviewer picks up on this new information, probably realising that there may have been a confusion due to the minimal pair of "thick" and "sick", which could have been the root of the initial misunderstanding on the interviewer's part and confusion and denial on the suspect's part. The interviewer then uses this, for them, new information as a further line of questioning, asking for more details on how the brother in question is ill in turn 6.

In this example, after the suspect disputes the interviewer's claim of what he had previously 'said', the interviewer's question "what did you mean by that?" is no longer felicitous. But rather than pursue the issue of what was or was not said, the interviewer capitalises on the suspect's additional account as a new line for questioning. The result is that the question of what was 'said' is left unresolved and hence not put on the record.

In this case, leaving the initial question unanswered was likely a good tactic of the interviewer, as arguments about what was previously said can be time consuming and futile. However, in other cases, ignoring or overriding suspect information can be more detrimental to the amount of potentially relevant detail obtained. In Extract 5, we see a case in which the interviewer perseveres with asking their question when the suspect is not forthcoming with

either their display of understanding or willingness to answer. However, we also see that the question is premised on a piece of background information that is disputed by the suspect.

Extract 5: Disputing background information, monolingual interview

- 1 P6 How did you move back into the home address?
2 S6 **To which home address?**
3 P6 Er so, to (name, address).
4 S6 **I didn't quite catch the question.**
5 P6 Uh, the two of you separated in August.
6 After a previous incident had happened.
7 And you weren't allowed back to the home address.
8 S6 **After the first one?**
9 P6 Yep.
10 S6 **No. We had not split up.**
11 P6 OK. You were given conditions not to go back to the home address.
12 Or to have contact with (name).
13 How was it decided you would move back home with (name) **and start the relationship back up with her again?**
14 S6 She herself had decided, er, that I will return.
15 P6 So she invited you back.
16 S6 Well yes.

In this case, it is suggested by the interviewer that the suspect had previously moved out of their house with their partner, before moving back in with them prior to the interview. The question asked in turn 1 by the interviewer is ostensibly about the way in which the suspect moved back into their house. After some confusion from the suspect about which address is being referred to in turns 2 and 4, in turns 5-7 the interviewer states the background information that is relevant to the question at hand, namely that the suspect and his partner had separated after a previous incident, and that he was required to leave the house. After again asking for clarification on the incident in question in turn 8, the suspect categorically disputes part of the interviewer's background information in turn 10, stating, "No. We had not split up". The interviewer responds by repeating the information she has on file, namely with the fact that the suspect had previously moved out of their partner's house. She then paraphrases her initial question from turn 1 in turn 13, asking "How was it decided you would move back home", this time also adding on "and start the relationship back up with her again?". This additional clause carries the presupposition that the relationship had, in fact, previously stopped, thereby patently ignoring the information just provided by the suspect that they had not split up, and instead reinforcing the information she has on file. The question now comprises two, albeit related, issues: of how the suspect moved back home, and of how he restarted his relationship. The suspect does not respond to the latter part of the question - the content of which is arguably under contention - instead only responding to the initial question in turn 14, "She herself had decided that I will return", and grounding the interviewer's clarification in turn 15 that she had invited him back in turn 16 with "Well yes". In this respect, the issue of whether or not the suspect and his partner had split up in the interim period remains in dispute.

The phenomenon of a ‘police version of events’ is well documented, with police interviewers able to use their position as interviewer to switch topics abruptly, ignore topic initiations by the suspect, or, as discussed above, to rephrase suspect account to conform to the police version. Suspects, by contrast, are usually in a disadvantaged position, as the structure of the interaction necessitates them to respond to police questions in a relevant manner (Heydon 2005), while information that is presented as backgrounded can be interactionally difficult to respond to as it lacks discourse prominence (Ariel 2019).

In our example above, we see that the way in which the police interviewer prioritises eliciting a satisfactory answer to their question of how the suspect moved back home, led to them sustaining background information that was explicitly disputed by the suspect in their prior turn. Admittedly, since the background information may not have been crucial to the content of the question - namely, the issue of whether or not the suspect was deemed to be in a relationship with their partner during the period in which he was not living at the house - the interviewer may not have considered this important information to resolve. Nevertheless, what is observable is that by expressing the fact that the suspect and his partner had previously split up as a factive presupposition when the question was repeated in turn 13, the interviewer explicitly contradicted the suspect’s prior account.

This example highlights how police interviewers have to monitor and negotiate the information that is presented by suspects, while also marrying the information with the ‘official’ police version of events. That is, it is not only a suspect’s language that can contain ambiguities that require clarifying for the record, but police interviewers also need to be sensitive to presuppositions in their own language that can be more or less difficult to respond to by suspects. Meanwhile, since conflicting information could lead to the interview evidence being dismissed and hence impact the case, interviewers must be sensitive to any alternative account that is raised, and to address any disputes in background information. Interviewers may query any discrepancies that arise, but - as with the case of using alternative formulations - this should be achieved explicitly, such as by prefacing any conflicting information with the source of evidence (e.g. “it says here...”), thereby absolving the interviewer from misconduct during the interview.

6 Conclusion

This paper has examined cases of explicit repair in the context of UK police interviews, demonstrating that attending to the process of grounding in interaction can give us insights into how misunderstandings can be dealt with when they arise, which in turn can shed light onto how different meanings are grounded, which meanings are prioritised for the record, and which meanings are left unresolved and/or ignored.⁷

Specifically, this paper has drawn attention to ways in which overt instances of repair can shed light on communicative problems in police interviews, offering the following three recommendations for best practice. First, it has highlighted the importance of adequate grounding in ensuring that suspects explicitly evidence their understanding of the police caution at the start of the interview, as failure to do this could result in the interview being dismissed as inadmissible evidence. Second, interviewers should aim to mirror a suspect’s own phrases and terms as far as possible in order to avoid influencing the account with their own interpretation of events (or possibly also alienating the suspect; see Musolff 2019).

Nevertheless, alternative phrasing can be introduced in order to develop more precise account, but this should be brought to the suspect's awareness *explicitly* (as discussed in Section 5.2). Finally, interviewers must be sensitive to any contradictions in the account obtained, especially when that account is presented as background information, again addressing inconsistencies transparently rather than implicitly.

Overall, by examining cases of explicit repair, this study has provided insights into potential problems in the language of police interviewing practices more broadly. As we discussed at the outset, the occurrence of misunderstandings is not limited to situations in which explicit repair is used, but can of course occur whether or not the speakers are aware of them. As such, by examining cases of explicit repair, this study has identified a range of communication problems that may occur in this context, that may go unnoticed in other cases where explicit repair turns are absent to which police interviewers need to be sensitive in order to maintain good practice in communication.⁸

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⁸ While our paper focuses on cases of repair and misunderstandings, we report on examples of best practice in our other publications from our project [website here] with similar types of data; we also direct interested readers to our collective volume of research findings that empirically support the suggestions for good practice.

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